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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 10, 2004, at 12:30 p.m.

Senate

MONDAY, FEBRUARY 9, 2004

The Senate met at 1 p.m. and was called to order by the Honorable GEORGE ALLEN, a Senator from the State of Virginia.

PRAYER

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

Let us pray.

Eternal Spirit, help us to trust You more fully and to accept our responsibility to bring peace on Earth. Thank You for loving Your creation and for giving us strength for life's burdens. Thank You for protecting us in these dangerous times. And thank You also for listening to our prayers and for guiding our steps.

Lord, help each of us to see the unfinished work that is ours to complete. We lift to You our Senators. Their tasks require more than human abilities. Whisper to them words of instruction to help them find wisdom for these challenging days. Make their words fountains of life. We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE ALLEN 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 9, 2004.

To the Senate:

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

TED STEVENS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, today the Senate resumes consideration of S. 1072, the highway bill. We had a good debate on the highway bill last week. Although I know the chairman hoped we would have progressed further, I believe we remain on track to finish this week. Chairman INHOFE and his staff worked with several Senators over the weekend on possible amendments and are making good, steady progress. I appreciate the efforts of the bill managers to work through the weekend in the interest of keeping the bill moving on track. I will consult with Senator INHOFE and the Democratic leadership as we go forward, but I hope we will be prepared for a vote relative to an amendment prior to our recess for the policy luncheons on tomorrow, and Senators should be available accordingly.

This is the last week prior to the scheduled Presidents Day recess. I will be asking for all Senators' cooperation in allowing us to work our way through various issues pertaining to the highway bill.

Again, last week was a challenging week for our Senate community in many different ways, but we are open for business and expect to continue our work throughout this week.

With regard to the closing of the Senate office buildings last week, I am pleased to announce that all the Senate office buildings are back open and fully operational this week.

MEDICARE

Mr. FRIST. Mr. President, I wish to comment on the recent Medicare bill we passed. Last year—this being February—President Bush and Congress made good on our promise to strengthen and expand Medicare for today's seniors and individuals with disabilities. The bill, called the Medicare Modernization Act of 2003, does represent the most significant improvement to Medicare in two generations.

The reason I wish to comment on it today is that as a product of the debate and passage of this legislation, we are starting to see, even right now, impressive results.

Very simply, we said the program would give seniors better health care at lower out-of-pocket cost and give

seniors and individuals with disabilities more choices. That is exactly what the bill is doing.

We said the bill would strengthen the program and increase flexibility and choice, and, indeed, that is exactly what is happening.

Dozens of Medicare, managed care companies just recently announced—about 10 days ago—that in 3 short weeks, they are going to increase benefits, enhance benefits; that they are going to reduce or even eliminate premiums altogether; and that they are going to expand their service areas. They tell us they are doing all of this as a direct result of this Medicare bill.

For example, Aetna plans to cut its Medicare+Choice premiums by up to 50 percent to seniors. The action by Aetna will reduce inpatient care fees and physician copayments.

In New York City, Oxford Health Plans is boosting its annual limit on brand-name drug coverage from $250 and $500 up to $1,200. That is more coverage.

Colorado's three Medicare HMOs, meanwhile, will drop monthly insurance premiums by as much as 50 percent. That is less out-of-pocket costs for seniors.

Colorado's PacifiCare, for example, will offer prescription drug coverage to seniors who didn't have it before. That is new coverage, better health care, and then they will add brand-name coverage to many policies.

In Miami, FL, Blue Cross/Blue Shield plans to double its coverage for brand-name drugs. In Broward County, it will add brand-name coverage to its current generic-only plan, and it will drop its monthly premium altogether: Better coverage, lower out-of-pocket expenditures.

When it comes to more comprehensive coverage care, seniors in Tampa with private plans can expect to get new benefits, such as free dental care and reimbursement for transportation to the doctor.

I mention all this because it is only the beginning. Nationally, 5 million seniors with HMO coverage are expected to enjoy better benefits, lower out-of-pocket costs, and expanded options. And this will only grow with time. This is only the beginning.

Not only are these improvements on the way but also we have the prescription discount card that will be available in just a very few months, in June. This spring, seniors will be able to use these new discount cards to get discounts of 10 percent, 15 percent, 20 percent, or 25 percent off their prescription drugs.

For seniors living around the poverty level or up to 135 percent of the poverty level, they will get, in addition to the prescription drug card, an additional $600 in coverage to help pay these drug bills. That is on top of the discount. This is immediate help. This is immediate help to those who need it the most.

Already, private companies have submitted more than 100 applications to be able to participate in the discount drug card process. Immediate relief from high medication costs is only months away.

I mention this because we hear a lot of the opponents to the bill grumble. Even in the various elections and campaigns going on across the country, we look at what appear to be attempts of very partisan politics trying to gain political points in an election year. I wanted to mention this real progress that is already being made because it shows that at least the concept of the approach of a public/private partnership—which is what this Medicare law is all about—is beginning to work, where we take the very best of the public sector and marry it to the very best of the private sector.

Older Americans who are happy with their immediate care coverage do not need to do anything. They can keep exactly what they have today. In the bill, those who need it the most are going to get the most help. Lower income seniors, people at the lowest income brackets, and individuals with disabilities will pay almost nothing for their prescription drug coverage. Seniors who have very high catastrophic costs, costs that for the most part they did not expect, will no longer have to go bankrupt to get those prescription drugs, the most powerful tool in American medicine today.

Millions of seniors with no current coverage will see their prescription drug costs reduced, on average, by about 50 percent. So we see better health care and lower out-of-pocket costs for seniors who are listening to me at this juncture, and they will see more choices of coverage that better suit their individual needs.

Yes, the Medicare Modernization Act is expanding these choices and opportunities to obtain quality health care. This bill includes preventive care in a substantive way for the first time in the history of Medicare. For the first time ever in Medicare, we are offering disease management for chronic illnesses such as Parkinson's and Alzheimer's disease. It also takes a number of steps to improve the overall quality of care available to seniors.

We do need to continue to educate both ourselves and the American people about the progress that is being made to date. We will continue to work with organizations such as AARP and organizations of nurses, doctors, hospitals, and patients to really get the news out as this program unfolds. We will make sure that every senior who is entitled to these new drug discounts I mentioned, and who have the availability of that improved access, find out about it so that they indeed can take advantage of these improvements.

From time to time, I will come to the floor to comment on the progress that is being made as this program unfolds.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

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

PROGRESS ON THE HIGHWAY BILL

Mr. DASCHLE. Mr. President, I will comment briefly on the current status of the highway bill and the related debate about the budgetary implications of it and the budget proposal made by the administration over the course of the last week.

This is our second week of debate on the highway bill. I find myself expressing the hope, as the majority leader just did, that we can finish our work on the bill this week. This bill is long overdue. Many of us hoped we could have passed it last fall. We are told that the result of not having passed it means a loss of over 90,000 jobs so far.

We are also told that if we pass this bill soon, we could create nearly a million new jobs. So the economic implications could not be more consequential.

We also understand the difficulties our country faces with regard to its own infrastructure. We are told we have an infrastructure deficit of hundreds of billions of dollars, which is causing more congestion, more pileups, more time en route, more commuting, than at any other time in our Nation's history.

So with the infrastructure deficit, and with the need to create jobs, I cannot think of a more important bill than this one. I hope we can continue to demonstrate some real movement as we work to complete this debate sometime soon.

The bill's managers are in the Chamber and we are prepared to entertain amendments. I hope we can get on with the substantive discussion and consideration of whatever amendments could be offered.

I am troubled by those who argue that this bill is too expensive. I did not hear that debate when we were discussing how much to commit to Iraq over the course of this fiscal year. This country has now spent $167 billion in Iraq, with no offsets. I did not hear one comment from people on either side of the aisle about how expensive that bill was.

There are proposals in the President's budget to make the tax cuts for those at the top of our income scales permanent. CBO estimates that will double the size of our deficit over the course of the next 10 years. We now expect a deficit of $600 billion and we are told we are going to be ringing up a debt of a million dollars a minute. According to the Budget Committee, the debt will increase at $1 million a minute. So there is legitimate concern for how much we are spending and how much we are not taking in.

I find it amazing, this selective process of deciding which ought to be pared

back and which ought to be provided without any offsets whatsoever. There are tax cuts of $2 trillion over 10 years with no offsets. Iraq, as important as it is, a commitment to this country and to our efforts abroad, has no offsets. Highway construction, creating a million new jobs, has to be pared back. We are told all of the discretionary spending in this year's budget could be eliminated, every single dollar, with no money for education, health care, highways, or infrastructure of any kind, and we would still have a $150 billion deficit in this year's budget.

As I look at the decisions and the choices made by this administration, there is a $140 million loss in the funding for conservation efforts, which, in a State with fragile lands such as South Dakota, is a big deal. We lose thousands of acres every year to wind erosion. Conservation is vital, and to cut back $140 million in 1 year alone means we are going to lose a lot more. This budget the President proposed a week ago represents a $3.9 billion cut in aid to small towns and rural communities, $3.9 billion in losses that would otherwise go to improving the economic circumstances of small town main street. That, too, in the interest of balancing a budget that is lopsidedly in favor of foreign policy, tax policy, and against the priorities of policies at home. Even the basic programs to provide water and sewer services have been cut in the President's budget.

About two hundred million dollars in grants, to small cities and towns, that provide water and sewer assistance were cut in this budget. So I simply say that the priorities represented by some during the debate on the highway bill, as well as the priorities reflected in this budget, are not the priorities I hear when I go home to South Dakota, not the priorities I hear when I talk to those who are concerned, as I am, about the implications of the extraordinary deficit created over the course of the last 3 years.

The debt, and the incredible debt service we are paying, will be something my children and grandchildren will pay. We had a projected surplus of over $5.5 trillion 3 years ago. Now we have a projected debt of over $3.9 trillion, a shift of about $9 trillion in 3 years.

We are told that to pay it back requires $3 for every $1 we have borrowed. What is amazing is we have gone to the Social Security bank and we have taken all of that, we have gone to the Medicare bank and we have taken all of that, so now we are going to the banks of the Chinese and the Japanese and the Taiwanese and South Koreans and we are borrowing at rates unprecedented to make up for the debt that we are accruing at $1 million a minute.

We ought to have a good debate about the budget. We ought to get this job done, this highway bill, so we can move on to other important matters. But I must say, I can't think of anything more important than finishing this bill, than committing the resources to create those jobs, to deal with at least one of the deficits we have in this country, the infrastructure deficit. If we do that well, we can turn, hopefully in a bipartisan way, to address these other challenges before the end of this session.

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

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

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1072, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Modified committee amendment in the nature of a substitute.

Dorgan amendment No. 2267, to exempt certain agricultural producers from certain hazardous materials transportation requirements.

Gregg amendment No. 2268 (to amendment No. 2267), to provide that certain public safety officials have the right to collective bargaining.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me thank all the Members who had their staff come down, and some Members came down over the weekend, brought their amendments, and met with my staff and met with Senator JEFFORDS' staff and I believe with Senator REID's staff. We got into a good discussion on the various amendments. We discussed with them our amendments. I am pleased with the response of those Members who understand how important it is to pass this legislation and have come to us in the week that this bill has been on the floor.

To date, I believe we have met with about 30 Member offices. We are all looking forward to working hard to accommodate the needs of these offices with as many amendments as possible. I encourage anyone out there who has amendments to bring them down, talk about them, and let's get some of this debate started.

The chairman, ranking member of the full committee of the Transportation Subcommittee—we are all ready to work with those Members.

I wish to take a moment to congratulate Senator GRASSLEY and Senator BAUCUS for their work on the finance portion of this legislation. They have done a tremendous job in meeting the financial needs of this bill without increasing taxes or deficit spending. They have also brought integrity back to the highway trust fund and to the commitment we made to the American people.

The trust fund is, in essence, a user-fee-based program. You pay a gas tax and that money is then used for transportation purposes. Unfortunately, the trust fund has been used for many years for other purposes, including shifting the burden of tax policies from the general revenue to the trust fund. These tax policy benefits have nothing to do with highway use and should not burden the trust fund.

I look at this, and I have said it many time before, as a moral issue. We tell people when they pay—and they don't mind paying new taxes, even higher taxes. They are willing to pay the taxes because they want to have better roads and they assume that money is going to go into building roads. But it is not. They have been raiding the highway trust fund now for as long as I can remember.

So the Finance Committee sought to fix this unfairness to the taxpayer and has come up with a proposal to right this wrong.

Included in these proposals is a repeal of the partial exemption for ethanol-blended fuels. The tax benefit for ethanol, like nearly all energy production incentives, is transferred to the general fund through a tax credit. The same effect is applied to refunds for special categories of users such as State and local governments. These are changes that never should have been necessary. We should no more raid the highway trust fund than we should raid the Social Security trust fund. These are commitments made to the American people.

However, by bringing integrity back to the trust fund, the general fund lost a source of revenue, albeit a source that never should have been used in the first place. So in order to avoid deficit spending, Chairman GRASSLEY closed a number of loopholes in the Tax Code and kept the general fund whole—in other words, no deficit spending.

There are those who have questioned the manner in which this was done, but I trust the chairman and the ranking member of the Finance Committee and take them at their word. They should be congratulated. I am here to thank both of them.

Because of the work of the Finance Committee, we have a bill before us that will provide over 2 million new jobs to repair our Nation's infrastructure and do so without deficit spending.

I think it is very important to keep talking about this. There is not a Member in here who cannot remember at

one time or another raiding the trust fund, to take some of this money to put it in toward reducing the deficit. That was done in the 1990s.

This is an opportunity we have, not just to pass a very aggressive highway bill and provide the jobs that go with that but also correct this wrong that has been out there for a long period of time.

Let me emphasize, we invite Members to come down and bring their amendments. While we cannot be introducing them and voting on them right now, we can still get a lot of the discussion out of the way. I think it is very important we do so, now.

Let me defend the formula. There have been a lot of people coming down and objecting to the way it was put together. I remind my colleagues what happened in TEA–21. I was here for TEA–21, here in the Senate, here in the committee working with my good friend, Senator JEFFORDS. We watched the way that formula worked.

In that, they had a minimum guarantee program. A minimum guarantee program is nothing but a chart; it is called section 1104. It took all the States and put a percentage down. As soon as they got 60 people happy, they figured: there is our 60 votes—and this is no way to do it.

Instead of that, we looked at donor status. We have several States such as my State of Oklahoma that have been in a donor status for many years. We looked at States that are fast growing States. We put a ceiling in there, so they could not get so much of the money there would not be anything remaining for other States. We have a floor in there. I think we have done something that is very good.

I guess you could say there are four goals that interest a lot of people, one being the donor States, those of us who have been donor States for so long we can remember when we were 70, 75 percent donors. ISTEA came along and brought the floor up to 80. Then TEA–21 brought it to 90.5. This is going to bring every State, all 50 States, at the end of this 6-year period, or by the end of that period, up to 95 percent. That is very reasonable. It is a very ambitious goal but one with which I think most of us, I am absolutely convinced, agree.

We have introduced streamlining measures in this bill that will allow us to use the dollars we have and use them to build more roads, to do more in a shorter period of time.

We are concentrating on safety. We have not concentrated on safety as much as we should have in the past. I know the senior Senator from Virginia is one who has been concerned about safety for a long period of time and is very pleased with a lot of the provisions that we have in this bill.

We haven't really focused on freight movement until this bill came along. So we are getting into all of these areas.

I just hope our colleagues understand that Senator JEFFORDS, Senator REID, Senator BOND, and I have been working on this bill for over a year. That is a long time. Obviously, you will never have a formula that makes everybody happy but you can certainly have one that is fair. And we have achieved for the first time in the history of this process what I consider to be a very fair formula.

I would like to ask if Senator JEFFORDS has any comments he would like to make at this time.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I do.

Mr. President, S. 1072 will send billions of dollars to the States. It provides the resources to maintain the transportation infrastructure that we use and enjoy every day. Literally hundreds of thousands of jobs are at stake. It is imperative that we pass this bill this week.

Our staff has worked diligently for many months to prepare this comprehensive proposal. They have addressed concerns raised by various Members. It is time for us to complete this bill and send it to the House.

I would like to continue the discussion I began last week and speak for a few minutes about some of the key provisions of the transportation bill. As I have mentioned in earlier statements, our Environment and Public Works Committee conducted a very thorough hearing process as part of our preparations of S. 1072.

A consistent theme from those hearings was that the national transportation program has worked well over the last 12 years, following the principles set forth in ISTEA and enjoying the funding guarantees established in TEA–21.

We therefore sought to refine rather than revise the program. A key reflection of that decision is the pattern of resource allocation in the bill.

We grew each of the core programs—interstate maintenance, national highway system, bridge, surface transportation, and congestion mitigation and air quality improvement—in proportion to its funding in current law. We could have played politics with these funding allocations, but we chose to maintain the overall balance of the program.

Also based on consistent testimony from our many witnesses, we retained the flexibility that has become a hallmark of the surface transportation program.

Rather than make political adjustments in Washington to suit the needs of an individual State or region, we yield to State and local officials, working through an open planning process, to move funds among the core programs as best fits their unique and individual needs.

Further, under current law and reinforced in S. 1072, we permit money to be ''flexed'' among the various transport modes—highways, transit, bicycles, pedestrians, intermodal transfers, and rail.

By maintaining balance among the core programs along with flexibility on program and modal spending at the State and local level, we seek to foster a more balanced and ''right fit'' outcome on the ground.

The right combination of investments will vary from place to place. And a single solution—roads only or transit only—is likely to be a poor fit for a diverse and dynamic modern American community.

As I traveled our Nation over the past 2 years, I saw intermodalism on the rise. In place after place, the solution to traffic congestion and the solution to freight mobility combined roadway and rail investments with improved operations.

The balance and flexibility in S. 1072 will be essential to support these complex and ambitious solutions.

I yield the floor.

Mr. INHOFE. Mr. President, first let me thank the ranking member of the committee for all the hard work and effort he has been put into this bill.

I remind Members that we spent the weekend working on amendments. We actually had an office in the Hart Building that was open and staffed by both the majority and the minority. They waded through a lot of amendments.

To move this bill along, I again encourage Members to bring their amendments down. I will not mention the names of the Senators because it may not be appropriate. I encourage Members to come down to speak on the amendments which are going to require some discussion.

We have an amendment to clarify the travel reimbursement for troops retroactive to September 25. We have an amendment on seatbelts which imposes sanctions on States that don't have primary seatbelt laws. We have amendments such as one on sanctions relating to drunk drivers, an amendment on changes to the Indian roads program, an amendment to clarify the new highway safety core program dollars which can be used for additional lanes or two-lane roads, and one to grant exemptions for 90,000 pounds on Federal aid highways—to a higher level to allow for lumber trucks and garbage trucks going to landfills.

We have a lot of amendments. I think there are about 35 amendments because staff came down and worked over the weekend on those amendments. I think it would be appropriate for them to come down right now, and not to offer their amendment but to discuss their amendment.

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

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

Mr. THOMAS. I ask unanimous consent to speak for 10 minutes as in morning business.

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

Mr. THOMAS. Mr. President, I will discuss a subject other than what is before the Senate, but before I do that I am pleased we are moving forward with the highway bill. I am on both committees, the Environment and Public Works Committee, as well as the Finance Committee, and we have spent a great deal of time on this. Taking care of our infrastructure and seeking to provide more jobs in a short period of time is one of the most important issues we have. I certainly hope we can move forward and do so quickly.

ENDANGERED SPECIES ACT

Today I will comment on an issue in which I have been very interested, and as a matter of fact, I have a bill pending regarding the Endangered Species Act. I suppose most everyone favors the idea of protecting endangered species. That is something we all like to do. However, it has been in place now for more than 20 years, and frankly it has a different impact in different parts of the country.

I come from a State where 50 percent of the State belongs to the Federal Government. We have a lot of conflicting issues, both with the Federal Government and with the State government. It becomes quite difficult from time to time. Like many programs that are in place, I wish, when we pass them, we would say it has to be reviewed again in another 8 or 9 years to see if it is working and make necessary changes. This program needs some changes. It has not worked the way we would like to have seen it work. We need to review programs after there has been time to try them out and see how they will work.

What has happened, to a large extent, the emphasis has been on listing, rather than the recovery aspect. As a matter of fact, we have listed nearly 1,500 various species, plant and animal. We have recovered about 12. So the idea and emphasis ought to be, it seems to me, on the recovery of these species and not simply on the listing of them and letting them go on forever being endangered and having to be managed in that way.

Part of the problem, of course, has been the idea that anytime somebody is making decisions or regulations with regard to natural resources—in this case, endangered species—they end up in court. Instead of doing it on the basis of science and what is the best decision to be made, we end up in court and then letting the court manage it. It becomes a very difficult situation.

I sympathize with those people who are involved in the management of these programs. In everything they do, they can think about what is good for the program—in this case, what is good for endangered species—but, wait a minute: We have to take a look over here to see how we are going to get by the court.

I might add as an appendix, one of the difficulties in our case is, we are in the Tenth Circuit Court, and when things happen in Wyoming or Yellowstone Park, or wherever, then they go to court in Washington. There ought to be some sort of limitation to where the issue can go. If the issue occurs in a particular circuit, that is where the judge ought to be, that is where the court case ought to take place. At any rate, that, again, is one of the problems.

One of the other problems for States such as ours, where we have lots of public lands—and we have some unique problems that follow along the Rocky Mountain Ridge; and there are 10 or 12 States that have a lot of things in common. And I understand if you are on the east coast or even on the west coast, you don't have much interest in what is happening in our area, but our issues are sometimes unique, so there needs to be a good deal of local input into these kinds of issues to make them workable because there are different kinds of circumstances that appear.

One of the listings we had some experience with recently is the so-called jumping mouse in part of the southern part of our State and part of Colorado. It turns out, after about 5 years, that they really did not have the scientific basis for listing these critters at all, and they were not even in the same family of mice that they thought they were. Now we are in the process of going away from that whole thing after this whole problem of people having to manage their lands differently. So obviously there needs to be something done differently.

One of the issues we are dealing with at the moment is grizzly bears. What you generally do with an endangered species listing is you try to figure out how many there are, and then you put forward some goals as to how many you would like to achieve in the recovery. We have passed the recovery numbers for almost 10 years in Yellowstone Park—and, of course, the grizzly bears do not stay in Yellowstone Park—but still we have not gotten them delisted. It just seems as if it takes forever to do this.

Actually, however, the current specie we are dealing with is the gray wolves. Wolves, of course, were there years ago; then they were not there for a while; and they came back in the 1990s. There was a reintroduction of wolves from Canada into Yellowstone Park. Again, nobody would have guessed they were going to stay in Yellowstone Park, and surely they did not.

So now we are in a circumstance where the wolves have moved into Idaho, Montana, and Wyoming, as well as the park, and there finally has come a time when they have exceeded the numbers substantially to where there is a plan in effect, and hopefully moving into effect, where the three States would set up their own management plan, and then the wolves would be delisted and managed by the States, with certain agreements in there.

What we have now is Wyoming has put together a plan—as have Idaho and Montana—and they have been really very tough to deal with. I think last year we had 47 cattle that were proven to be killed by the wolves and at least that many that were suspected to have been killed by the wolves. But the Fish and Wildlife Service does not agree with the plan Wyoming has, so now we are waiting to see if we can get some agreement on that. As a matter of fact, part of the plan was passed by the Wyoming Legislature, but it does not seem to be acceptable. We have met with the Secretary and with the head of the Fish and Wildlife Service to see if we can find some flexibility there, and it is mostly over the semantics of what is in the plan. But the fact is, we do need to get them delisted so the State can have control over their management. That is really where we are.

I guess my point is, we have a program that all of us would like to maintain. We like the idea, but it is not working very well, and yet it seems to be very difficult to do anything about it. Sometimes it seems to me when we pass a bill, we ought to say it ends in 5 years and has to be renewed so that we can take another look at it at that time. First of all, times change; secondly, sometimes it is not managed properly and it could be changed. Anyway, we have not done that.

I have a bill introduced—introduced for several years, as a matter of fact which we have not been able to move. Oversimplified, it simply says when you list a critter or a species, you have to have scientific information. You have to have a real basis for doing it, and the people who list it have to provide some scientific data so that a jumping mouse is really a jumping mouse. And the second part is that at the time of listing, there also has to be a plan for recovery. That really has become the problem.

It is easy to list. People can send in recommendations for listing, and suddenly it happens, but there is no real plan as to how the recovery is going to take place, there is no area that it is designed to cover, and those kinds of things, and it becomes really very difficult to get this done.

I am going to push once again to get this done. Senator CRAIG and Senator HAGEL are cosponsors of the bill. We are going to try again to see if we can get this done. This is designed not to do away with the Endangered Species Act but indeed to strengthen the program so that it will work in more places than it does now. So that is an issue in which I am very much involved.

In closing, we have a lot to do this year. It seems a little frustrating sometimes that we have difficulty in moving forward. I wish we could really take a look at where we are, to try to

set some priorities as to the kinds of issues with which we want to move forward.

We end up with endless debate, which really keeps anything from happening. We end up with unrelated amendments being put on bills that keep us from moving forward. I think everyone here would say: Hey, our job is to accomplish some objectives. I understand there are different views, and that is why we vote. But the idea of just simply resisting moving forward, the idea of resisting going to conference, for example, certainly is not a good way to manage here in the Chamber.

Of course, politics in this place is not a brand new idea, but we have gotten so that everything we talk about is related to the 2004 Presidential election. Well, that is not really why we are here. We have different views. We ought to reconcile those views or at least decide what the majority seeks to do here and do that.

Also, I think most of us generally have the notion that we ought to try to make the Federal Government smaller rather than having it growing. Yet that does not seem to be what we do. We resist talking about competitive outsourcing, doing any of these kinds of things. We need to have some rules related to our spending so we are limited in what we do. We are facing a deficit now that none of us like. I think it is justifiable because of all the emergency things we have been in, but now is the time to do something about that.

We need to do something about adding issues to bills when they go to conference committee that have not been passed by either House. This is not the way things ought to be done.

So I hope—and I know our leadership is working on this—we can see if we can move forward some more on the priorities of things we ought to be doing and ought to have done. We are in the midst of one now that everyone agrees we need to do. We need to move forward and do the things that are before us that we all want to do, and that is to make this a stronger country, and not have an overbearing Federal Government but have an equal division of responsibility in determining what the role of the Federal Government is as opposed to local and State governments.

So, Mr. President, thank you very much for the opportunity to speak as in morning business.

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

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

Mr. REID. Mr. President, as Senator INHOFE has already stated, our staffs worked hard over the weekend on amendments people have to this most important legislation. We have gone over many amendments, but have approved 34 amendments we would accept. These are good amendments. They have been reviewed closely by both the majority and minority. A lot of progress has been made. We hope people who have problems with the substance of this legislation, who want to offer amendments, will come and talk to us about it today. We are arriving at a point where there is not going to be a lot of time. Tomorrow we hope to be in a position to do the managers' package—the finance, transit, and EPW aspects of the legislation—and move forward, but we hope Senators who have concern about the legislation will come forward so we can move more quickly. We are running out of time on this very important legislation.

MEDICARE AND PRESCRIPTION DRUGS

Mr. REID. Mr. President, in 1965, when Congress created Medicare to provide health care security for our senior citizens, it took less than a year for that to be considered and then put into full operation; in fact, 11 months. That was back before we had computers. All we had then were slide rulers and some adding machines.

On the legislation with which we are dealing now, the new Medicare prescription drug benefit, the new Medicare revision, we have a different situation. We are told this legislation we passed—and that was signed by the President and deals with our senior citizens—is going to have to wait for more than 2 years before it can be implemented. Today our senior citizens need help with soaring drug prices. They deserve the security of knowing they will be able to buy the medicine that can keep them healthy and happy. The American people want to know that when their Government wants to get things done, it can act quickly.

This law is a bad deal for senior citizens. That is why the main provisions of this legislation won't take effect until after the election. That is wrong. I suppose the administration thought our senior citizens would be grateful a bill passed, no matter what was in it, and that they wouldn't bother to find out what was in it. But they did find out. They already know. The President has underestimated our seniors.

I have met with seniors throughout the State of Nevada, and they know what is in this law. They don't like it. I read on the floor last week a meeting that was held by people from the State of Nevada to describe what is in this bill.

More than a hundred people showed up and all hundred were there to complain about this legislation. They don't like the fact that this will make many of them pay more for their drugs than they already have to pay. They don't like the fact that many who have drug coverage under private plans could lose their benefits because of this legislation. They don't like the provision in the law that forbids Medicare from negotiating with drug companies to get better prices. Insurance companies can do it and HMOs can do it. But Medicare—the largest health care delivery unit in the world—cannot negotiate with the drug companies to get lower prices.

Instead of working with Congress to address these and other concerns, the President has threatened to veto any change. Then he turned to his reelection campaign and asked them to help polish the image of this new Medicare law. So a company that is part of the President's reelection campaign is now doing the ads even with Medicare.

Fair enough, you might say. That is politics. Except the President is waging this ad campaign at taxpayers' expense. Simply, that is not fair. I am told he is planning to raise $200 million for his campaign this year. But apparently that is not enough because the administration is spending as much as $22 million of the taxpayers' money for this publicity campaign.

I have no doubt that senior citizens need information about this new Medicare law, and education and awareness about a new program is a legitimate use of taxpayer dollars; but these ads they are pushing are misleading. They don't tell seniors what they need to know about the bill. These ads don't shoot straight with the American people. They give our senior citizens false assurances, not facts.

For example, the ads reassure seniors that they can keep their Medicare coverage and the right to choose their own doctor. But the fact is many seniors, including many in Nevada, could be forced into demonstration programs that will make them pay higher premiums if they want to stay in traditional Medicare, and they will not be able to choose their own doctor.

In the same fashion, the ads don't mention that seniors will be prohibited from using their own money to purchase supplemental coverage to fill the gaps in the new law.

As part of this advertising campaign, the administration is also running print advertisements. I was surprised and perplexed when I saw an ad in the newspaper that runs on Capitol Hill, Roll Call. This newspaper is aimed at Senators, House Members, and Capitol Hill staff, and it is also aimed at lobbyists and so-called Washington insiders. If the President is trying to educate senior citizens about this new law, why would they place ads in Washington newspapers where less than 3 percent of the readership is over age 65? It is for obvious reasons.

The last straw was when I learned these ads are being produced by the same company that makes President Bush's campaign commercials. But that makes sense because they are simply campaign commercials—except his campaign isn't paying for them; you are, the American taxpayers.

These ads are political and that is clear. They are not intended to help seniors understand this complicated

Medicare law. They are intended to offset the negative public reaction to this bad law.

The President has every right to defend this law, which he urged Congress to pass, but he doesn't have the right to make the taxpayers pay for it.

Mr. President, again, I see my friend from North Dakota, who has an amendment, and he has been waiting to get a vote on it. I hope the Senator from North Dakota will get a vote on it soon.

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. DORGAN. 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. DORGAN. Mr. President, I have just talked to the managers of the bill. My understanding is there is nobody waiting to speak on the bill. As a result of that, I ask unanimous consent to speak as in morning business for 15 minutes, with the understanding that I will relinquish the floor if the managers have Senators who wish to offer an amendment to the bill. I don't want to delay the bill.

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

TRADE AGREEMENTS AND JOBS

Mr. DORGAN. Mr. President, I wanted to speak for a moment about the issue of jobs. There has been an especially vibrant debate recently about the number of jobs that are being created in this country and the number of jobs that are moving overseas from the U.S. to other countries. I wanted to talk about jobs specifically today because there was an announcement that the U.S. has finished a trade agreement with the country of Australia.

We have already had the completion of the Central American Free Trade Agreement, CAFTA; we have had NAFTA, the North American Free Trade Agreement with Canada and Mexico; we have had GATT, the General Agreement on Tariffs and Trade; and the WTO. We have all of these agreements and the fact is they are not working out well.

Despite that, instead of correcting the problems in previous trade agreements, our negotiators are continuing to move ahead to negotiate new trade agreements.

Let's consider NAFTA. NAFTA was negotiated with Mexico and Canada. Prior to NAFTA being negotiated, and then approved by the Congress, the United States had a very small trade surplus with Mexico, nearly a $2 billion trade surplus with Mexico. Now, 10 years later, we have a $40 billion deficit with Mexico. I will say that again. In 10 years, with the North American Free Trade Agreement, we took a small surplus with Mexico and turned it into a very large deficit.

Again, when we negotiated the trade agreement with Canada—it was with Canada and Mexico—we had a $10 billion trade deficit with Canada, and that is now $50 billion.

With Mexico, we took a small surplus and turned it into a big deficit. With Canada, we had a modest deficit and quintupled it, from $10 billion to $50 billion. We still have people walking around this town thumbing their suspenders, between puffs of their cigars, and saying this trade agreement was wonderful for our country, it has worked well.

I decided to check which companies certified to the Federal Government the movement of jobs, or the loss of jobs, as a result of NAFTA. I have just received the information from the Congressional Research Service. It is the first time anybody has catalogued this job loss, in this level of detail, as far as I know. But here is what you have.

Now, NAFTA allows for transitional trade adjustment assistance. That is a fancy way of saying, if you are going to lose your job because of this trade agreement, we will give you some supplemental income to help you over the tough spot. The anticipation was people would lose their jobs, and we would try to provide some help, transitional trade adjustment assistance.

In order to get transitional trade adjustment assistance, the employer has to certify that jobs are going to be lost in their company as a result of this trade agreement. That certification goes to the Department of Labor, which keeps track of those certifications.

Let me describe what we found with this Congressional Research Service study, based on Department of Labor data. This is the first time a study has been done in this level of detail.

It says the No. 1 company that certified jobs certified they had 16,095 jobs that they lost either because they moved the jobs to Mexico, in most cases, or because of additional imports from either Mexico or Canada that displaced their workers here.

No. 2, Levi Strauss: 15,676 jobs over this nearly 10-year period. Levi Strauss, now, that is everything that is American, right? Just go buy some Levis. Levis used to be made in the United States. Not anymore. Levis left, and the workers who used to make Levis in this country were able to get some transitional trade adjustment assistance. That is a fancy way of saying: By the way, we are going to sew those Levis in Mexico, and we will give you a few bucks as your job leaves and goes to Mexico. That is what it said to American workers.

There is a whole series of companies, as one might imagine. Fruit of the Loom is seventh on the list, 5,350 jobs. I remember when I saw the actual notice in the paper that Fruit of the Loom was shutting down its U.S. manufacturing plants. I spoke on the floor of the Senate. I said: It is one thing to lose your shirt, but Fruit of the Loom is gone. They are making shirts and shorts and underwear in Mexico. I understand even now that labor costs are too high, and now it is moving to Asia, in some cases.

How about Fig Newton, Kraft Foods? Eat a Fig Newton and you think you are eating a Fig Newton cookie from the U.S. I am sorry, think again. It is Mexican food; Fig Newtons made in Mexico. It left this country, and the resulting layoffs of U.S. workers meant they received transitional trade adjustment assistance.

What does that mean? It means they got laid off. They made a good Fig Newton cookie, but they don't make it here anymore. American employees lost their jobs, and Fig Newtons are now made in Mexico.

This is a list of 100 companies from the Congressional Research Service. This list can be derived from Labor Department data because the companies had to certify job loss. This is slightly over 200,000 employees who lost their jobs. In fact, if you included in the list all who certified, it would be over 400,000 American workers who lost their jobs because of NAFTA, the free trade agreement with the United States, Canada, and Mexico.

Some say other jobs were created. Maybe so. Ask yourself this: If we took a small trade surplus with Mexico and turned it into a very large deficit, and a modest deficit with Canada and turned it into a very large deficit, isn't it inevitably the case that we will have lost a lot of jobs? The answer is clearly yes. It doesn't matter what all the other folks say. We have lost a lot of jobs, and all of these folks—these are just numbers on a chart, but of these 200,000 people, every one of them had to come home, perhaps some evening after work, and say to their spouse: Honey, I lost my job. I did good work. I had good evaluations all of my career with this company, but they have decided to shut the doors in this country and move to Mexico.

The reason I wanted to point this out is to say there is precious little attention paid these days to the question of what is happening with jobs being so-called ''outsourced.'' I recently visited with a fellow who is founder and CEO of a very substantial company. He said to me: All of my competitors have now moved offshore. All of my competitors have moved offshore, and I have not. He said: I am not going to at this point, but I want you to know it puts me at a dramatic competitive disadvantage because I am paying American wages, and they are in India or Bangladesh or Sri Lanka or China, and they are paying pennies on the dollar for those wages and it makes them much more difficult to compete with.

I said: Good for you for keeping your jobs in this country.

He said: Yes, but somebody has to do something.

The question of this globalization is not just about whether we are globalizing, whether the economy is becoming increasingly global, because it

is. The question is, Are there rules attached to globalization? What will the rules be for globalization? Is it OK to move jobs to a country where you pay them 16 cents an hour and work them 16 hours a day and 7 days a week? Is that something we should aspire to have American workers and American companies compete with? Yet that is exactly the case today. The answer so far has been, yes, that is fair trade.

It is not fair trade where I come from. This economy will not be the economy that produces jobs and represents the economy of the world's biggest and most vibrant economic engine if it does not retain a strong manufacturing base. No country will remain the dominant economy in the world without a dominant and strong manufacturing base.

For 42 straight months, we have had reductions in the manufacturing job base. Why? Because of outsourcing; moving jobs overseas where you can hire people for pennies on the dollar.

Let me go through a couple of charts that show where we are with trade.

This chart shows trade with Mexico. We can see where we were just before our trade agreement. What has happened since that time? A flood of red ink every single year; more and more trade deficits with Mexico.

This chart shows our trade deficit with Canada. I mention both of these only because this is NAFTA, the North American Free Trade Agreement. There is a flood of red ink. We negotiated the trade agreement in 1993, and we can see what is happening. And we still have people saying this has been a great free trade agreement.

This chart shows our trade deficit, which is completely out of control. The President's budget last week asked the Congress to approve a budget that has a dramatic budget deficit. In it, he predicts in the fiscal year in which we now work, the budget deficit will be roughly $530 billion, roughly $530 billion. But in order to get to that, he had to take the Social Security trust funds for the year and use them as other revenues to make the deficit look lower than it really is.

The budget deficit this year is going to be about $660 billion. That is the budget deficit. Add to that a nearly $500 billion trade deficit, and we can see where this is going—higher, higher, and higher. We have a Government with a combined budget deficit and trade deficit that is over $1 trillion, and people walk around as if nothing is going on. This is serious for this country. This is a burden that must be repaid.

Let me talk for a moment about a couple of specific trade issues to show the absurdity of what is happening. This chart shows cars to Korea. Korea sent to the United States 620,000 cars to sell in our marketplace, and we sold to Korea 2,800.

Let me say that again. Mr. President, 620,000 Korean cars came to the U.S. We were able to sell 2,800 in Korea. Why? Because the Korean government doesn't want U.S. cars sold in Korea.

Beef? We can't sell beef in Europe. Why? Because $100 million of beef is banned from the EU each year due to bogus reasons, and we have a very large trade deficit with the EU. Here is the way they characterize U.S. beef: A cow with two heads because of growth hormones.

Guess what. We said to Europe: If you are going to take that action against us, we are going to take action against you. And in the first small semblance of direct action on trade, the U.S. Government decided to take action against Europe.

What did we do? We are going to slap Europe around. We decided to slap Europe around by imposing duties on Roquefort cheese, goose liver, and truffles.

That will strike fear into our trade adversaries, and I say adversaries because when they take unfair action against us, we have a right to take action against them. What do we do? We slap import duties on truffles and goose liver. I am sorry, that does not seem to me to be the kind of action that is very effective against trade partners that are engaged in unfair trade.

I could go on at great length about the issue. The issue, to me, comes down to the subject of jobs. This is a BusinessWeek article of February 3, last year. It talked about U.S. jobs moving offshore. They talked about the official estimate of 3.3 million white-collar jobs moving offshore in the near future. They are talking about in the coming 10 to 12 years an additional 3.3 million jobs. These are not factory jobs, manufacturing jobs. These are white-collar jobs that will be moving offshore.

On the cover of BusinessWeek Magazine recently, it states: ''Is Your Job Next?'' A new round of globalization is sending upscale jobs offshore. They include chip design, engineering, basic research.

Recently, in the last couple of weeks, a Wall Street Journal article talking about documents from the IBM Corporation gives a rare look, they say, at ''sensitive plans for offshoring.''

They got ahold of IBM documents that show the company is acutely aware of the sensitivities involved when they ship jobs overseas. These are white-collar jobs. They say:

> Do not be transparent regarding the purpose/intent, and cautions that the terms ''onshore'' and ''offshore'' should never be used. The memo—

Which talks about moving jobs offshore—

> suggests that anything written to employees should first be ''sanitized'' by human-resources and communications staffers.

In the draft prepared for managers at IBM they suggest workers be told:

> This action is a statement about the rate and pace of change in this demanding industry. . . . It is in no way a comment on the excellent work you have done over the years. . . . For the people whose jobs are affected by this consolidation, I understand this is difficult news.

It is a rare look at companies that are now moving high-skilled, high-wage, white-collar jobs overseas.

We have some serious problems to deal with. This issue of the movement of American jobs overseas is a very serious issue. We can talk about the issue of globalization, and I am somebody who believes this is an increasing economy—I understand that—but I also believe there needs to be standards: What is the admission price to the marketplace of a developed country, a country that fought, for example, for the right of workers to organize, a safe workplace, the ability to prohibit the dumping into streams and waters and the air, poisons and effluents?

We fought for years about those things: Child labor laws, fair labor standards, minimum wages. Now, with just an airplane ride and a decision memo by a company which said we will just pole vault over all of that, we do not have to worry about that, they move our jobs to Bangladesh or Sri Lanka, or to a place where they can hire 12-year-olds, pay them 12 cents an hour, and work them 12 hours a day, 7 days a week. And they do. Then they will ship the product back to Toledo, Pittsburgh, Los Angeles, and Fargo. They say that consumers will be advantaged by that because they will get lower priced commodities.

I conclude by telling one story that I have told previously. It is about Huffy bicycles. Most people are familiar with Huffy bicycles, 20 percent of the American marketplace sold at Wal-Mart, Sears, Kmart. They used to have an American flag as a decal between the handle bar and the front fender. That was when they were made by workers in Ohio who made $11 an hour producing a Huffy bicycle.

I do not know any of those workers, but I am sure they were proud because they had good jobs and produced a good bicycle. They were all fired. Huffy bicycles are now made in China. The workers in Ohio were making $11 an hour. That was too much, according to the company. So Huffy bicycles are made in China for 33 cents an hour by people who work 12 to 14 hours a day for 7 days a week.

No, there is not a flag anymore. That little tin decal between the fender and the handle bar is not an American flag. It is now a picture of the globe.

The question for this country is: Are we going to have any manufacturing jobs left? Is it fair competition to ask an American worker to compete against 33-cent-an-hour labor? We have to answer these questions.

I am not suggesting it is not an increasingly global world, but we need rules for globalization. What is fair competition for the American worker and for American businesses? That is something the Congress has been unwilling to deal with and recent trade agreements have ignored. In fact, the

trade agreements have been fundamentally incompetent, the ones with China, NAFTA, and others.

I have spoken about those agreements at great length previously. Today, what I wanted to do was simply show the chart that shows the 100 companies that have exported jobs, and they have certified that the export of these jobs came about as a result of our trade agreement. This certification is not some speculation on my part. This is certification by each of these companies about the number of jobs that no longer exist in this country because they either moved to Mexico or they displaced imports coming into this country.

This certification that has been made and the CRS has compiled for me is on my Web site, Dorgan.Senate.gov, if someone wants to see the list of companies. I think it is important for people to understand this is what is happening. The question is: Does it matter? For me, it does.

If we are going to have a strong manufacturing base, we have to worry about this. No country will remain a dominant economic power without a strong manufacturing base, in my judgment.

I have more to say about trade. I will do it at a more appropriate time. I understand my colleague wishes to speak on the bill, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. First of all, I thank the Senator from North Dakota for yielding. He will have ample time to come back and do that. I appreciate him allowing us to get back to the bill.

The Senator from Ohio has an amendment to talk about, but I encourage all Members to come down to the floor. We have time now. Later on, time is going to become very precious. As I said last Friday, come to the floor. We stayed open all weekend to work with Members on their amendments. We are doing that as we speak. We would encourage Members to come down and talk about their amendments—now that we have worked out amendments—so when the appropriate time comes, if they wish to file those amendments and to debate them and get votes on them, they will be lightyears ahead if they come down now.

I want to issue that as a very strong suggestion to those members who have amendments. I thank some 30 Members who brought their amendments down over Saturday. A lot of those have been accepted in the managers' amendment.

Mr. JEFFORDS. Will the Senator yield?

Mr. INHOFE. I will be glad to yield.

Mr. JEFFORDS. I have been here a long time, as the Senator from Oklahoma has. Have we had anybody come down?

Mr. INHOFE. Senator DEWINE is waiting to speak now on his amendment, although I think the Senator is making a very good point. We have been talking about this since Friday, and we encourage people to come down.

Mr. JEFFORDS. Well, I hope the Senator from Ohio will get such enthusiasm created with his speech that we can spend the rest of the time making some progress.

Mr. INHOFE. I can assure the Senator he always does.

Mr. JEFFORDS. Yes.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I come to the floor today to thank the leaders of the Environment and Public Works Committee, Chairman INHOFE, Ranking Member JEFFORDS, as well as Senators BOND and REID, for all the hard work they put in to produce this transportation bill. This is really a transportation bill that does a number of different things, but one thing it does do is stress the importance of safety programs.

The bill before us today is a revolutionary bill. It is known as SAFETEA. That is what we are calling it. In many respects it certainly deserves this title. I salute my two colleagues, whom I see on the floor, and thank them for their fine work in this area.

A strong emphasis on safety programs is vital because in the year 2002, the last year for which we have complete records, over 42,000 of our fellow citizens—in fact, the exact number is 42,815—were lost in this country. That is how many fellow citizens were killed in auto fatalities.

The No. 1 killer of Americans between the ages of 4 and 34 in this country is auto fatalities. That is an amazing thing when you think about it. Think about all the other diseases and problems there are in this country, whether it be cancer, all the other things someone could die from, but the No. 1 killer of our young people today is auto fatalities.

If you look at the age group of 16, 17, 18, 19, the figures go off the charts for that age group. That is what is killing our young people today—automobiles.

In the next 12 minutes, to be precise, at least 1 person will be killed in an automobile accident in this country, while nearly 6 people will be injured in just the next 60 seconds. Tragically, within the last 2 weeks, in my home State of Ohio, two of our soldiers were killed in automobile accidents, one of whom was just back from Iraq on a 2-week pass.

Sadly, though, it seems these deaths are something we as a society take for granted. We tolerate it. We put up with it. Frankly, we don't pay much attention to it. How many times every night when we turn on the news do we hear about someone being killed? Unless they are from our local community, unless we know them, we don't think a thing about it. We tolerate it.

If a foreign enemy were doing this to us, we would not tolerate it. We would be up in arms. Someone has said these automobile deaths are the equivalent of a 747 going down every 2 days in this country. If that were happening, it would, of course, be on CNN. It would be breaking news. We would be literally up in arms. We would be demanding the President of the United States and this Congress do something about it. Yet these auto fatalities that occur hour by hour, day by day, minute by minute, go on and on and for some reason we have become immune to it, hardened to it, really. Tragically these deaths just continue.

That is why I am so pleased the bill before us does go a long way to help to address several safety concerns that can make a difference and can save lives on our roads. The EPW Committee leaders deserve praise for elevating safety programs to core status among highway programs. In the past, safety programs were of a derivative nature, drawing their funding as a percentage of one of the core programs. This framework enabled some States to overlook safety and focus funding and efforts on other areas. With the new core designation, safety will take its proper place at center stage. The EPW Committee leadership deserves praise for taking this quantum leap forward.

Let me again thank Senators INHOFE, JEFFORDS, BOND, and REID for making their staffs available this weekend for work on my amendments. I am pleased with the progress that has been made so far, trying to work on these amendments. One of my amendments has already been accepted. I thank them for that. That amendment has been integrated into the proposed managers' package.

I have another amendment relating to traffic signals that I believe we will have cleared in the near future.

I wish this afternoon to take a few minutes to share with the Members of the Senate what these amendments will do, because I believe they will help put us even further down the field in terms of saving lives and promoting greater emphasis on safety.

I have further additional safety-related amendments I will be offering to the Commerce Committee portion of the highway bill, and I will be offering those in a future speech when we get to that section of the bill, we hope later in the week. I thank Senator MCCAIN for his leadership. I look forward to working with him and the Commerce Committee on that section of the bill.

The first amendment the EPW Committee has accepted contains two parts. First, it would require the States to identify and rank and disclose their most dangerous intersections. That might not sound like a revolutionary thing to do, but not every State is doing that now. It is the right thing to do: to rank them, to identify them, and then to make that information public so the consumers, the citizens will know what that information is and will then be able to act upon it.

A second part of our amendment we are still negotiating with the leadership would increase the timely and efficient expenditure of Federal safety dollars by the States.

Let me first talk about the dangerous roads and intersections amendment. The Environment and Public Works Committee bill focuses some resources on these problem areas and this amendment builds on the committee's fine efforts. Most States, fortunately, do take steps to identify and track the dangerous roads and intersections. They keep a list of the bad ones, the ones with high fatalities and high accident rates. But, amazingly, there are many States that keep this information secret and do not tell the public or, in some cases, do not even keep this information at all.

My amendment is very simple. It requires States to systematically rank and disclose their most dangerous roads and intersections. It requires them to do so in terms of dangers to human beings, in other words, in terms of the number of deaths and the number of injuries that occur on these specific roads.

Further, my language asks the States to disclose at least the top 5 percent of the most dangerous roads and intersections in their States, and that they identify to the Secretary of Transportation this information and therefore ultimately to the driving public.

We need to get information on dangerous roads and intersections out to the public and to the people we are charged to protect. My amendment would help assure that this in fact happens.

Consumers have a right to know this information. As a parent, I might tell my 16-year-old or 17-year-old not to go a certain way to a movie. Don't go on that dangerous intersection. Don't go by that dangerous curve. At least, if I had that information, I could make an intelligent decision about it. It is wrong for a State department of transportation to have that information and to deny me, as a citizen of that State, that same information. I should be able to tell my child, ''Don't go that way. It may take another 10 or 15 minutes, but go a different way—be safe.''

I would like to briefly tell my colleagues about a woman by the name of Sandy Johnson and her mother Jacqueline. On October 5, 2002, Sandy and Jacqueline were killed. They were killed in a car crash at a dangerous intersection near Columbus, OH.

What they did not know as they drove into that intersection—and what countless other area residents who used the roads that cross through it did not know at the time—was this particular intersection was known at that time by the State department of transportation to be a very dangerous area. In fact, the State department of transportation had indeed known that information for quite some time. Perhaps if Sandy Johnson had known that she would have taken a different route that day. We will never know. Perhaps she might have slowed down to see traffic coming from the other direction. Tragically, we simply will never know.

This particular intersection was dangerous because of the close proximity of a house to the intersection, making it difficult for drivers coming from each direction to see those approaching from the other way. The fix to this problem, the installation of four-way stop signs and ultimately removal of a house to improve sight lines, took quite some time to be implemented. But eventually, these steps were in fact taken.

Following the tragic death of his wife and his mother-in-law, Dean Johnson initiated a campaign to tackle the issue of dangerous roads and dangerous intersections, not just in Ohio but across the country. He has tried with varying results from State to State to get information on dangerous roads and intersection locations out to the public so tragedies like the one involving his wife could be prevented.

Today on the Senate floor, I thank Dean Johnson for his dedication to this very important public safety issue and for the progress he has made in my home State of Ohio and elsewhere in terms of getting critical lifesaving information out to citizens through the Sandy Johnson Foundation. I must say to him that his work is a real tribute to his love for his wife and for her memory.

Clearly, tragedies like the one involving Sandy Johnson can be prevented in many cases through means as simple and as inexpensive as disclosure to the public of what State departments of transportation already know—the disclosure of where the dangerous roads and intersections are located. The States should provide this information. They already know it. They simply should provide it.

The second part of our amendment focuses on how States spend their safety money. In this respect, my staff is working with the committee to develop additional mechanisms for the timely and efficient expenditure of Federal safety dollars. In the past, there have been problems with getting States to spend their safety money on safety. The EPW Committee bill goes a long way towards helping ensure those safety dollars do in fact get spent on safety. My efforts in this area are aimed at further strengthening this portion of the bill. It is simply so very important that these dollars be spent on safety—to straighten the road that is killing people or to change a dangerous intersection. This money can be very well spent and should be spent on things that will save lives. It is very cost effective.

Let me talk about another amendment. My staff and I are continuing to work with the managers and their staff on accepting the second amendment that has to do with keeping our intersections safe with regard to the safety of first responders as they engage in their daily work. This amendment is derived from legislation I introduced last year called the Safe Intersections Act of 2003, S. 1825.

This amendment would prohibit the unauthorized sale or possession of traffic signal preempting devices, commonly known as MIRTs. This type of device is a remote control for changing traffic signals. Members of the Senate may have read about these. They have been used for years by ambulances, police cars, and firetrucks, allowing them to reach emergencies faster. As an ambulance approaches the intersection where the light is red, the driver engages a transmitter. That transmitter then sends a signal to a receiver on the traffic light which changes the light from red to green within a few seconds. It is a very useful tool when properly used in emergency situations by someone in an emergency vehicle.

In a 2002 survey, the U.S. Department of Transportation found that in the top 78 metropolitan areas, there are 24,683 traffic lights equipped with these sensors—in other words, equipped with sensors that can be triggered by emergency vehicles.

In my own home State of Ohio, there is a joint pilot project underway by the Washington Township Fire Department and the Dublin Police Department to install these devices. Other areas in Ohio where they are in use include Mentor, Twinsburg, Willoughy, and Westerville. In Ohio and across the country, law enforcement offices, fire departments, and paramedics are investing in this technology to make their communities safer.

So what is the problem? Recently, it has come to light that this technology is being sold to unauthorized individuals—who use this technology in their own private cars and private vehicles to bypass red lights during their commute to and from work or just in their everyday driving. Clearly, preemptive devices were never intended for this type of use. This technology in the hands of unauthorized users could result in traffic problems such as gridlock or, much worse, accidents in which people are injured or killed. We know of at least one incident in Modesto, CA, where paramedics on an emergency run used a preemptive device to clear the way through a busy intersection only to see the light change back to red in their direction due to use of a MIRT by a nearby driver.

My amendment is simple. It would restrict the sale of preemptive devices to government-authorized users such as ambulance drivers, firetruck drivers, and police. Clearly, these devices should not be available to casual drivers wishing to make a total end run on civil order by changing traffic signals to make their commute a little bit shorter. It is a very simple amendment.

The two amendments I am offering will go a long way towards improving transportation safety. They are commonsense, they are practical, and they will in fact make a difference.

These efforts are a continuation of my work in this area—something I have been interested in for many years,

going back to a time in the early 1980s when I was in the Ohio State Senate. A little boy named Justin—I think Justin was 7—was killed right outside his school in my home county of Greene County. We decided at that time that Justin had been killed by a driver who had been drinking, a driver who had a very bad previous record of drinking and driving. We decided, frankly, we had had enough of this and we had to do something about it. I introduced a very tough drunk driving billing in Ohio. I researched the law and saw what other States and foreign countries had been doing. Ultimately, the bill became Ohio's tough drunk-driving law. I have been interested in highway safety issues ever since. I have worked in the Congress with many of my colleagues. I have worked in the State Senate. I saw this firsthand when I was county prosecutor. I used to go into county courts and prosecute drunk drivers. I saw the carnage and horrible tragedy drunk drivers cause. I have been interested in highway safety issues for many years. I know many of my colleagues are as well.

I again thank Senator INHOFE for his great work in this area to make this a very strong highway safety bill. It has some very strong highway safety components.

I think the amendments I have talked about today will go a long way to help make this an even better bill in regard to highway safety. I will be back on the floor later this week as the bill continues to progress with some additional amendments in regard to highway safety. I will be talking more about them.

I thank my colleague for his great work on this bill, and Senator JEFFORDS, as well, for his great work.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Mississippi.

Mr. LOTT. Madam President, I appreciate the comments of the Senator from Ohio and his interest in safety issues. I share his concerns. When you have lost a loved one in an automobile accident—in the case of my father, because of a narrow, two-lane road—and you know that such a tragic accident could have been avoided and lives saved through things such as safety striping, laws, or additional safety devices at railroad crossings, you can fully appreciate the need for the attention the Senator has given to this important issue.

I also thank Senator INHOFE from Oklahoma, chairman of the Environment and Public Works Committee, for his leadership. Producing a highway bill is not an easy process. I have dealt with transportation issues closely as a Member of the Senate for several years now. I can remember when TEA–21 was on the floor how difficult it was to pull together the bill with the divergent committees—the Finance Committee, the Appropriations Committee, the Budget Committee, and the Banking Committee all had a say in the outcome of the bill. All the Members of the Senate had their oars in the water and we had to have bipartisan meetings in the various committees to produce a bill that could get through the process and be signed into law.

It is not easy to get the reauthorization bill to this point. I commend Senator INHOFE for the work he has already done on SAFETEA, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003. Coming up with that good title alone deserves commendation.

I also thank the Senator from Vermont for his efforts. As a member of the Finance Committee, as well as the Environment and Public Works Committee, he has worked with Senator INHOFE to try to get this bill done. He has made it a point in the Finance Committee that we need to complete action on this legislation because it is important for our country.

We do need to come up with an acceptable financing plan for the costs of this bill. It will take cooperation and teamwork to get it done. I know Members of the Democratic leadership support this legislation and I believe we are getting off on the right foot. But we spent a week positioning and making speeches. I hope now the Senate will begin to have some votes and conclude action on the bill as soon as possible so that we are not faced with another extension. We need to move this legislation through the Senate, show leadership, and be prepared to go to conference with the House of Representatives.

In my opinion, there may not be a more important bill we can pass this year. This is not going to be a prolific year in terms of monumental legislation. Frankly, that is not all bad. Some of what we passed last year we should have left unpassed. Sometimes we should get credit for what we do not do. But this bill is one we need to complete this year for a variety of reasons.

First of all, SAFETEA is about jobs. Very few bills we pass in the Senate actually produce something. This is a bill that is actually going to produce jobs, not just next year but year after year. There are projects in North Carolina, Oklahoma, Vermont, Mississippi, and all over this Nation, ready to go right now. We need to get this legislation passed as soon as possible so that the funding it provides can be fully utilized during the construction season. If we wait too long and let this drag out, if we get stuck in the Senate or get stuck in conference, we will lose another construction season.

This bill will create jobs. Not all of the jobs will be high-paying, but they will be jobs just the same. There are very few Federal programs that create more jobs, from engineers down to the guy shoveling the gravel or moving around the dirt, all of which are very important.

We need to pass this legislation for its job creation impetus. We talk about how we need more jobs in this recovery; this is one way to get them.

SAFETEA is also about infrastructure. When you get through, you have something you can see—an interstate highway, a bridge, a safety device. Maybe even mass transit facilities in some of the larger cities. But we have a product we can look at.

I found out through my 31 years in Congress, there are few things we do for our constituents that are more important than highways and infrastructure. If you do not have roads, if people cannot get there, they will not come. That is a brilliant statement when you think about it, but if companies do not have access to good roads and bridges, railroads, airports, ports and harbors, they will not locate a plant and create jobs anywhere in this country. When you are dealing with a major international corporation, they want to know: Are we going to be on an interstate highway? Are we going to be close to an international airport? Do you have good schools? It starts there. Then you work from there to questions such as: Is the geology good? Will we have water and sewer systems? Do we have access roads or existing buildings?

My poor State of Mississippi has been making some progress. Why is that? Because we finally figured out that we were trying to fix everything and we were actually fixing nothing. We were shooting shotgun blasts and trying to do good things up and down the economic spectrum to help our State. It was not working because the money was disappearing. People were not getting better off. So we decided to focus. And we focused on education, particularly higher education and community colleges, to create workforce training programs for local communities. And we worked to improve our elementary and secondary education systems, as well.

Second was highways. Highways is a code word for infrastructure. It is the whole package: The industrial site, water, sewer, railroad spur. If a community does not have good highways, economic development will not happen. We have a major industry right now in my State, Viking Range Corporation, that makes the best ranges and some of the best kitchen equipment in the world. But to get to their manufacturing plant, visitors actually have to travel on a dirt road. This is severely hampering the company's growth.

The third thing we focused on in my State is economic development. We decided to aggressively go out and pursue jobs. This bill is an important component of that effort. SAFETEA is about jobs, it is about infrastructure, it is about quality of life, and it is about safety.

I don't want to demean this title. We talk about safety on the highways, safety on the roads, safety on our bridges. We have bridges all over America crumbling and being shut down. I admit, some of them are local or county bridges, which, in an ideal world, should be maintained by the counties. But at a minimum, shouldn't we continue the policies that started way

back in the 1950s—actually back in the 1800s, with Henry Clay, to develop and federally maintain an Interstate Highway System.

I urge my colleagues to support this legislation and to give the leaders of this committee the support to which they are entitled. Someone asked last week: We have all these problems, what do we do? I said, support the chairman and ranking member. They have a tough job, an important job. We should help and support them and try to shape the legislation with them, not just because we want projects in our State. Yes, we all do. But if we did not get one earmarked project in our States, we ought to support this legislation because of what it means for our country.

Now, there is a lot of pontification developing, as often happens with the highway bill, but even more so this time. People are showing up, all of a sudden, worried about the costs of this bill. Lots of people are saying: Wait a minute, this may add to the deficit. Where have they been over the last 2 or 3 years? Where were they on the prescription drug bill when we were developing a bill that would cost $600 billion or $800 billion or who knows how many billions of dollars? They were not worried about the deficit until the highway bill came up. And they said, wait a minute, the highway bill may cost too much.

The Finance Committee has struggled with how to pay for this bill. Is it perfect? No. But it was a major effort and we are within a close enough range where we can continue to make some adjustments as we go through the legislative process. Some people say: Once it goes through the process, we may have to vote. That is exactly right. And we will have to look at the final product. Is it something the Republicans, Democrats, Senate, House, labor unions, the White House can live with? We will never know until we move forward on it.

So we have people now saying that after ignoring the amount of spending last year—in bill after bill after bill—we are going to plant our flag on this hill, and we are going to fight excessive spending on the highway bill. They picked the wrong bill. This is a positive bill, and we will make it work as the process goes forward.

People will say: Well, wait a minute. There may be some earmarking in some of these bills before it is over. Yes, there may be. Fine. And I am going to fight for my own State to get its share because I do not necessarily believe that all wisdom reposes in the Department of Transportation in Washington, DC. I happen to know a little bit about some of the real crises, projects, and problems in my own State, and I trust Senators—men and women—from their own States to identify some of the needs that must be addressed in their home states.

Then there will be those who will say: This bill doesn't put enough funding into mass transportation or it doesn't put enough funding into one project or another. Let me point out a couple of things we are dealing with.

Our Interstate Highway System is nearly 50 years old. Thirty-two percent of our major roads are in poor or mediocre condition. Twenty-nine percent of our Nation's bridges are structurally deficient or functionally obsolete. If we do not complete action on this legislation, we will wind up with a 1-year extension and we will be back next year. Some people would say, maybe we could do a better job in a nonelection year.

But I believe we need a carefully thought out, multiyear, multifaceted federal highway and transportation program, and we need it now. We are having difficulty on other bills, such as the energy bill. We are trying to decide, what bills can we get done this year? Well, there is one thing we should not leave undone this year, and it is this highway bill.

I urge my colleagues to work together to try to come to a conclusion this week. If we have to have a cloture motion filed in order to make progress, let's do that. I believe it will pass with a bipartisan vote. It should. And then we can make progress on this bill and be ready to go to conference with the House of Representatives where we can get the job done.

I know we are going to be getting calls with suggestions of delays. Some people do not like the formula. It is tough to come up with a formula that is fair to everybody, especially if you have been a big donee State. If you are a small State or a big State that has been getting back $1.21 for every $1 you pay into the highway trust fund, you don't want to lose any funding. But if you are from a poor State that has been getting only 50 or 75 cents on the dollar that your constituents pay into the Highway Trust Fund, you want a fairer deal. But it is not easy to try to come up with a formula that is fair to Texas and New York and Rhode Island and Oklahoma all at the same time. It is really a balancing act.

I looked at the formula. I don't think the formula is as good as it ought to be for Mississippi. We are just kind of in the middle. And when your state has been neglected for 138 years it needs to do a little better than being in the middle. But I prefer the progress we make on this bill, to nothing. It is progress. So I do not think I have any more room to complain than anybody else.

But, again, we have some people who do not want to move toward a fairer formula for everyone. They do not want to give up anything they have. But I think the formula Chairman INHOFE and Senator JEFFORDS have come up with is good enough. Can they still tweak it a little bit as the bill moves forward through the process? Yes, they can; and I am sure they will.

So I hope my colleagues will not start blocking this bill with procedural motions because they do not like the formula. I hope they will keep working with the chairman and ranking member, as I will. I am going to curry favor with the chairman of the committee until the last dog dies to try to complete action on this bill in a way that will be fair to my constituents and good for the country. But I hope my colleagues will not use the formula as an excuse to block the bill. I hope they will not use this newfound fiscal responsibility to hammer out the worst possible bill. If we will proceed together, working with the chairman and ranking member, we will complete action on this bill, and it will be one of the best things we can do this year.

I thank the Senate for the opportunity to comment on this bill. I thank the leadership for what they are doing. I was growing concerned that too many people were possibly trying to conjure up some way to block this legislation.

So let's keep the process moving. It is not just for the sake of the process, no. It is for better and safer infrastructure in this country. It is for jobs. I wish the leadership of the committee the best, and I am going to be here trying to help them every step of the way.

I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, that was a great statement by the Senator from Mississippi. I appreciate it very much. It is a recognition that a lot of people will think all of a sudden we came up, last week, with a bill and a formula. They don't realize we have spent a year—a year of our lives—working on a formula, looking into the same things the Senator is talking about.

I am from a donor State. We have been a donor State as long as I have been up here. The Senator talked about working on TEA–21. You also worked on ISTEA in the beginning because I was there with you. Those formulas were not as good because they were based on minimum guarantees. A minimum guarantee is you figure, how do I get 60 votes, and then we don't care what happens to the rest of you. We did not do that.

We considered the donee States, donor States, the fast-growing States, because there is a ceiling in there for them, and then there is a floor for some of the States that have either a low population or are low-yield States. All these things were taken into consideration.

So anything that is as complicated and long as this is, you can pick it apart. But I can tell you right now, we spent a lot of time on it. There are people who are interested in the transit part of it. There are some, such as the Senator from Ohio, who have been very much concerned about and made great contributions to safety. Some of them are concerned about freight and the obstacles that are out there. But we have it all in this one.

I feel good about this bill. It has taken a year to get where we are today. Frankly, you just cannot start

readjusting a formula of which you took every consideration in putting together. You have something that is fair. You cannot then start readjusting it. If you change one State, it changes all the other States, and then you have to go back and start all over.

I think there are those who would prefer we would have to do that because they don't want to have a bill. But we are not going to operate on extensions, and I have every expectation we will get a bill this week.

People say: What about the House? They are going to want an extension. They are not where we are. Well, you are not going to get them to do anything until we do something, in my opinion.

I appreciate very much the Senator from Mississippi making his comments about this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, I also add to the accolades to my good friend from Mississippi for putting in perspective where we are and what we must do to make this a reality. This Nation cannot wait much longer to have the funds that will be available under this bill in order to enhance the employment growth as well as the needs of this Nation to be more efficient and effective in all categories of life. We must work together. We must work quickly. And we should start today.

I thank the Chair.

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

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

Mr. MCCAIN. Madam President, while the Senate began debating S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, known as SAFETEA, nearly 1 week ago, I am not sure some of my colleagues have been informed about how this bill would impact their State's highway funding. While perhaps we have all taken a look at the tables distributed by the committee of jurisdiction a few weeks ago, these tables omit some very important facts, including the fact that the number of donor States would actually increase under the pending legislation compared to the last reauthorization bill, TEA–21.

Instead of giving greater parity, it appears to be going in the opposite direction, as I will explain in a few minutes. Before I go too much further, I understand that after my colleague from Arizona was on the floor last week in opposition to this legislation, the Senator from Oklahoma went through some routine about how Arizona would do well under this legislation. Rather than subject my colleague from Oklahoma to that again, I would suggest we swap formulas between Oklahoma and Arizona. If the Senator from Oklahoma is not willing to do that, then please don't waste my time and his in trying to convince me this is a good deal for the State of Arizona.

First, I think it might help to put the bill in context by quickly reviewing the history of the Federal highway program, which I briefly mentioned on the floor last Monday evening. Nearly 50 years ago, the Federal Aid Highway Act of 1956 was enacted. As you can see, it was a deceptively inconspicuous-looking piece of legislation. It was 29 pages, but what it accomplished truly changed this country. The 1956 act created programs that constructed the interstate highway system, the largest civil works project ever undertaken by the United States. The act established the highway trust fund, financed by taxes paid by motorists—financed by taxpayers, not by general revenue—which is an important aspect to look at as we consider this legislation. It required that the interstate be built using a uniform design that would be safe within most U.S. highways in existence at that time.

The program to construct the interstate was first proposed by President Eisenhower in 1954 and signed into law in 1956. Today we are all the beneficiaries of the foresight of President Eisenhower and a Congress that helped to shepherd this bill through to enactment. The interstate system is 47,000 miles long, comprised of 62 superhighways crisscrossing the Nation in a grid. Twenty-four percent of all travel occurs on the interstate, and it has obtained a record being twice as safe as other highways.

Unfortunately, when people look back 50 years from now at the highway legislation currently before the Senate, I don't think history will be as kind. We reauthorize the multiyear highway transit safety programs about every 6 years. We last reauthorized these programs in 1998 with enactment of TEA–21, the Transportation Equity Act for the 21st Century, following extensive debate in the Senate. The highway program reauthorization measure is a bill second to none in terms of attracting Members' interests. We all want to know how much our States will receive in highway funding under the byzantine formula distribution being proposed during each authorization debate. Therefore, because of its significance, it is important that each and every Member have an opportunity to know what the bill would do and how it would do it.

At this point, what exactly do my colleagues know about the real impact this bill would have on their States? I recognize the difficulties this reauthorization poses for the bill managers. I would prefer to be in a position to support their legislation. But in its current form, I cannot.

The bill would increase highway funding by over $60 billion over the TEA–21 enacted level, again, over $60 billion, for a total of $255 billion. At the same time, the bill not only perpetuates the donor/donee discrepancy that we donor State representatives have battled during every highway bill reauthorization, but it actually expands it. The 28 donor States under TEA–21 will have the company of another three States—New Hampshire, Oregon, and Wisconsin—if this proposal is approved.

I guess I could say something about misery loving company, but I don't want more States to be shortchanged. Instead, I want all States to be treated more fairly. It amazes me that an additional $60 billion still can't enable the authorizing committee to develop a fairer formula but, as demonstrated by EPW's funding tables, they cannot or perhaps simply will not. Where will this extra $60 billion go?

While the EPW Committee argues its bill would get every State to a 95-percent rate of return by 2009, the sixth year of the authorization, I remind my colleagues that under TEA–21, the formula increased the minimum rate of return from 85 percent to 90.5 percent in the first year, and it continued throughout the authorization period. Yet, again, the EPW bill we are considering doesn't raise the floor to 95 percent until the sixth year. So, again, where exactly will this $60 billion go?

The committee proposes a new so-called formula. I say that because it is not actually a formula but instead is a series of five calculations consisting of funding caps and floors. This Rube-Goldberg-like funding contraption is grossly unfair and would result in 31 States getting back significantly less funding than they contribute to the highway trust fund. Further, while a number of the current bottom-of-the-barrel donor States would receive an immediate step up from the smallest of 90.5 percent rate of return, including a number of donor States with members on the committee, six States would receive almost no percentage increase until the last year of the authorization in 2009.

Under this formula, Arizona, California, Colorado, Florida, Maryland, and Texas would be held at the very bottom, while many other States also would continue to get shortchanged.

This is not the right approach. It is unfair. We should do everything we can to try to ensure that any bill voted on is more equitable for all States. Again, it isn't just these six States that I mentioned that are being asked to contribute more to the highway trust fund than they will get back. I asked the Department of Transportation to provide an analysis of the formula. I thought it would be revealing to first learn how much each State would receive if the formula funds in the EPW bill were distributed proportionately back to each State based on their contributions to the highway fund.

According to the Department of Transportation, 31 States are donor

States under this formula, while 19 get back more than they pay in, according to this chart.

Let me give some examples. The people of California are being asked to send almost $2 billion to Washington, DC, so that it can be redistributed through some arcane funding scheme to the lucky 19 States that would get back more than they put in.

For Arizona, $364 million of its contributions would be sent away to the 19 States. You know, it is interesting, Arizona and California, neighboring States, have something in common that, frankly, neither Vermont nor Oklahoma have, which is high growth. Obviously, it puts on greater pressure when you have a high-growth population, which actually argues for increased funding. Instead, we are being shorted.

But here are other examples of funding. Florida, another high-growth State, would send away a billion dollars; Georgia would send away $643 million; Illinois would send away $403 million; Kentucky would send away $304 million; Michigan would send away $383 million; Missouri would send away $286 million; New Jersey would send away $547 million; Ohio would send away $517 million; and Texas would send away $1.7 billion.

The list goes on and on. It is remarkable.

I fully realize that during the era when the Federal Government was building the Interstate System, a redistribution of funding between the States may have made sense. Clearly, it would have been difficult for Montana, for example, with fewer than a million people, to fully pay for building its share of the Interstate System. But that era is over.

Congress declared the construction of the interstate complete in 1991. Yet here we are, 13 years later, and donor States are still being expected to agree to the redistribution of hundreds of millions, if not billions, of dollars to other States, regardless of the already enormous transportation needs in donor States. Why?

I am sure we will hear about the great transportation needs of the States that receive more than they contribute. I have no doubt that those States do in fact have such needs. But how is it determined that California should have nearly $2 billion of its funding redistributed? Why aren't California's transportation needs as worthy of receiving the same percentage of Federal funds as provided to meet the transportation needs of New York, for example, which will receive $989 million more than it contributes over 6 years? Where is the logic? I am afraid there is none.

Let's consider New Hampshire and Vermont. These are two very similar sized neighboring States. Both have about the same total road and street mileage—around 15,000 miles. But under this EPW formula, New Hampshire is a donor and Vermont is a donee, getting a windfall of almost $500 million, or almost 190 percent of what it contributes. In fact, Vermont would even receive more in total dollars than New Hampshire. There can be no policy rationale for that—none.

I will admit that I have a certain affection for the State of New Hampshire—a great deal of affection for the State of New Hampshire. But to have this kind of disparity between two States is rather remarkable.

Madam President, this bill is suspect. In fact, the tables that have been circulated by the EPW Committee actually raise more questions than they answer. For example, what affect will new air quality standards have on State allocations? The new formula included in the EPW bill for the congestion management and air quality improvement program, a program totaling $13 billion, is not reflected in the tables.

What happens to State allocations if the bill is not fully funded? The promise that your State, if you are a donor, will finally achieve a 95-percent return by 2009 may be empty. In order to achieve a 95-percent rate of return for all States in 2009, it would require a 1-year increase of $5.5 billion in 2009. How likely is that to occur, taking into consideration the projected fiscal year 2005 budget deficit of $½ trillion continued budget deficit projections well beyond 2009?

Here is a fundamental question, one I think the President is seriously considering: Are we really paying for this bill? The Finance Committee has proposed what many of us consider to be accounting gimmicks to make the highway bill appear to be fully paid for. But appearances are often deceptive, as several colleagues have already discussed on the floor. How will the Finance Committee's proposed accounting changes for gasohol taxation impact your State's share? I am told it will be dramatic for some States. Should the EPW Committee's funding tables not be updated to reflect any and all changes so that we all know the real impact of what we are being asked to vote on?

What affect will provisions in a potential managers' amendment have on your State's funding? Last Friday, on this floor, the chairman of the committee announced that Members' staff should bring all of their amendments to the committee staff on Saturday to determine if they will be incorporated into the managers' amendment. Today, it was announced that the EPW Committee staff met with 10 Members' offices over the weekend. The Democratic bill manager announced this afternoon that 34 amendments have been accepted by the managers. What amendments are being accepted? I am sure we will know when we read the CONGRESSIONAL RECORD. Should we not all be informed? Clearly, the managers' amendment needs to be made available for review prior to us being asked to vote on it. And will the EPW Committee distribute tables showing the impact of any funding changes that will occur under the managers' amendment? Again, we should all want to know exactly what is being proposed and how it will impact our State's funding.

I strongly support a long-term reauthorization of the Nation's surface transportation programs and understand the vital nature of this funding to our States. This legislation only comes before the Senate every 6 years. I urge my colleagues to start asking some questions and ensure that they fully understand how the safety legislation would impact their State before it is allowed to pass the Senate.

We also have been told that at some point in the next few days, before we vote cloture on this bill, we will add a ''slimmed down'' energy bill to the highway bill. Now, I will freely admit—in fact, I will testify to the fact—that many times in our Nation's Capital we either are immune to, or insensitive to, the concerns of the American people. Here we are looking at massive deficits, massive overspending, massive growth of Government, unseen in the history of this country, and what are we going to do? We are going to add a ''slimmed down'' energy bill.

I understand that it has gone from $31 billion to $18 billion or $13 billion—you know, only in the teens of billions of dollars. This is a remarkable exercise. Adding an energy bill that was basically rejected—thank God—by this Senate, because of its hooters, looters, and polluters provisions, and now we are going to stick it on to the highway bill.

What does the energy bill have to do with the highway bill? Nothing. Do we have no shame? Is there no embarrassment whatsoever about the way we are doing business around here?

Madam President, I will continue to struggle and fight to see that for these 19 States, the percentage of what they are getting, as opposed to what they donate, is also important, as opposed to the 31 States which will be donating, and that we try to correct this inequity. Really what we should do is have a 1-year extension of the existing legislation and go back at this again next year. I think that would probably be of benefit to the taxpayers of America, who are deeply concerned about our overspending.

I also point out that I think the attention of the President of the United States is on this issue. I have heard—not directly but indirectly—that he would contemplate a veto of this legislation. I can think of no single act that might be more important or popular with the American people than for him to veto this bill, because at least the funding should come out of users fees, which was the fundamental principle behind the original highway bill.

If this Congress, in its wisdom, because we need more money for highways, thinks we need to increase the gas tax, I think that is a subject for

discussion and debate. The American people are getting a little weary of this smoke and mirrors of passing a $400 billion Medicare prescription drug bill and finding out within weeks that it is $130 billion more expensive, to see our deficit skyrocket from surpluses of several trillion dollars and deficits of several trillion dollars. And no one—no one—no economist believes we are going to have the deficit within the next several years because, guess what, Madam President. We are going to be coming back—among other overspending, including this one—we are going to be coming back next year for another emergency supplemental for our operations in Iraq which will probably be in the range, at minimum, of about $50 billion.

I am hopeful that the American people will call a halt to this overspending. I am hopeful that the American people, particularly in these 31 States, will recognize that for every dollar in taxes they are paying when they go to the fuel pump, they are getting less than that back because it is being funneled through Washington, DC, to the benefit of States for which no rational argument can be made that it would be more beneficial to them than other States, including those that are experiencing very rapid growth.

I will continue, as some of my colleagues will, as long as we can to prevent the passage of this legislation. It is not only our obligation to our individual States that are not getting their money back for the funds they send, but also to all the taxpayers of America who are being victimized by this back-room, porkbarrel spending process which is really remarkable.

Again I want to show my colleagues, in 1956, this was the highway bill, and now we all know what rests on our desks.

Madam President, I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Madam President, I was in this Chamber just a few days ago singing the laurels of my friend from Arizona and saying what a fine man I thought he was, what great work he did on campaign finance reform. I was basically talking about my deep respect and admiration for the senior Senator from Arizona.

Having said that, it does not mean I have to agree with everything he says. I have to say, with the deepest respect, that on this issue he is simply wrong.

There are certain things we have to do in this country that are logical and, over the long term, make a great deal of sense. We have a national highway transportation system started by President Dwight D. Eisenhower. The simple fact that the interstate system has been completed, meaning all of the interstate system is finished, all the connecting points have been made in this great puzzle, does not mean we have obligations that cease with highways in this country.

We not only have a national highway transportation system, we also have a national security system. The State of Nevada contributes greatly to the security of this country. We have Nellis Air Force Base, which is the largest and most important fighter training center in the world for our Air Force. We have in the northern part of the State the Fallon Naval Air Training Center, which is the most important part of the fighter training facility for our U.S. Navy. It is so important. People in that desert learn to fly landing on carriers.

We started in Nevada the great work that has been done on unmanned vehicles, military vehicles, the drones, at Indian Springs. We store thousands of tons of ammunition at Hawthorne Ammunition Depot. People from all over the country—the State of North Carolina, the State of Arizona, the State of Vermont, the State of Oklahoma, all over the country—contribute to taking care of those military facilities. The State of Nevada cannot afford to do it all. The taxpayers in Nevada do not pay for those bases even though there is a cyclical spinoff that is important to the State of Nevada. The State of Nevada depends on the American taxpayers to make sure those civilian and military employees at those most important bases are taken care of.

I am the only Member who is in the Chamber who is on the Appropriations Committee. When we work for military construction projects at Nellis Air Force Base, Fallon, and other bases I mentioned, those construction projects are paid for by American taxpayers. People from all over the country make their tax payments. It comes to this Congress, and it is decided that Nellis Air Force Base needs new hangars or needs to buy some new land so that the people around the base are not bothered. That is all paid for by American taxpayers. It doesn't come equally from Nevada. The Congress does not say: As soon as you get enough money in taxes to come from the State of Nevada, we will build that new hangar for the F–20s. That isn't how it works. The same applies to our National Highway System.

I am disappointed that the staff of the good Senator from Arizona did not at least listen to what I said, Senator INHOFE said, Senator JEFFORDS, and Senator BOND said last Monday. I talked at that time about how this bill is so much more fair than bills in years past.

Just a few years ago, there were some States that were only able to keep 75 cents out of every dollar they contributed into the highway trust fund for their own States. The rest of it went to other places. But a decision was made, and it was not an easy decision—the Senator from Arizona knows around here you count votes, and when you have enough votes to get something passed, you pass it. In years past, people counted votes around here. When they found they could get to 60 votes, sometimes 51, the legislation was jammed through this body. That is why some States wound up not getting very much on the money they paid into the highway trust fund.

When the Senator from Arizona talks about this being pork—and we have talked about that here quite a bit—this bill is basically paid for by the highway trust fund. It is paid for by the fact of when people go to buy a gallon of gasoline, they put money into a trust fund, and we are using those moneys now to distribute among the States. We were a little bit short to cover everything that needed to be done in this bill, so in conjunction with the majority and the minority and members of this administration, we said, we are not going to raise any taxes but we are going to readjust some of the taxes that are already in existence, and we did that to make up a small part of our highway bill.

To talk about pork and people are sick of money being spent—I didn't vote for the Medicare bill. I agree with him, that was a bad deal. You cannot come out here with one big paintbrush and paint everything the same. Why is this country in such deep trouble with deficit? It has very little to do with domestic discretionary spending. We could today eliminate the FBI, close all the prisons in the country, close the Department of Agriculture, Environmental Protection Agency, close the Congress, close the Supreme Court, close the Executive Office of the President, and we would still be in deficit. We simply do not have enough money coming into the Government to cover the expenses. Domestic discretionary spending—you can eliminate it all, and we still could not balance the budget.

The fact is, because of the tax cuts that have taken place over the years, we don't have enough money coming in to cover this. That is why last year we had a budget deficit in excess of $500 billion. This next year will be higher than that. It is not domestic discretionary spending. Especially don't pick on the highway trust fund, don't pick on the highway bill.

From everything I have understood, all of the President's statements about not liking the highway bill have nothing to do with the Senate version of the bill. It is what they are talking about doing in the House. They want to spend more money than what we are spending. The President has not directed any of his comments to the Senate version of the bill, as far as I know, and I think I pretty much know.

I know the good Senator from Oklahoma was on Fox News today explaining that point.

Mr. MCCAIN. Will the Senator yield?

Mr. REID. I will yield for a question.

Mr. MCCAIN. I think it is well known that the President sent over three criteria, one of which was funding has to come strictly from the trust fund and not from general revenues. It is well known. It is published everywhere. I am sorry the Senator from Nevada missed it.

Mr. REID. Was that a question?

Mr. MCCAIN. Yes.

Mr. REID. I am sorry. I missed the question.

Mr. MCCAIN. Does the Senator know that the President sent over very explicit principles concerning the bill?

Mr. REID. Absolutely. I would respond to my friend, yes. I have been in on the negotiations, yes. This is not something that has taken place over the last 2 weeks. This committee—Senator INHOFE, Senator JEFFORDS, Senator BOND, and Senator REID has spent months working on this bill. Of course, the administration was in on every one—not every one of them but a lot of those conversations. Yes, we originally wanted a bill much bigger than this one, but because of the pressure we got from the White House and other places we have the bill now the number that it is.

So I absolutely have followed this very closely. This bill is extremely important. This is the fourth or fifth highway bill I have worked on.

Before I was interrupted, I was talking about how much better this bill is than the bills in the past when States gave away 25 percent of the money that came into their States. It was determined, when the so-called four managers started this, what we would like to do with legislation. What we wanted to do was to try to work it out so that every State of the 50 States would get 95 cents out of every dollar they put into the trust fund.

Keep in mind this was a big leap forward because some States were getting less than that. Let me just briefly go over, so that people who are watching this—staffs, Senators—understand how difficult this bill has been. Let's go back to the bill of 1982 called the Surface Transportation Assistance Act. This bill established the mass transit account of the highway trust fund. What this is all about is a determination was made to do everything we could do to keep people off of our highways, which saves the highway trust fund money. Therefore, we would work to help with mass transit because if we had good bus service, if we had monorail like we have in Las Vegas, if we have subways like we have in various places, including Washington, DC, it keeps people off the streets and saves us money out of the highway trust fund. So that was the first time we established that. That was in 1982, the first year the Senator from Arizona and I came to Congress.

It contained an 85-cent minimum return provision, meaning that all of those States were getting in the seventies before they would get a minimum of 85 cents for every dollar they put into the trust fund. The Federal gas tax was increased from 4 cents to 9 cents back in 1982. So that took care of that bill.

In 1987, this was a difficult year. That year President Reagan vetoed our bill. We had to override the President's veto. We did that. We did it by one vote in the Senate and they overrode it by a significant number in the House. It was a good bill. It was a bill that changed the speed limit above 55 miles per hour. It included a provision requiring States to be more concerned about the environment as they were doing the road work.

Then 1991 was the first so-called ISTEA bill, Intermodal Surface Transportation Efficiency Act. Earlier, all of us talked about the importance of Senator Moynihan and Senator CHAFEE and having a highway program in this country that was reflective of the changes to the Interstate Highway System that had been constructed. What we did in the 1991 act was create the CMAQ; that is the Congestion Mitigation Air Quality Program. This was extremely important so that there would be transportation conformity, air quality. With the Interstate System largely complete, as I indicated, ISTEA shifted the Federal program from capital construction to focus on people and goods movement. There were a lot of things we looked at in that bill that simply had not been looked at before. We realized just building new roads was not the answer to all of our highway problems, our congestion problems, our transportation problems in the country. We came to the realization that we talked a lot about that the whole country suffers when there is a traffic jam.

Millions of gallons of fuel are wasted as cars sit and idle. They are the most inefficient when they idle. We also came to the realization, talked a lot about it, that when people are stuck in traffic they can no longer be productive workers. They cannot deliver their goods. They cannot be on their computers at work. They cannot be going to court. They cannot be taking care of their patients. When traffic is stopped, it stops people from being productive. So we talked about that in the 1991 ISTEA bill.

We also expanded the transportation decisionmaking process to include local officials, and even citizens.

Now, in 1998, we did TEA–21 which continued the basic policy structure established in ISTEA. The reason that was important, from 1982 to 1998 we had not changed the minimum requirements States would receive. Six years ago when we took this bill up we said every State will get 90.5 percent of the money they put into a program. That was a big step forward involving a changing of formulas and billions of dollars changed. We did that. We thought it was fair.

In the bill we are taking up this year, we have even gone further. We have said it is important that after we pass this legislation, States at the end of this bill will get 95 percent of what they put in.

My friend from Arizona is right; States that are getting 90.5 percent now would rather get 95 percent tomorrow rather than at the end of this 6-year period. But we are moving this ball down the line toward the goal line, and I think we are scoring a touchdown. Even though the Senator from Arizona talks about how bad this bill is and how he does not like it because of all the pork in it, I do not know what his definition of pork is. I really have some trouble understanding that.

This is a highway bill. There is some money spent for doing work on bridges. As was stated just a few days ago by the Senator from Florida, actually 29 percent of all bridges in this country are substandard. What we have done in this bill, S. 1072, is to try to make sure there is growth among the core programs of this bill, and we have created a new program which is called the safe routes to school program. This has been accepted across the country as being important. We believe children should walk and ride bicycles to school as much as they can. In some places they cannot do that because the traffic patterns are such that they cannot. So part of this money would be spent building bicycle paths and in effect making it easier for children to walk and ride to school.

This reduces the rate of return gap between donor and donee States. So I think we are doing the right thing in this bill. As I indicated, I cannot envision why my friend from Arizona complains about this being pork. It is a highway bill. Is building a highway something that is bad? Is repairing an outdated, dangerous bridge bad? I do not think so. Is trying to improve air quality while doing construction bad? I do not think so. So I do not know why my friend from Arizona is so angry and is talking about all of these bad things. This is a good bill.

As I indicated, the situation in dealing with our national defense system it is not based upon how much money a State pays into a program. It is based on where we need the defense program. Using the theory of my friend from Arizona, what would the State of Idaho do? Idaho is a big State. It is a bridge State. It helps one get to California. If they only got back the money they paid into the program, the roads in Idaho would be a mess. What about Wyoming? What about South Dakota? What about North Dakota? What about Alaska? If one takes off from Seattle and goes to Miami, that is how big the State of Alaska is. Now, they do not have any people there. They do not pay much money into the gas fund. They need help. Their roads are very difficult to maintain.

Wyoming also has no people in it, basically. My friend from Arizona wants Wyoming to get the money they pay into the program, and that is all? This is the United States of America. We are a central whole divided among self-governing parts, and we have a central government that helps make these States not independent, saying every penny they pay into the tax system is all they get out. It will never work that way.

My friend from Arizona, as much as I respect and understand what great contributions he has made to the country,

on this debate has added nothing. He has added nothing. He is just off base. I don't know how else to say it.

Mr. JEFFORDS. Will the Senator yield for a question?

Mr. REID. I will be happy to yield.

Mr. JEFFORDS. I would like to take you back to when the highway program was started by President Eisenhower. As I remember, one of the big concerns at that time was the inability of this Nation to defend itself, some real problems that were created for the defense of this Nation, because the highway system from East to West and North to South was so poor that in the event we did get an invasion in different areas, we would have little or no chance to get the troops there and mobilize them on the scene. We recognized at that time we had serious defense problems unless we improved the infrastructure of the United States. Am I correct in my understanding of that?

Mr. REID. I would say, through the Chair to my friend from Vermont, yes. Major Eisenhower was asked to bring a caravan of military vehicles across the country. He did it, but it was not easy because the roads were impassable on occasions. The people in the convoy had to work on roads as they came across the country. This young officer decided at the time if he ever had the ability to change the condition of the highways in our country, he would do it.

Lo and behold, Eisenhower is elected to be President of the United States and one of the first things our Republican President does is to propose this program that is loaded with pork, that builds roads. President Eisenhower is responsible for the Interstate Highway System more than any other person, and he did it because it met the needs of this country.

As we said, the actual construction of the roads has been completed. One of the last places it was done was in the State of Nevada. Actually it was in California, but it connected Mesquite, NV with St. George, UT. But they had to go through this terrible hard rock to finish the Interstate Highway System. It took a long time and it was extremely expensive to do that, but there were a few little places like that which hung on for years until we could say we completed the system. We did that. Now we have come up with programs that are so important. There are roadways in the country that are just as important as the Interstate Highway System. That is why we have a program, the National Highway System. What this talks about is the offshoots of the Interstate System.

I have talked about this on the floor today. To get to my hometown of Searchlight is not easy to do. There are a couple of ways you can get there. But this bill takes into consideration places such as Searchlight, NV. They are entitled to good roads also. You are not entitled to good roads just because you are on the interstate system.

This bill has gone such a long way to making the playing field more level. I commend my friend from Vermont and my friend from Oklahoma. We didn't have to do this. We could have gotten enough votes to pass this legislation without raising it to 95 percent at the end of this bill. But it was believed by the committee we should do that, that we would raise every State to a minimum of 95 percent. We have done that. It was hard to do, but it benefits a lot of States and certainly the American people and makes a system that is easier to explain and understand.

Mr. JEFFORDS. Do we not have other problems, in the sense of trying to move freight across the country and making the highways safe? We took the intermodal transportation systems we had, and a lot of that takes funds we would normally use, is that not true? Mr. REID, yes. That is why it was called intermodal transportation system—ISTEA.

The reason, as I said before, is we learned a few bills ago that just simply pouring more asphalt is not the way to solve all the problems in this country. What this bill takes into consideration is ways to more efficiently move people and products across our country. We have done the best we can on this.

Again, I don't see how this, in any form or fashion, can be pork. This is different than our regular appropriations bills. I think people are overly critical of those, but this is not even in the same category.

Mr. JEFFORDS. I also go back to some of Senator Moynihan's concerns years ago. Now looking at what is going on in China and other places, with the development of intermodal systems or the ability to travel at much faster rates of speed, to move—in their case—millions of people who want to travel, is that not also something we are trying to look at, trying to make sure we will not lose our position in the world with respect to our transportation methodology?

Mr. REID. Yes. When I served in the House of Representatives, I was on the Foreign Affairs Committee. I was dumbfounded. We have all this surplus food and we would take it to other continents, for example, to Africa, and the food would never get where it was supposed to go. Why? Simple. There was no way of hauling it to the places where it was needed. They had an insufficient transportation program in many of these countries. People were starving to death and they couldn't get the food where it was needed.

We don't have anything like that, but it does illustrate why we have to have the ability to move things easier. Each year that goes by, we have to make it easier because we have competition around the world. The more people who are tied up in traffic, in trucks and trains and in personal vehicles, the less competitive we will be. That is what this bill is all about.

For my friend to suggest let's just extend this for a year, come back and look at it again—we have already done that once. The State of Nevada and the other 49 States were grousing when we did that. Why? Because these highway programs, many of them, are multiyear programs. If they can't enter into a multiyear contract, it wastes a lot of money. It wastes money. Something that would have cost $3 million, if we extend this now for an extra year, by the time we finish it could wind up costing $6 million, twice as much as it ordinarily would cost. Without what we have in this bill, we would get a lot less product. Extending this bill for a year's time is not the way to go.

Mr. JEFFORDS. Also, isn't this a job creation bill and is this not a time when this Nation is in dire need of improving the employment of people who desire to have work?

Mr. REID. The former majority leader and minority leader of the Senate, the distinguished junior Senator from Mississippi, was on the floor today and that is one of the things he talked about.

We talk about job creation. Here it is actually taking place. This bill will be responsible for hundreds of thousands, if not millions, of jobs in this country—millions of jobs. For every $1 billion we spend in infrastructure, we create 47,000 jobs.

In addition to those 47,000 jobs we will create spending $1 billion here, the spinoff of this, according to Senator FRIST, the majority leader of the Senate, is $6.2 billion that flows from that. This bill is a win-win for everyone.

I am at a loss as to why my friend from Arizona would come and try to throw this into the same pot as: Boy, we are spending too much money around here. This is like Medicare.

It has nothing to do with that. These moneys come from the highway trust fund with the exception, which we have already acknowledged, that some moneys are coming from the reshuffling of taxes that are already in existence. There are no new taxes.

I hope the ship is not tilted even a little bit from these statements made by my distinguished friend from Arizona because they should be accorded very little weight.

Mr. JEFFORDS. Madam President, I appreciate the contributions of the Senator in helping us better understand the need for and also the great benefits of this legislation. I am sure when Members go to a vote—if we ever get to a vote—we will overwhelmingly accept the Senator's concept of what should and could be done. I appreciate what the Senator has done to make this bill as good as it is.

Mr. REID. Madam President, I close by saying again I want the Senator from Vermont and the Senator from Oklahoma to understand how much I appreciate their work on this legislation. We have to keep our eye on the prize. This is, as Senator LOTT said, probably the most important piece of legislation we will pass all year. He said that an hour ago, and he is absolutely right. This could be the most important legislation we pass all year

to stimulate the economy, to create jobs, to help States become and remain competitive, and to ease traffic burdens and congestion which we have throughout our country.

Mr. JEFFORDS. Madam President, I would like to make one further statement. The Senator from Arizona indicated we dramatically changed the highway formula. The bill reported out of the EPW Committee, in fact, does not change the underlying formulas for interstate bridges, national highways, and air quality. The only change we made was to increase the return to donor States while ensuring growth to each and every State. The EPW Committee wanted to put forth a bill that achieved fair balance and growth in every State. As in all of our national programs, we direct resources in our bill to the 50 States in order to maintain a national system. If we only sent funds to programs on a State-by-State basis, and then based it only on the ratios of the taxes paid from each State, we would be balkanized and disunified.

I believe our bill is fair, balanced, equitable, and national in scope. As States grow, donor States grow. Every State is equipped to carry the share of the burden it is supporting on the national transportation system.

This is a good bill. Let us get it done.

Mr. INHOFE. Madam President, I believe it is always very difficult when we get a complicated formula. We have been talking about how complicated the formula is when you take into consideration the growth of States. We are dealing with low-population States. We have a floor. We have donor States and donee States. But the Senator from Arizona is right when he said we actually have more donor States than we had under TEA–21. The disparity amount is far less between the donor and donee States. We are calculating that now. I think the point needs to be answered, and I think we are going to be prepared to do it.

A State such as New York, for example, has gone from $1.25—in other words, $1.25 for every dollar that has been put in—down to 99.75. That is down to getting back everything they have put in, but it is dropping down substantially from the amount in the previous bill.

I have looked at States to try to defend myself in being fair on this. If you look at TEA–21—that was Senator Moynihan, Representative Schuster, and Senator Chafee—Moynihan's State went up to $1.25; Schuster, $1.20; Chafee, $2.16, and mine—and I am chairman of the committee—is only going to go up to $.95. And we are still going to be a donor State. I think that should demonstrate we are being fair on this.

To suggest that Colorado is getting a raw deal, they have the highest rate of return of any State. But formulas are complicated. I am not critical of the Senator from Arizona. There will be others down here who do not want this bill to pass, and it might not have anything to do with the formula. No one can argue that this formula is the only fair formula we have.

How many times on the floor of the Senate in previous years have Members waited until they got 60 votes and took care of 60 Members and then turned around and not cared what happens to the rest? We don't do that. It would be easy if we did that. We talk about countervotes, and go back and get it passed.

As far as the Finance Committee, I think they have done a good job. They don't have their final product out. But I know the criteria on which they are working, and I am very proud of Senator GRASSLEY and Senator BAUCUS for the work they have done. It might be that there is some money being taken out of the general fund which is being put back into the highway trust fund. But that is replacing money that came out of the highway trust fund which went into the general trust fund. In one fell swoop, $8 billion went out of the general fund. These are raids on the highway trust fund.

I believe this is a moral issue. If a State pays the money, they anticipate that money being paid because they use their roads. It is going to go into road maintenance and road construction and bridge construction.

Our State of Oklahoma is still number 50 in condition of bridges. There is a lot to be done all around the country. There will be some people who do not like this bill for reasons having nothing to do with formula. But you can always take a formula and pick it apart and make it sound unfair. This is not unfair. This is a fair way to approach it. I believe it is real equity.

As I say, we are now calculating this. The States that went from a donee status to a donor status are a very small amount. But it is closing that disparity between the donee and donor States. This is precisely what we have been trying to do.

If the Senator from Nevada and the Senator from Vermont were talking about job values in this bill—look at any State and you can see the job opportunities. There is not one piece of legislation we are going to be dealing with during this entire year which is going to have the effect on jobs this is going to have. Pick out any State. You can see the total amount of new jobs. It is close to 3 million jobs—and job opportunities. We have a jobs chart, and then we have a jobs opportunity chart. We know there will be construction jobs. We know that is going to happen. But keep in mind every time you hire someone to do more construction, that person is also going to go out and buy more goods and services. They will have to manufacture more, and that is going to employ more people. We have calculated that. That is a very accurate figure.

I know there are a lot of Members who are going to be opposing this because they may not like some of the freight provisions. Perhaps their States are not treated in a way that other States are treated because they do not happen to be a poor city or they do not happen to be a terminal city. Nonetheless, I think Senator REID made a good statement when he said this is not just one State but it is the United States of America.

Again, on the particular State of Arizona, that is a 40-percent increase, which I think is very fair. In fact, that is a greater increase than the average increase States have.

Let me say to the Senator from North Dakota that he has been very kind in working into our schedule at times when we were not working on the highway bill. I do appreciate it very much.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2276

Mr. DORGAN. Madam President, I have just informed the staff of the managers of the bill that I intend to offer an amendment. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2276.

Mr. DORGAN. Madam 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 modify the penalty for nonenforcement of open container requirements)

At the appropriate place insert the following:

SEC. 1409. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

''For:	**The applicable percentage is:**
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year	2 percent.

''(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.''.

Mr. DORGAN. Madam President, this amendment very simply deals with the question of open containers of alcohol in automobiles and moving vehicles on the roadways. Some perhaps will not believe this, but there are some locations in this country where it is still

legal to put one fist around the neck of a bottle of whiskey, use the other hand to put the key in the ignition, and then with a hand on the steering wheel and a hand on a bottle of whiskey drive off down the road. And it is perfectly legal. Some would say that can't be. Yes. It is. It is the case. In some parts of this country, you can't be drunk while you drive, but you still can drink while you drive, and you are perfectly legal.

I don't think there is any intersection in any part of this country where you or your family or your neighbors ought to meet a vehicle, an automobile, that is being driven by someone who is drinking alcohol, in a circumstance where it is legal for them to drink alcohol while meeting you at that intersection. That is unforgivable, in my judgment. I have been trying, I suppose for 10 or 12 years, to get this done. I offer this amendment again. It simply says to the States: You must have a prohibition on open containers of alcohol in State law. If not, you lose 2 percent of your highway funds. And for up to 4 years you can get the funding restored if you pass the prohibition, but you must have a prohibition of open containers that meets the Federal requirement.

We have that federal requirement. I was instrumental in getting it passed into law. It says you must have a prohibition on open containers of alcohol, and if you do not, some of your highway money goes to hazard mitigation. So we have 36 States that have actually passed statutes that prohibit open containers of alcohol; 14 States have not passed statutes that meet this test. A number of them still get the same amount of highway money, but because money is fungible, they use it for hazard mitigation and use the money on the other side and there is no pain involved at all.

The result is that we have States in this country where it is, one, legal, or, two, illegal but not enforced, where people are driving while they are consuming alcohol. I don't think it ought to be the case anywhere in America for it to be legal to drink and drive.

Every 30 minutes someone receives a call in this country that their loved one has been killed due to a drunk driver. I received that call at about 10:30 one evening, a moment I will never forget. My wonderful mother was killed by a drunk driver. She, like so many others, was driving down the street 30 miles an hour, coming from the hospital at 8 o'clock at night, and a drunk was coming in the other direction, witnesses say at speeds between 80 and 100 miles per hour, in a high-speed police chase, and ran into my mother's car and she was killed.

This carnage on America's highways that is caused by someone drinking and driving is not some mysterious illness or disease for which we do not know the cure. We know what causes this, and we know how to stop it. The way to stop it is to say to people all across this country: You cannot drink and drive. Just that simple. You just cannot do it. Yet there are still States in this country in which it is legal to drink and drive. And there are other States in which it is legal, if the driver does not drink, that other passengers in the car can have open containers of alcohol.

It is long past the time for us to stop it. We have passed legislation that tries to coax the States into doing this, and many have complied by passing legislation that prohibits open containers of alcohol. Now I say let's go the next step, to say to the States: It does not matter where you are driving in this country. We expect, as policymakers, never to have to meet someone at an intersection where the driver or the passengers in that car are drinking, and doing so legally. We know better than that.

Again, every 30 minutes someone receives a call that some member of their family was killed by a drunk driver. That simply means that someone took a drink of alcohol, took too much alcohol, got drunk, got behind the wheel, and turned the automobile into an instrument of murder. We can do better than that in this country. I suggest this piece of legislation is long overdue.

It is interesting to note that the States that do not have a prohibition of open containers of alcohol on the books have alcohol-related fatalities that are higher than the States that do have that prohibition. So the evidence exists that the prohibition works.

It is true that I grew up in a State that is not going to be affected by this because North Dakota has never allowed anyone to have an open container of alcohol in the vehicle. I grew up understanding you do not do that; no one ought to do that. If you are old enough to drink and you want to drink and it is legal for you to drink, you do not drink in a vehicle. There are places for you to drink—in your home or perhaps in an establishment somewhere, but not in a vehicle, not in a car.

It is also the case that those States that have prohibitions on open containers of alcohol have a lower rate of hit-and-run accidents. That is a fact. The Department of Transportation has that information. It is just common sense for a State to say to people, you cannot do this, No. 1, by law; and, No. 2, in enforcing the law, you will have fewer deaths as a result of drunk drivers.

Let me finally say something about an organization called Mothers Against Drunk Driving. It was not too many years ago that a drunk driving charge by the neighbor had others giving him kind of a knowing wink and a nod and a grin and a pat on the back, saying: Well, tough luck, Charlie; you got caught. Not anymore. Now it is serious business. Drunk driving is not a joking matter. Do you know what changed that? Mothers Against Drunk Driving—all across this country, that organization, started by mothers who had lost children and lost loved ones to drunk drivers and decided they were going to make a difference. They went statehouse to statehouse, capital to capital, and they put in place some tough laws. But it is still not enough. I am pleased to say Mothers Against Drunk Driving have supported what I am trying to do in the Senate today for some long while.

They have made a difference. We can help them make an even greater difference by passing this amendment and saying to the States: We are not fooling around. This is serious business. This is life or death for thousands of people.

As I indicated previously, I have offered this amendment prior to this time, I suppose on three or four other occasions. Each time I have offered the amendment, I have been told: Those sanctions are too tough. So they got changed, so that it attempts to coax the States to do the right thing. But the fact is, coaxing is not enough. This Congress, this Senate, ought to say to every State in this country, ought to say to every State, reflecting every jurisdiction, there should be not one corner, not one highway in this country, in which it is legal for people to drink and drive at the same time. That is the policy that ought to come out of this Senate.

A mandate? It is a mandate, no question about that. We propose a number of mandates from time to time on a bill such as this. It is not a mandate that will hurt any State. No State will lose money if only the States decide as a matter of common sense that in their State it shall never be appropriate and never be legal for people to have an open container of alcohol in the vehicle, it shall never be allowed in their State for people to be able to drink and drive simultaneously.

People will shake their heads and say it cannot possibly be the case that that would exist today, but it is, long after the time that should have been changed in some little corners of this country.

That is the amendment I offer. I know my colleagues from Oklahoma and Vermont have pleaded with people to come and offer amendments. I hope they will approve this in 5½ or 6 seconds, but perhaps it will require more discussion because, as is always the case, I understand, there are some who have heartburn when I propose a significant mandate. And this mandate is 2 percent of highway funds, although no State, in my judgment, would ever lose it and no State need ever lose the highway funds if only they decide, as we have decided, that it ought not be permissible to drink and drive at the same time anyplace in this country and it ought not be permissible to have an open container of liquor in a passenger vehicle on America's highways.

That is a devastatingly simple concept and one that I hope before we finish this highway bill will be approved by this Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Madam President, first, I say to the distinguished manager and chairman of the Environment and Public Works Committee, on which I have been privileged to serve some 16, 18 years, I commend him for his diligence and commitment to try to get this highway bill through the Senate and hopefully enacted into law. I had much the same responsibility some 6 years ago. I know the complexity of this particular piece of legislation.

I have worked with the distinguished chairman and the distinguished Senator from Missouri in the preparation of this particular measure. It is badly needed by America. I hope we can work our way through this situation.

I send to the desk an amendment.

The PRESIDING OFFICER (Mr. CORNYN). The amendment is already at the desk.

Mr. WARNER. I address the distinguished manager of the bill and ask unanimous consent to have this amendment called up and possibly agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, the distinguished manager had the courtesy to advise me that he would object. Given the situation which I think I understand, I would just like to speak to the bill and develop a record for today and hopefully eventual consideration of this amendment in the not distant future can be arranged.

This amendment is cosponsored by the distinguished Senator from New York, Mrs. CLINTON, and my dear friend and colleague, the Senator from Ohio, Mr. DEWINE. It is an amendment to increase our national seatbelt use rate to some 90 percent. This amendment is identical to the text of legislation I introduced last year, S. 1993.

If my colleagues examine the highway bill and what it means to each of our States, our foremost responsibility, in my judgment and in the judgment of many, and in the judgment of the President of the United States, must be to improve highway safety for the driving public.

Today we had a very impressive press conference. I will give further details about it shortly. We must have had a dozen or so representatives who spoke on behalf of their respective organizations endorsing this bill.

I ask unanimous consent to print in the RECORD a list of organizations endorsing this bill.

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

ORGANIZATIONS SUPPORTING S. 1993, THE NATIONAL HIGHWAY SAFETY ACT OF 2003—SPONSORED BY SENATOR JOHN W. WARNER AND SENATOR HILLARY RODHAM CLINTON

Advocates for Highway and Auto Safety, Alaska Injury Prevention Center, Alaska Safe Kids, Alliance of Automobile Manufacturers, Allstate Insurance Company, American Academy of Pediatrics, American Academy of Pediatrics CT Chapter, American College of Emergency Physicians, American Insurance Association, American Medical Association, American Public Health Association, American Trauma Society, Arizona Consumers Council, Arizona Emergency Nurses CARE, Association for Safe International Road Travel (ASIRT), Automotive Coalition for Traffic Safety, Inc., Automotive Safety Program (IN), Benedict College/Project Impact (SC), Black Women's Health Imperative, Brain Injury Association of America.

Buckle Up 4 Meghan, Butler County Safe Kids (OH), Cedar Rapids Police Department (IA), Central Maryland Regional Safe Communities, Champaign County Safe Kids Coalition (IL), Chattanooga—Hamilton County Health Department, Children and Nutrition Services, Inc. (WY), Children's Mercy Hospital (MO), City of Madison (WI), Coalition for American Trauma Care, Columbus Health Department (OH), Community Alliance for Teen Safety, Concerned Americans for Responsible Driving, Consumer Federation of America, Consumers for Auto Reliability & Safety, Consumers Union, CRASH—Citizens for Reliable and Safe Highways, DEDICATEDD—Drive Educated, Drive Informed, Commit and Totally End Drunk Driving, ''Do Buckle, Don't Booze'' Campaign (ND).

Downers Grove Police Dept. (IL), Driscoll Children's Hospital (TX), Drive and Stay Alive, Inc., East Windsor Township Police Department (NJ), Eastern Panhandle Safe Community (WV), Eastern Shore Safe Communities (MD), Effingham County Sheriff's Department (IL), Elizabeth Police Department (NJ), Emergency Nurses Association, Focus on Safety (IN), Epilepsy Foundation, Franke Publicity (MN), General Federation of Women's Clubs, Green River Area Development District (KY), Hamilton County Health Dept. (TN), Holmes County Health Department (OH), Houston Safe Communities (TX), Illinois Traffic Safety Leaders, Independent Insurance Agents & Brokers of America, Injury Free Coalition for Kids of Atlanta, Injury Prevention Center of Greater Dallas, Injury Prevention Center (RI), International Association of Fire Chiefs, Joliet Police Department (IL).

Keep Kids Alive Drive 25, Kemper Auto & Home Group, Inc., A Unitrin Company, KIDS AND CARS, Louisiana Safe Kids, Loyola University Burn & Shock Trauma Institute, Macoupin County Public Health Department (IL), Mothers Against Drunk Driving (MADD), MADD (FL), MADD (NY), MAKUS Buckle Up! Drive Safely!, Maryland Kids in Safety Seats, Maryland State Police, Massachusetts State Police, Mayo Clinic Hospital (AZ), Meharry Medical College, Milledgeville Junior Women's Club (GA), Missouri State Safety Center, Montgomery County Child Passenger Safety Program (MD).

National Alcohol Enforcement Training Center, National Association of Professional Insurance Agents, National Association of Public Hospitals and Health Systems, National Black Caucus of State Legislators, National Center for Bicycling and Walking, National Coalition for School Bus Safety, National Conference of Black Mayors, Inc. (NCBM), National Fire Protection Association, National Latino Council on Alcohol & Tobacco Prevention, National Parent Teacher Association, National Peer Helpers Association (MO), National Safe Kids Campaign, National Safety Council, New Kent County Sheriffs Office (VA), New York Coalition for Transportation Safety, North Alabama Highway Safety Office, Northeast Colorado Health Department, 100 Black Men of Augusta, Inc. (GA), Operation Student Safety on the Move (OR), Office of Highway Safety (MS), Pennsylvania Traffic Injury Prevention Program, P.A.T.T.—Parents Against Tired Truckers, Phelps Memorial Health Center (NE), Preventing Alcohol Related Crashes (WI), Professional Insurance Agents of Ohio, Providence Safe Communities Partnership (RI), Public Citizen.

R. Adams Cowley Shock Trauma Center, University of Maryland Medical System, Rehabilitation Institute of Chicago, Remove Intoxicated Drivers (RID) USA, Richland County Safe Communities (OH), Riverside County Sheriff's Department (CA), St. Louis Fire Dept. (MO), St. Mary's Highway Safety (MD), SADD (NY), Safe and Sober Law Enforcement (MN), Safe Communities Coalition Augusta (GA), Safe Communities of Miami County (OH), Safe Communities Salisbury State University (MD), Safe Communities Southwest Coalition, Safer New Mexico Now, Safety Council of Southwestern Ohio, SAFE—Seatbelt Awareness for Everyone, Safe Traffic System, Inc. (IL), State Farm Insurance Companies, STOP DUI, Surface Transportation Policy Project, Think First of Ark-La-Tex, Think First Missouri, Think First National Rehabilitation Hospital, Trauma Foundation, USAA, Utah County Health Department, Virginia Association of Chiefs of Police, Williams County Health Department (OH).

Mr. WARNER. Mr. President, this is a list of 135 organizations across America that advocate their support for this particular piece of legislation.

This chart is an enumeration of those organizations. It is not readable, but the list is in the RECORD for all to see.

Simply by increasing the number of Americans who will buckle up is the most effective step that can be taken to save their lives and the lives of others. That is the single most important step.

I am privileged to serve on this committee, as I said, that has the primary responsibility for reauthorizing TEA–21. The bill addresses, as it should, highway safety measures, such as how to build safer roads or how to use new technologies to improve safety. But—and I underline ''but''—statistics show that the greatest measure of safety again to drivers, passengers, and possibly third parties, many of them innocent third parties, not connected with the bill is through the use of the seatbelt. It is remarkable the lives that have been saved through the use of this simple device over the years.

America has about a 79-percent use rate of seatbelts. That has been translated into the saving of tens of thousands of lives and injuries in automobile accidents, but we can do better. Those are the facts. Are we just going to have a standstill or are we going to move forward? Senators CLINTON, DEWINE, and myself think we should move forward with a firmer approach with achievable goals and funding.

We have debated the benefits of seatbelt use on many occasions in this body and elsewhere across America. Whether it is in the town forums we conduct, the town meetings, or on the floor of the Senate, there is always that individual who comes back: Don't tell me what I have to do. What does it matter to you—they will often say, or to any other colleague with whom I have had the privilege to serve—what does it matter to you whether I buckle up? It matters a great deal to me and to all those who share the joys but often the burdens—the increasing burdens—of driving and using our road system and the risks.

Let's take a look. No one disputes that the absence of wearing a seatbelt causes more loss of life and serious injury. Statistics solidify that assumption. The statistics show that the impact associated with a crash, to the extent a driver can maintain control of the vehicle in those fatal seconds, the severity of the crash, and perhaps the loss of life can be reduced significantly by the use of the safety belt. It is as simple as that.

Accidents involving unbelted drivers result in a significant cost. Many people are rushed from the accident scene to various emergency facilities. All of that has the initial cost of the law enforcement and the rescue squads that respond, and eventually the cost to the emergency room or whatever medical facility you might have the good fortune to be taken to hopefully save your life. That does not come free. How well we know that.

There is a cost. It is borne by the local community often or the county or the State. Regrettably, a number of persons who suffer these types of injuries are uninsured. Again, the cost often devolves down on the good old hard-working taxpayers and, in most instances, the taxpayers who otherwise would buckle up.

That is lost time for your mission on the road, be it for business, family, or pleasure. That is lost time in productivity. Behind you are often trucks and other vehicles involved in commerce. That is lost time in delay due to the serious occasion of injuries and accidents from the lack of use of seatbelts. It is simple as that. Often the highway is shut down, and it is just incalculable the inconvenience and cost to others while your safety and perhaps your survivability is attended to more often than not by volunteer fire departments or others who come to the rescue.

The legislation that we three Senators are introducing today will take an important step for the States to adopt either a primary safety belt law or take steps of their own devising to meet a 90-percent seatbelt use rate, not the Warner amendment or the legislative measure put forth by the administration upon which Senator CLINTON and I draw for concepts of certain portions.

The States can decide for themselves—I wish to underline, we are challenging the States to decide for themselves how they achieve a 90-percent goal of the use of seatbelts in their respective States. They could have a far better idea than we have. That is the purpose of this legislation, to move every State to a 90-percent use rate for safety belts.

In a letter dated November 12, 2003, to Chairman INHOFE of the Committee on Environment and Public Works, on which, again, I am privileged to serve, Secretary Mineta states:

President Bush and I believe that increasing safety belt usage rates is the single—

I repeat, the single—

most effective means to decrease highway fatalities and injuries.

That is explicit and clear. The Secretary goes on in that letter to say:

. . . the surest way for a State to increase safety belt usage is through the passage of a primary safety belt law.

I have had this debate with Governors, former Governors, even in this Chamber with former Governors. I think they would all say that a primary safety belt law is tough legislation to pass solely on its own in the State legislatures. Those in this Chamber who have been members of State legislatures know best. Those of us who have worked with State legislatures, as I have over the 25 years I have been privileged to be a Senator, I have some idea of how those legislatures operate. Certainly, those who have been Governors—and many of my colleagues in this Chamber have been Governors—know full well the difficulty confronted at the State level in getting this type of law through.

Frankly, it needs the cover, one might say the political cover, the impetus, given by the Congress—that is us, Uncle Sam—of the United States to move that process in the States forward.

So the local politicians can shake their fists at old JOHN WARNER, they can shake their fists, hopefully, at those who will join in passing this legislation and say it is Washington that has done it again—more regulation, more direction. We know the arguments. We have all heard them. But lives and injuries and costs to the community can be saved.

I think quietly, in the hearts of those State legislatures, is the thought that we will improve safety in our State. We will improve the chances of survivability on the roads of our State.

I ask unanimous consent the full text of Secretary Mineta's letter be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. WARNER. As provided in our amendment, States can increase seatbelt use by enacting, as I said, a primary seatbelt law. Everybody knows what a primary seatbelt law is and how it works.

I want to explain the basic laws as shown on this chart. The white State has a primary enforcement seatbelt law. Those are the existing States. The red State needs a primary enforcement seatbelt law. So my colleagues can see the magnitude.

Here is my State, Virginia. Twice now that primary seatbelt law has gone through the legislature up to the point of a final vote, and by one vote only, twice, the General Assembly of Virginia has rejected that primary seatbelt law. That is a clear reason that impetus by the Federal Government can help achieve that one vote and hopefully many more.

Now, let's talk about the mechanics. It means a law enforcement officer can literally stop a vehicle if they observe that the individual is not wearing his or her seatbelt. It is as simple as that. But a State, if they decide not to enact a primary seatbelt law, can, by implementing their own strategies, whatever they may be—and there is a lot of innovation out in the States—that would result in a 90-percent seatbelt use rate. So that is a challenge to the States.

It can be achieved by other means other than having the officers under law be given the right to stop the vehicle when he observes that the driver is not using a seatbelt.

The current national seatbelt use, as I said, is 79 percent. But many States, those that have the primary law, are sometimes at 90 or even above 90, but those that do not have the primary seatbelt law are down somewhere in the 60 percentile. Just think, only 60 percent of the drivers in some States utilize that seatbelt. It is the weight of the primary States that carries the percentile and brings it up to 79 from those States that do not have an effective law. States with their primary safety belt law have the greatest success for drivers wearing seatbelts.

On an average, States with the primary seatbelt law have a 10 to 15 percent higher seatbelt use compared to those with a secondary system. This demonstrates that secondary seatbelt laws are far more limited in their effectiveness than a primary law.

Essentially, the secondary laws say if a law enforcement officer has cause other than a perceived or actual seatbelt violation, namely the driver did not have it buckled, if they have cause to stop that car, for example, for a speeding offense or a reckless driving offense or indeed an accident, and they observe there has been no use of the seatbelt, then in that circumstance, in the course of proceeding to enforce the several laws of that State as regards speeding and reckless driving or whatever the case may be, they can add a second penalty to address the absence of the use of the seatbelt in that State.

Drivers are gamblers, unfortunately, but that is the way it is. They say: Oh, well, don't worry. I will not buckle up—State law does not require it—unless they stop me, and they are not going to stop me today.

It is that gambling attitude that more often than not will cause an accident. Then it is too late.

So we come forward today to build on our national program. We are building on what we did in TEA–21. I was privileged to be on that committee at that time. I was then, as I said, chairman of the subcommittee 6 years ago. I worked with the late Senator John Chafee. What a distinguished and able Senator he was, and those who were privileged to serve with him have fond memories of working with him. He was chairman of the full committee. We drove hard to make progress for the seatbelt laws, and we did it. This chart shows the result.

We basically put aside a very considerable sum of money to encourage States, again, by using their own devices, to increase usage. As a direct consequence of what we did in TEA–21, there has been an 11-percent increase in these 6 years in the use of seatbelts. Now, that is significant, but it could be much greater and stronger.

Sadly, traffic deaths in 2002, just one fiscal year, rose to the highest level in over a decade. It is astonishing. Of the nearly 43,000 people killed on our highways, over half were not wearing their seatbelts. Now, that is a considerable number of individuals. That is according to the National Highway Traffic Safety Administration. In the judgment of the people who responded to the accidents, they considered that 9,200 of these deaths might have been prevented if the safety belt had been used.

Those are the alarming statistics. Automobile crashes are the leading cause of death for Americans aged 2 to 34. Stop to think of that, age 2. That means a child. That means a parent neglected to buckle up the child. Automobile crashes are the leading causes of death for Americans age 2 to 34. That is our Nation's youth. So many of them are in the Armed Forces of the United States. Passage of this will be helpful to the Armed Forces.

Do we have a higher calling in the Congress than to do everything we can to foster the dreams and ambitions and the productivity of our Nation's youth? I think not. And this is one of the most effective means to do it.

Last year, 6 out of 10 children who died in car crashes did not have the belt on; 6 out of 10. That is over half. I plead with colleagues to join me, join with the President of the United States, join with the Secretary who has taken this initiative.

My primary responsibility in the Senate—and this is one of the reasons I got interested in this subject—is the welfare of the men and women of the Armed Forces, as I mentioned. I say to colleagues again, the statistics are tragic. Traffic fatalities are the leading noncombat cause of death for our soldiers, our sailors, our airmen, our marines. They are in that high-risk age category, 18 to 35. I repeat, it is the largest noncombat cause of death.

Someone even took a look at the statistics and totaled the fatalities last year and said that represents in deaths the size of an average U.S. Army battalion. That is a lot of folks. That is one of the principal incentives I have. I cannot think of any reason why we all cannot join behind this effort. That alone is the driving impetus for this Senator.

The time is long overdue for a national policy to strengthen seatbelt use rates. I said a national policy, and that is what this bill represents, either through States enacting a primary seatbelt law of their own conception and devising or passing this law, giving far greater attention to public awareness programs that result in more drivers and passengers wearing safety belts. Our goal is 90 percent for the Nation.

I have been privileged to serve on this committee 17 years and I, together with many others, notably my dear friend, the late chairman, Senator John Chafee, addressed this issue. Our committee is rich in the history of focusing revenue from highway trust funds on effective safety programs. It goes back through many chairmen and members of the Environment and Public Works Committee.

With jurisdiction over the largest share of the highway trust fund, our committee has had the vision to tackle important national safety programs. The legislation before us does provide more funding to help build safer roads. That is a step forward. But it does not have, in my judgment, that provision which represents a step up from what we did in TEA–21, that provision that would represent a recognition for the President's initiative.

The President has taken a decidedly strong initiative to increase the use of seatbelts. It is absent from the bill, and that is why we need a provision, by virtue of this amendment, to strengthen and move forward the position of the Congress on the position of increased use of safety belts on America's highways and roads. That is the purpose of this amendment.

It is just unfortunate that those with reckless intent quickly disregard responsible behavior and drive unbelted at excessive speeds, and many times with the use of alcohol. So no increased dollars for improving road engineering, which is in this bill—and I commend them for that, but that alone cannot defy, in many instances, the type of personal conduct that results in reckless behavior. In other words, engineering can quickly be overcome by the reckless driving, and particularly that associated with alcohol.

Automobiles now come equipped with crash avoidance technologies and are more crashworthy than ever before. But these advances are only a very small part of the solution. In repeated testimony before the Environment and Public Works Committee from the administration, from our States, safety groups, and the highway insurance industry, we are told three main causes of traffic deaths and injury are unbelted drivers, speed, and alcohol.

The formula we have devised in this legislation does have a reduction in the amount which the State receives under the proposed bill that we will consider next year when they fail to achieve the 90 percent safety belt use rate. It is as simple as that. But the formula is patterned directly after the law that is on the books now with respect to the .08 legal blood alcohol content level.

In other words, the formula we have in this amendment is identical, in terms of that what I call inducement—carrot/stick type of legislation—that we did for the .08 legal blood alcohol.

The net effect of this legislation is simply to recognize we are asking the same type of sanction policy with regard to one of the three major causes of death—alcohol—be equated to a second cause of death and injury, and that is the absence of the use of seatbelts, bringing into parallel two of the three principal causes of death and injury on the highways: .08 and mandatory use of seatbelts.

The administration put forward an innovative safety belt program, as I said, under the leadership of the President, and that was a major component of a new core transportation program, the Highway Safety Improvement Program, submitted to the Congress. Our amendments incorporate the administration's bill and include additional incentives for States to increase seatbelt use rates.

I ask unanimous consent to have printed in the RECORD today a deeply moving statement delivered by the representative of the American Medical Association, strongly in support of this legislation, and a letter from the Virginia Association of Chiefs of Police, strongly in favor of this legislation. Of course, the letter to the distinguished chairman, Mr. INHOFE, from the Secretary of Transportation is already a part of the RECORD.

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

AMERICAN MEDICAL ASSOCIATION,
February 9, 2004.

AMA APPLAUDS LEGISLATION TO PROMOTE SEAT BELT ENFORCEMENT AND SAFETY

AMA SPEAKS AT CONGRESSIONAL PRESS CONFERENCE TO URGE SEAT BELT AMENDMENT PASSAGE

On behalf of the American Medical Association, I'm proud to stand here with Senator Warner in support of enforcing seat belt use. Preventing deaths and injuries on our nation's roadways has been a priority of the AMA for many years. In fact, over the last seven years the AMA has distributed more than 16 million brochures on protecting children in motor vehicles, and just last year we released a physicians' guide to assess and counsel older drivers. Requiring all states to enact a primary enforcement seat belt law or achieve a seat belt use rate of at least 90 percent will help protect Americans on the road.

We know that wearing seat belts saves lives. Over half of the 43,000 people killed on America's highways in 2002 were not wearing seat belts. Tragically, six out of 10 children who died that year in motor-vehicle collisions were also not wearing seat belts. Just

taking one moment to buckle-up could make a life-or-death difference to the thousands who needlessly die on our roadways every year.

For those lucky enough to survive a devastating auto crash, the health care costs can be staggering. On average, hospitalization costs for unbelted traffic crash victims are 50 percent higher than for those who buckled-up. The needless deaths and injuries that result from not wearing seat belts cost society an estimated $26 billion annually in medical care, lost productivity and other injury-related costs.

These deplorable statistics are reversible. We can significantly reduce deaths and serious injuries from motor-vehicle crashes by enforcing seat belt use nationwide through a primary enforcement law like the one Senator Warner is now proposing.

In my home state of Michigan, a primary enforcement law has been in effect for three years. In that time, nearly 200 lives have been saved, and over 1,000 serious collisions have been averted because of this change in the law.

As a physician, it is a rare blessing to be in a situation where we can easily identify the solution to a public health threat. Passage of the primary enforcement seat belt law will save lives. It's that simple.

RON DAVIS,
AMA Trustee.

VIRGINIA ASSOCIATION
OF CHIEFS OF POLICE,
Richmond, VA, February 9, 2004.

The Virginia Association of Chiefs of Police (VACP) endorses S. 1993, a bill to create incentives for the states to enact primary safety belt laws. In 2002 in Virginia, we had 913 automobile fatalities. Of those 913 fatalities, 438 (62.7%) were not wearing a safety belt. In those 913 fatality crashes, 9,912 injuries were sustained by unbuckled occupants.

Under our current secondary enforcement law, Virginia's front seat safety belt use is 74.6%, which includes drivers and front seat passengers. Research tells us that front seat occupants of vehicles involved in potentially fatal crashes in states with primary safety belt laws have a 15 percentage point higher belt use than persons in states without primary laws.

The VACP supports the passage of primary safety belt laws as a proven tool to increase safety belt usage and reduce serious injuries and fatalities in the event of a traffic crash. Public education and enhanced traffic enforcement efforts have failed to increase Virginia's safety belt usage rate much beyond 75%. States with primary safety belt laws consistently experience safety belt usage rates up to 90%. The VACP believes that the passage of a primary safety belt law in Virginia will increase belt usage and save the lives of countless Virginians.

DANA G. SCHRAD,
Executive Director,
Virginia Association of Chiefs of Police.

EXHIBIT 1

THE SECRETARY OF TRANSPORTATION,
Washington, DC, November 12, 2003.

Hon. JAMES INHOFE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: With almost 43,000 people dying every year on our nation's highways, it is imperative that we do everything in our power to promote a safer transportation system. The Bush Administration's proposal to reauthorize surface transportation programs, the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003 (SAFETEA), offers several bold and innovative approaches to address this crisis.

President Bush and I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries. As a result, SAFETEA's new core highway safety program provides States with powerful funding incentives to increase the percentage of Americans who buckle up every time they get in an automobile. Every percentage point increase in the national safety belt usage rate saves hundreds of lives and millions of dollars in lost productivity.

Empirical evidence shows that the surest way for a State to increase safety belt usage is through the passage of a primary safety belt law. States with primary belt laws have safety belt usage rates that are on average eight percentage points higher than States with secondary laws. Recognizing that States may have other innovative methods to achieve higher rates of belt use, SAFETEA also rewards States that achieve 90% safety belt usage rates even if a primary safety belt law is not enacted. I urge you to consider these approaches as your Committee marks up reauthorization legislation.

While safety belts are obviously critical to reducing highway fatalities, so too is a data driven approach to providing safety. Every States faces its own unique safety challenges, and every State must be given broad funding flexibility to solve those challenges. This is a central theme of SAFETEA, which aims to provide States the ability to use scarce resources to meet their own highest priority needs. Such flexibility is essential for States to maximize their resources, including the funds available under a new core highway safety program.

I look forward to working with you on these critically important safety issues as development of a surface transportation reauthorization bill progresses.

Sincerely yours,

NORMAN Y. MINETA.

Mr. WARNER. I am pleased to say Senator MURRAY has asked to join as a cosponsor and I so request that be noted on the amendment.

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

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

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

MORNING BUSINESS

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

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

''WE THE PEOPLE . . .'' PROGRAM

Mr. LEVIN. Mr. President, more than 1200 high school students from across the Nation will come to our Nation's capital this summer to enhance their knowledge and understanding of the history and philosophy of our Nation's most important documents: the Constitution and Bill of Rights. These ambitious students will be participating in the annual national competition of ''We the People: The Citizen and the Constitution.'' This laudable effort, which is federally funded, is the most extensive educational program in the country designed specifically to educate young people about the U.S. Constitution and the Bill of Rights. At a time when a study by the National Association of Educational Progress shows that three-quarters of America's students are not proficient in either American history or civics, the importance of this program is unquestionable.

''We the People . . .'' helps our students not only appreciate our constitutional democracy, but it allows them to ''participate'' in it. Students start with an instructional program where they learn about our Government's primary institutions while they discover the relevance of our Constitution and Bill of Rights to their daily lives. Their lessons then simulate real-life when the students participate in a ''Congressional hearing'' where they ''testify'' before a panel of judges. By using the principles and knowledge they've learned in the classroom to role play, these students have the opportunity to delve into and appreciate both historical and contemporary issues facing our Nation.

This program is not just reserved for high school students. ''We the People . . .'' recognizes that civic education should not wait until the students are almost able to vote. Teachers are encouraged to engage their students in simulated hearings at the elementary and middle school levels. In fact, more than 24 million students and 75,000 educators have participated in the ''We the People'' program since its inception in 1987. Throughout the years, several of my staff members have served as judges in the State competition.

This year, I am proud to inform the Senate that East Grand Rapids High School will represent Michigan in this prestigious event. These students demonstrated their exceptional command of issues relating to the Constitution and the Bill of Rights in the state competition held in Lansing.

The ''We the People . . .'' program continues to be one of the best efforts to counteract the feelings of political apathy and cynicism amongst our Nation's youth. I wish the students at East Grand Rapids and all the students across the Nation who will be competing in this year's competition the best of luck. I know my colleagues will join me in recognizing the contributions the ''We the People . . .'' program has provided to students across the country.

CELEBRATING AFRICAN-AMERICAN HISTORY MONTH

Mr. SARBANES. Mr. President, I am pleased to join in commemorating African-American History Month and in

recognizing a crucial part of our diversity: the vast history and legacy that African Americans have contributed to the founding and building of our Nation.

In 1915, Dr. Carter Godwin Woodson founded the Association for the Study of Negro Life and History, which shortly after its creation, began a campaign to establish Negro History Week. In 1926, the second week of February was chosen to recognize the contributions of African Americans to American society. In 1976, this week of observance was expanded to a month and became African-American History Month.

Each year, the Association, now known as the Association for the Study of African American Life and History, designates a theme for the Black History Month observance. This year's theme, ''Before Brown, Beyond Boundaries, Commemorating the 50th Anniversary of Brown v. Board of Education of Topeka'' marks one of the most seminal moments in the fight for equal rights in this country—the Supreme Court's May 15, 1954 ruling that ''[i]n the field of public education, the doctrine of 'separate but equal' has no place.''

It was a ruling that was met with violent resistance and created enormous upheaval. A number of States adopted policies of ''massive resistance'' seeking to avert compliance with the Court's decision. Many went so far as to adopt resolutions calling for the State Government to interpose itself, parens patriae, between its citizens and the Federal government's efforts to impose desegregation.

But in the years that followed Brown, inspired by the framework for progress that the Court had provided, our civil rights leaders and the movement they created never backed down. They instead redoubled their heroic efforts often in the face of great risk of personal harm.

From the refusal by Rosa Parks to move to the back of a public bus, which ignited the Montgomery bus boycott, to efforts of the Rev. Martin Luther King, Jr. and many others to secure civil rights and desegregate public facilities, to efforts of the NAACP to clarify and expand the First amendment's protections related to free association, Brown's effects were felt across the Nation and beyond the sphere of public education.

And, of course, Thurgood Marshall—who I should note was born in Baltimore and attended Frederick Douglass High School—was at the center of these efforts. After graduating at the top of his class at Howard Law School, Marshall came back to Baltimore and, after working with NAACP to accomplish the landmark result in Brown led the legal fight thereafter to extend its precedent throughout the civil rights arena. After leaving the NAACP, Marshall put his convictions, determination, and legal prowess to work as a Federal judge, then Solicitor General, and ultimately the first African-American Justice on the Supreme Court. There, he was, as Justice William Brennan remembered him, the ''voice of authority . . . the voice of reason . . . [a]nd a voice with an unwavering message: that the Constitution's protections must not be denied to anyone and that the Court must give its constitutional doctrine the scope and sensitivity needed to assure that result.''

At the beginning of the last century, our Nation was a vastly different place than it is today. The country was divided along racial lines and racism was accepted and institutionalized. African Americans were not allowed to vote, and the opportunities available to African Americans were few.

Today, thanks to the visions of a few and the sacrifices of many—and in significant part thanks to the lasting effects of Brown—that situation has changed. After much hardship, African Americans have made great strides in many areas and now participate in every sector of our society. Throughout the past 100 years, African Americans have made remarkable contributions to the Nation and the world as mathematicians, scientists, novelists, poets, politicians, and members of the armed services.

Through the lessons and struggles of the last century and the trying first few years of this century, Americans have shown the world how people of all races, colors, religions and nationalities create the fabric of our Nation, a fabric that is richer because of our differences. This month, we honor the special contribution African Americans have made to that fabric.

But there is much work left to be done. When in 1981 the City of Baltimore unveiled a statue to Marshall, the Justice told the gathered crowd ''I just want to be sure that when you see this statue, you won't think that's the end of it. I won't have it that way. There's too much to be done.'' So we take the occasion of African-American History Month to celebrate the steps that we have taken toward equality, but also to remind ourselves of how far we have to go.

HONORING OUR ARMED FORCES: PRIVATE DWAYNE TURNER, 101ST AIRBORNE DIVISION, U.S. ARMY

Mr. BAYH. Mr. President, I rise today to honor the heroic service of Pvt Dwayne Turner, 23, a combat medic in the United States Army, from Indianapolis, IN. Private Turner is a member of the U.S. Army's 3rd Battalion, 502nd Infantry Regiment, 101st Airborne Division, which came under grenade and small arms attack in Baghdad, Iraq on April 13, 2003.

According to U.S. Army Sgt Neil Mulvaney, the convoy was under a heavy amount of fire from Iraqi resistance forces. During the attack, a grenade struck the Humvee in which Private Turner was riding, seriously injuring both his legs with shards of shrapnel. Ignoring his injuries, Private Turner bravely fulfilled his duty as a combat medic, selflessly putting the lives and comfort of others before his own. While treating 18 other soldiers' injuries, Private Turner was shot in the arm and leg before Sergeant Mulvaney had to physically restrain him to administer medical treatment for Private Turner's increasingly severe injuries.

When asked by the Associated Press to reflect upon the events of the attack, Private Turner humbly said, ''I don't consider myself a hero at all. I just figured everybody was going to go home and nobody was going to die on my watch.'' However, BG Frank Hemlock's description of Private Turner's actions seems much more fitting: ''He is a bona fide hero. He saved two lives without question and patched up 16 other lives.''

In honor of the lives he saved through his unhesitating valor, Private Turner has been awarded the Silver Star, an award earned by nothing less than true sacrifice. May this award stand as a reminder to Private Turner that neither his comrades nor their grateful loved ones will soon forget his heroic actions.

As I reflect on Private Turner's service, I am reminded of a quote by Douglas MacArthur: ''The soldier, above all other people prays for peace, for he must suffer and bear the deepest wounds and scars of war.'' The United States will be eternally grateful for the courage and bravery Private Turner exhibited on the field of battle.

I know that all Hoosiers share my deep sense of pride in Private Turner and all of the men and women of our Armed Forces from Indiana who safeguard our country's freedom. My thoughts and prayers are with him as he continues his recovery and begins to make his new goal to become a civilian physician a reality.

INDIANA STATE TROOPER SCOTT A. PATRICK

Mr. President, today I rise to pay tribute to and honor the remarkable life of Scott A. Patrick, an Indiana State Trooper who was killed in the line of duty.

During the early morning of December 22, 2003, Trooper Patrick stopped to assist what appeared to be a stranded motorist. Shortly thereafter, Trooper Patrick was gunned down by the assailant and passed away. He was 27 years old.

Trooper Patrick graduated from Kankakee Valley High School in 1995 with an academic honors diploma. While in high school, Trooper Patrick excelled in football and wrestling, earning numerous awards. Those who knew him remember Trooper Patrick as intelligent, industrious, and kind. He attended the University of Southern Indiana on both academic and carpenter's scholarships. While at USI, Trooper Patrick was active in a variety of

sports and was a starting member of the rugby team. He also worked at the university library to supplement his scholarships.

Trooper Patrick met Melissa Clark in 1996 while attending USI. They were engaged in February of 1999 and wed on a July afternoon during the Summer of 2000. In January that same year, Trooper Patrick was offered and accepted his position with the Indiana State Police. He was assigned to the Lowell Post.

Trooper Patrick was a devoted family man who relished his time with loved ones. When he learned that his wife was pregnant, just days before his death, he could not have been more excited and full of joy. May his child be brought into the world and raised knowing that his or her father was a brave, hard-working and loving man who was proud to be a father.

Trooper Patrick was a role model not only for his family, but for all who knew him and whose lives he touched. He dedicated his life to the noblest of causes: his family, his job and keeping others safe.

It is my sad duty to enter the name of Scott A Patrick into the CONGRESSIONAL RECORD. As Trooper Patrick rests with God in eternal peace, let us never forget the courage and sacrifice he displayed when he laid down his life on December 22, 2003.

ADDITIONAL STATEMENTS

TRIBUTE TO LARRY MYOTT

• Mr. LEAHY. Mr. President, I am pleased to recognize the long and distinguished career of Mr. Larry Myott, one of our Nation's most respected maple syrup specialists and a longtime friend. After nearly three decades with the University of Vermont Extension Service, Larry retired last week. Known by many as ''Mr. Maple,'' Larry has played an integral role in growing the Vermont maple industry into a $220 million a year industry. His educational work with Vermont farmers and his maple syrup promotion efforts have played a key role in expanding markets for producers, allowing more producers to make a living in the maple industry. While Vermont is the largest producer of maple syrup in the United States, Larry's work has transcended the State of Vermont. He has traveled throughout the United State and into Canada to assist maple producers and promote Vermont's maple syrup.

I offer my gratitude for Larry's friendship and his great work on behalf of the State of Vermont's maple industry. I ask that an article on Larry's career be printed in the RECORD.

[From the Associated Press]

''MR. MAPLE'' RETIRES FROM UNIVERSITY OF VERMONT EXTENSION SERVICE

(By Lisa Rathke)

MONTPELIER, VT.—Larry Myott just got an e-mail from Taiwan asking him when Vermonters ''squeeze'' sap from their trees.

The inquirer wanted to visit Vermont during the height of the maple season.

Myott, the maple specialist for the University of Vermont Extension Service gets letters from school children, from maple syrup buyers and from producers all over the world. They ask how to store maple syrup, if it's pure and what to do about crystals that form in the syrup.

''I'm often called 'Mister Maple,' '' says Myott, 59, who will retire in January after 28 years with the Extension Service. Gov. James Douglas and others will pay tribute to the maple man at a dinner Saturday.

Myott has educated and assisted maple producers across Vermont and promoted Vermont's maple products throughout the world.

He travels to Minnesota, Nova Scotia and Virginia to learn what's new, share his expertise and spread the word about Vermont's products.

''Larry has a love for the maple industry that is hard to surpass,'' says Jacques Couture, president of the Vermont Maple Sugarmakers Association, who was making maple candy at his farm in Westfield Wednesday. ''He's a real promoter of maple syrup, and he's done it actually by promoting maple syrup to helping producers on the educational side.

''It's been a life pursuit for him to see the maple industry by the best it can be.''

Myott became the maple specialist in 1988, after serving as Chittenden County Extension agent, and working with vegetable growers and dairy farmers.

And the maple industry today doesn't look anything like it did then.

''Very seldom do you see buckets in the woods any more. You don't see horses anymore,'' he says from his Ferrisburgh home, where he is recovering from a stroke earlier this month.

Sugaring has grown from a side business for dairy farmers to a year-round profitable operation for large producers, he says.

In 1988 the average producer had 1,000 taps and generated 250 gallons of syrup a year. Ten years later, the average size grew to twice that.

Now a large-scale sugarer might produce as much as 40,000 to 50,000 gallons a year, he says.

New technology such as a system that uses a vacuum to pull sap out of trees; reverse osmosis, which removes water from sap without heat by using a high pressure filter system; and super-efficient evaporators that boil sap with less heat, have made sugaring far more efficient.

Producers have expanded to meet the demand, and prices are now high enough for them to make a living, he says.

''Sugarmakers are able to make a living in the maple business today,'' he says.

The syrup is also better than it used to be. ''The quality has changed tremendously,'' he says.

And efforts by the state to promote the Vermont image and products and draw tourists have increased sales of maple products.

Vermont sugarmakers made 430,000 gallons of syrup last year, bringing in an estimated $18 million to $20 million, Myott says. According to the Vermont Agency of Agriculture, the entire maple industry generates over $200 million a year.

The annual Maple Festival, a local fair started in 1937 in St. Albans, now draws as many as 50,000 people from around the world, Myott says.

Vermont, the largest producer of maple syrup, is one of only a few states to have a maple specialist. But Myott's reputation stretches far beyond the Green Mountains.

''Because he's articulate, because he writes a lot, because he'll take telephone calls from anyone at anytime. That reputation spans not only Vermont and the region but also internationally,'' says Gary Deziel, Northwest regional chair of the UVM Extension Service.

Although he's retiring Jan. 30, Myott says he will remain involved in the maple industry. He will continue to write about maple for Farming Magazine, Maple Views, Country Folks Magazine and Country Magazine. And he will always take questions from Taiwan.•

LOCAL LAW ENFORCEMENT ACT OF 2003

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

On November 14, 2001, Milwaukee resident Pablo Parrilla was charged with first-degree intentional homicide in connection with the death of his lesbian sister's girlfriend, Juana Vega. The shooting occurred when Vega went to the home of her girlfriend's family to reconcile an argument. Instead, Parilla confronted her outside the house and shot her repeatedly. Parrilla apparently told Vega ''I'm going to kill you because you are gay'' and ''because you turned my sister gay.''

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

HONORING THE GIRL SCOUTS' WILDERNESS ROAD COUNCIL

• Mr. BUNNING. Mr. President, today I take the opportunity to honor the Girl Scouts' Wilderness Road Council for all the work they do to shape Kentucky's young women. This year the Girl Scouts in central and eastern Kentucky are taking on a new challenge with their annual cookie drive. They have started ''Operation Milk and Cookies,'' a program sponsored by the Girl Scouts' Wilderness Road Council that aims to give a box of Girl Scout cookies to families that can't afford them.

The Girl Scouts have always afforded a young women the unique opportunity to enhance her communication and social skills, to develop a strong sense of self, to participate in innovative programs, and to foster her creative side. But by participating in Operation Milk and Cookies, these young women are learning how to be productive and proactive citizens, who will some day have the chance to change the way the world works. They are learning at an early age how important it is to help others that are less fortunate and how

to be selfless contributing members to the community.

Mr. President, the citizens of Kentucky are proud to have Girl Scouts' Wilderness Road Council's troops living and learning in their community. Their example of hard work and determination should be followed by all in the Commonwealth. The Girl Scouts' Wilderness Road Council have found a successful way to bring out the best in its young women, and I personally thank the leaders and supporters of this great organization for continually producing strong and bright young women committed to making Kentucky a better place to live.●

HONORING EDWARD N. FRIESZ ON HIS 80TH BIRTHDAY

● Mr. DORGAN. Mr. President, I recognize a North Dakotan who is celebrating a special birthday this weekend. On Saturday, February 14, 2004, friends and family will gather in Mandan, ND to celebrate and honor Edward N. Friesz on his eightieth birthday.

Edward Friesz was born on February 14, 1924 to Adam and Magdalena Friesz on a farmstead near Fellon, ND. The oldest of nine children, Edward worked on his parents' farm before moving to Mandan to live and work. He worked at various places before retiring in 1989 from the Morton County Courthouse.

In 1951, Edward met Elsie Frohlich, a friend and coworker of his sister, Irene. Edward and Elsie were married on September 30, 1953 in Bismarck. Last fall, the couple celebrated their 50th wedding anniversary.

Mark Twain once wrote, ''Wrinkles should merely indicate where smiles have been.'' Edward's greatest joy in life—the origin of many of those smiles—is his family.

Edward and Elsie started their family in 1954 with the arrival of their first child, Delphine. Their family would grow to include three daughters, Delphine, Sharon and Annette, and three sons, Kennard, Gerard and Maynard.

Edward and Elsie are also proud grandparents. They have 10 grandchildren ranging in age from 25 to 1. They include: Trever, Anton, Maria, Elizabeth, Alec, Jakob, Brett, Rachael, Ryan and Adam.

While the family has spread throughout the country, they remain very close. The family comes together for birthdays, anniversaries, holidays and special occasions. Twelve years ago, the family started a new tradition: a summer campout. Armed with tents and campers, sleeping bags and lanterns, the Edward and Elsie Friesz family embark each year on a weekend campout to share food, fun and fellowship.

Over the past 12 years, they have camped in North Dakota, South Dakota and Minnesota. They have endured rainstorms, thunderstorms, and cold and hot temperatures. As the family has grown, so have the annual campouts. One year, they even designed t-shirts to commemorate the family tradition.

This Valentine's Day, February 14, 2004, the family will get together again this time to celebrate their patriarch's 80th birthday.

I extend a warm birthday greeting to Edward Friesz and wish him well on his 80th birthday.●

HERMAN A. MACDONALD, OREGON VETERAN HERO

● Mr. SMITH. Mr. President, today I rise to honor an Oregon veteran who has gone above and beyond the call of duty in service to his country and to his State. Herman A. ''Mac'' MacDonald was born in 1929 in Boston, MA and has lived in Oregon since the 1978. Mac's entire life has been dedicated to serving America, its veterans, and citizens.

Mac's military career began shortly after he graduated from high school in 1948, when he joined the United States Coast Guard Reserves while attending Bryant College. After graduation, Mac joined the United States Marine Corps, as an officer. Mac's military career sent him to distant lands to defend America's interests. He served in combat on the main line of resistance in Korea; he was stationed in Virginia, Hawaii, Illinois, California and Japan. He served as the Commanding Officer of Force Reconnaissance at Camp Pendleton. He also served in Vietnam as part of the top-secret Studies and Observation Group, SOG. Along with the team, Mac served with Marine Reconnaissance, Navy SEALS, and the Green Berets.

After Vietnam, Mac was transferred to Marine Headquarters in Washington, DC, where he became a military aide for Secretary of Housing and Urban Development, George Romney. Mac's military background provided Secretary Romney with important insight for policy decisions. Following his service with the Secretary, Mac moved to Toronto, Canada, where he was an instructor at the Canadian Forces Command and Staff College. He returned to the United States in 1976, and retired from the military in 1978. Upon retirement, he had earned a total of 24 ribbons, five of which were personal decorations, in addition to Presidential Unit Citations from the U.S. Army and U.S. Marine Corps.

For Mac, retirement meant a chance to follow a new dream. His compassion for children brought him to the classroom, where he became a teacher. From 1978–1985, Mac taught in the Salem School District in Oregon, where he worked with troubled teenagers. He became the principal of the Woodburn Gervais alternative high school and retired in 1999.

Mac continues to serve veterans today as an advocate for Oregon veterans' organizations. He is also the curator of the Oregon Military Educational Display, a collection of uniforms, medals, and artifacts from various wars throughout history. The items are put on a display for a month each year at the Oregon State Capitol.

Mac has lived in West Salem since 1978 and is proud to call himself an Oregonian. He's been marred to his wife Vi for 46 years and has two grown children, and two grandsons.

For his selfless service to others, and to the United States in times of war, I salute Herman A. ''Mac'' MacDonald as an Oregon Veteran Hero.●

RUSSELL H. PHELPS III, UNITED STATES NAVY

● Mr. BOND. Mr. President, I rise today with friends and family to recognize the efforts and dedication of CDR Russell H. Phelps III, an outstanding American. Commander Phelps began his military career in 1908 as an Arabic linguist assigned in Athens, Greece. Working in a national airborne reconnaissance program, he supported U.S. military missions to Lebanon, Egypt, and Saudi Arabia. Honorably discharged in 1985, he graduated Magna Cum Laude from the University of Northern Iowa in 1988 with a Bachelor of Arts in International Relations.

He earned a Naval commission as a Special Duty Officer (Cryptology) upon completion of the Officer Candidate School in September 1988, whereupon he was assigned to the Naval Security Group Activity (NSGA) Rota, Spain. During that tour, he was assigned to the staff of the Commander, Middle East Force, Bahrain, and aboard USS *O'Bannon* (DD–987) and USS *Aubrey Fitch* (FFG–34) in support of Operation Earnest Will, the escort of re-flagged Kuwaiti oil tankers in the Arabian Gulf. Between 1989 and 1991, Commander Phelps was additionally assigned to the USS *Wainwright* (CG–28), USS *Baton Rouge* (SSN–689), USS *Silversides* (SSN–679), USS *Providence* (SSN–719), and to the USS *Pittsburgh* (SSN–720) during combat support operations throughout Operation Desert Storm.

Commander Phelps next assignment was to the USS *Oldendorf*, where he served as the Cryptologic Officer, Tactical Action Officer, and for 6 months as the Operations Officer, culminating in his qualifications as a Surface Warfare Officer. Detaching in 1994, he reported to Menwith Hill Station, Harrogate, England, and served as a Deputy Division Chief and member of the Regional Security Operations Center (RSOC) transition team. A plank owner of NSGA Menwith Hill, he simultaneously served in operations and as its first Executive Officer from 1995 to 1996. Commander Phelps next served at the Tactical Training Group Pacific, San Diego, CA, where he provided training to Battle group and warfare commanders in Cryptology, Information Warfare, and space systems operations. From 1999 to 2001, Commander Phelps served on the Staff of Commander, Carrier Group Seven as the

Flag Cryptologist and deployed to the Middle East as the Cryptologic Resources Coordinator for John C. Stennis Battle Group and Bon Homme Richard Amphibious Ready Group.

Commander Phelps' most recent assignment was at U.S. Naval War College, Newport, RI, where he earned a Master of Arts (with Distinction) in Strategy and National Security Decision Making.

Military decorations include the Defense Meritorious Service Medal, Air Medal (4 oak clusters in lieu of 5th award), Navy and Marine Corps Commendation Medal (two gold stars in lieu of third award), Navy and Marine Corps Achievement Medal (gold star in lieu of second award), as well as several unit and campaign awards.

Commander Phelps is married to the former Ms. Diana Weetman, of North Yorkshire, England.

Mr. President, I stand with all those whose lives are richer for having known Commander Phelps to commemorate and recognize his efforts and dedication on this Sixth day of February, Two-thousand and Four.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

ECONOMIC REPORT OF THE PRESIDENT—PM 63

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Joint Economic Committee:

To the Congress of the United States:

As 2004 begins, America's economy is strong and getting stronger. Over the past several years, this Nation has faced major economic challenges resulting from the decline of the stock market beginning in early 2000, a recession that began shortly after, revelations about corporate governance scandals, slow growth among many of our major trading partners, terrorist attacks, and the war against terror, including in Afghanistan and Iran. These challenges affected business and consumer confidence and resulted in hardship for people in many industries and regions of our Nation. Americans have responded to each challenge, and now we have the results: renewed confidence, strong growth, new jobs, and a mounting prosperity that will reach every corner of America.

This Report, prepared by my Council of Economic Advisers, describes the economic challenges we faced, the actions we took, and the results we are seeing. It also discusses our plans to continue growing the economy and creating jobs.

In May 2003, I signed a Jobs and Growth bill that focused on three key goals. First, we accelerated previously passed tax relief and let American households keep more of their own money to save, invest, and spend. Second, we increased incentives for small businesses to invest in new equipment and plant expansions. Third, we enacted important tax relief on dividend income and capital gains to help investors and businesses. These actions were designed to promote investment, job creation, and income growth. By all three measures of performance, we are seeing signs of success.

Since May 2003, we have seen the economy grow at its fastest pace in nearly 20 years. Consumers and businesses have gained confidence. Retail sales are strong, and Americans are buying, building, and renovating houses at a record pace. Investment has strengthened, with spending on business equipment the best in 5 years. The unemployment rate has fallen from its peak of 6.3 percent last June to 5.7 percent in December, and employment is beginning to rise as new jobs are created, especially in small businesses. Productivity growth has been strong, leading to higher incomes for workers, while the tax relief we passed means that American families keep more of their money instead of sending it to Washington.

We are moving in the right direction, but have more to do. I will not be satisfied until every American who wants a job can find one. I have outlined a six-point plan to promote job creation and strong economic growth. This plan includes initiatives to help manage rising health care costs to make health care more affordable and accessible for American workers and families, reduce the burden of junk lawsuits on the economy; ensure a reliable and affordable energy supply; simplify and streamline government regulations; open foreign markets for American goods and services; and allow businesses and families to keep more of their hard-earned money and plan with confidence by making our tax relief permanent. This year, I will work with the Congress to achieve these goals.

I will also continue to work with the Congress on another important shared goal: controlling federal spending and reducing the deficit. The federal budget is in deficit, foremost because of the economic slowdown and then recession that began in 2000 and the additional costs of fighting the war on terror and protecting the homeland. We are continuing to take action to restrain spending and bring the deficits down. By carefully evaluating priorities and being good stewards of the taxpayer's money, we will cut the budget deficit in half over the next five years.

The task of reducing the deficit will become easier because America's economy is growing. We have taken the actions needed to restore growth, and we are pursuing additional policies to help create jobs for American workers and families. I'm optimistic about the future of our economy because I know the values of America and the decency and entrepreneurial spirit of our people.

GEORGE W. BUSH.

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–6198. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2, A300B4, A300B4–600, A300B4600R, A300F4–600R, A310, A330, and A340 Airplanes Doc. No. 2001–NM–154'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6199. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL–200–2C10 (Regional Jet Series 700 and 701) Series Airplanes Doc. No. 2003–NM–159'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6200. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–400 and 400F Series Airplanes Doc. No. 2003–NM–140'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6201. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes Doc. No. 2003–NM–249'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6202. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft Ltd. Model PC–6 Airplanes Doc. No. 2003–CE–01'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6203. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Model 1900, 1900C, and 1900D Airplanes Doc. No. 2003–CE–16'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6204. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileria de Aerunautica

S.A. (EMBRAER) Model EMB–13 and 145 Airplanes Doc. No. 2002–NM–336'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6205. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model EC130B4 Helicopters Doc. No. 2003–SW–41'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6206. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Hamburger Fugzeubau G.m.b.H Model HFB 320 HANSA Airplanes Doc. No. 2002–NM–185'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6207. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes Doc. No. 2003–NM–05'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6208. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–600, 700, 800, 757–200, and 757–300 Airplanes Doc. No. 2001–NM0374'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6209. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Mystere-Falcon 200 Series Airplanes Doc. No. 2003–NM–247'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6210. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc RB211–22B Series, RB211–524B, 524C2, 524D4, 524G2, 524G3, and 524H Series and RB211–535C and 535E Series Turbofan Engines Doc. No. 2003–NE–12'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6211. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–11 and 11F Airplanes Doc. No. 2001–NM–165'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6212. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model 11 and 11F Airplanes Doc. No. 2001–NM–167'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6213. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–11 and 11F Airplanes Doc. No. 2001–NM–161'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6214. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas MD–11 and 11F Airplanes Doc. No. 2001–NM–164'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6215. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL–600–2C10 (Regional Jet Series 700 & 701) and CL–600–2D24 (Regional Jet Series 900) Airplanes Doc. No. 2003–NM–209'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6216. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS 365 N3 and EC 155B Helicopters Doc. No. 2001–SW–61'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6217. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas MD–11 Airplanes Doc. No. 2001–NM–57'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6218. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS332C, L, L1, and L2 Helicopters Doc. no. 2001–SW–07'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6219. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney PW4000 Series Turbofan Engines; Doc. No. 2002–NE–15'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6220. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model SA–365N, N1, AS–365N2, and AS365 N3 Helicopters Doc. No. 2003–SW–09'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6221. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc (RR) RB211–22B, RB211–524 and RB211–535 Series Turbofan Engines Doc. No. 2001–NE'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6222. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes Doc. No. 2003–NM–55'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6223. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Cessna Aircraft Company Models 441 and F406 Airplanes Doc. No. 2002–CE–18'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6224. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes Modified in Accordance with Supplemental Type Certificate SA 1767SO or SA1768SO Doc. No. 97–NM–232'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6225. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes Modified in Accordance with Supplemental Type Certificate ST00015AT Doc. No. 97–NM–234'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6226. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes Modified in Accordance with Supplemental Type Certificate SA1368SO, SA1797SO, or SA798SO Doc. No. 97–NM–233'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6227. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes Modified in Accordance with Supplemental Type Certificate SA1444SO, SA15090SO, SA1543SO, or SA1896SO Doc. No. 97–NM–235'' (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6228. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Mount Pleasant, IA; Doc. No. 03–ACE–82'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6229. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Mapleton, IA; Doc. No. 03–ACE–80'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6230. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace: Calverton, NY; Doc. No. 03–AEA–16'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6231. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace: Columbus, MS; Doc. No. 03–ASO–10'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6232. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Mapleton, IA; Doc. No. 03–ACE–80'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6233. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Milford, IA; Doc. No. 03–ACE–81'' (RIN2120–AA66) received on February 4, 2004;

to the Committee on Commerce, Science, and Transportation.

EC–6234. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E5 Airspace: Augusta, GA; Doc. No. 03–ASO–5'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6235. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Maryville, MO; Confirmation of Effective Date; Doc. No. 03–ACE–62'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6236. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Springfield, MO; Doc. No. 03–ACE–100'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6237. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Milford, IA; Confirmation of Effective Date; Doc. No. 03–ACE–81'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6238. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Ashland, OH; Doc. No. 01–AGL–19'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6239. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments (3); Amdt. No. 446'' (RIN2120–AA63) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6240. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Revision of Restricted Area 2202C, and the Establishment of Restricted Area 2202D; Big Delta, AK; Doc. No. 03–AAL–007'' (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6241. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Special Federal Aviation Regulation No. 36, Development of Major Repair Data, Direct Final rule, Request for Comments; Doc. No. FAA–2003–16527'' (RIN2120–AI09) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6242. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Enhanced Flight Vision System; Doc. No. FAA–2003–14449'' (RIN2120–AH78) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6243. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities; Doc. No. FAA–2002–11301'' (RIN2120–AH14) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6244. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Repair Stations: Service Difficulty Reporting; Request for Comments; Doc. No. FAA–2003–16772'' (RIN2120–AI07) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6245. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Prohibition Against Certain Flights Within the Territory and Aisrpace of Iraq; Amendment; Doc. No. FAA–2003–14766'' (RIN2120–ZZ64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6246. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''FMVSS No. 208 Occupant Crash Protection, Temporary Alternative Compliance'' (RIN2127–AJ30) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6247. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations (Including 2 Regulations): [COTP Houston-Galveston 03–005], [COTP Houston-Galveston 03–004]'' (RIN1625–AA00) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6248. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities [USCG–1998–4302'' (RIN1625–AA07) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6249. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: [CGD07–02–141] Caloosahatchee River Bridge (SR29), Okeechobee Waterway, Labelle, Florida'' (RIN1625–AA09) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6250. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations (Including 5 Regulations): [CGD05–04–002], [CGD05–04–010], CGD13–04–001], [CGD08–03–050], [CGD08–04–003]'' (RIN1625–AA09) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6251. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations (Including 5 Regulations) (Including Final Rule Correction): [CGD09–03–277], [CGD13–03–018], [CGD01–03–036], [CGD01–03–012]'' (RIN1625–AA00) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6252. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Salvage and Marine Firefighting Requirements; Vessel Response Plans For Oil'' (RIN1625–AA19) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany S. 1545, A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents (Rept. No. 108–224).

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. COLEMAN:

S. 2055. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids; to the Committee on Finance.

By Mr. BROWNBACK (for himself and Mr. GRAHAM of South Carolina):

S. 2056. A bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language; to the Committee on Commerce, Science, and Transportation.

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. 2057. A bill to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DAYTON (for himself and Mr. COLEMAN):

S. Res. 297. A resolution congratulating the Saint John's University, Collegeville, Minnesota, football team for winning the 2003 National Collegiate Athletic Association Division III Football Championship; considered and agreed to.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. AKAKA, Mr. ALLEN, Ms. COLLINS, Mr. KENNEDY, Mr. DURBIN, Mr. DAYTON, Mr. LEVIN, Mr. JOHNSON, and Mrs. MURRAY):

S. Con. Res. 88. A concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the pay of members of the uniformed services and the adjustments in the pay of civilian employees of the United States; to the Committee on Governmental Affairs.

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. INOUYE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 333

At the request of Mr. BREAUX, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 968

At the request of Mr. SESSIONS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 968, a bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1101

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1101, a bill to provide for a comprehensive Federal effort relating to early detection of, treatments for, and the prevention of cancer, and for other purposes.

S. 1103

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

S. 1335

At the request of Mr. GRASSLEY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1431

At the request of Mr. LAUTENBERG, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1431, a bill to reauthorize the assault weapons ban, and for other purposes.

S. 1703

At the request of Mr. SMITH, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1781

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1781, a bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

S. 1786

At the request of Mr. ALEXANDER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1786, a bill to revise and extend the Community Services Block Grant Act, the Low-Income Home Energy Assistance Act of 1981, and the Assets for Independence Act.

S. 1813

At the request of Mr. LEAHY, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 1906

At the request of Mr. SESSIONS, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1906, a bill to provide for enhanced Federal, State, and local enforcement of the immigration laws, and for other purposes.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1946

At the request of Mr. CORZINE, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1946, a bill to establish an independent national commission to examine and evaluate the collection, analysis, reporting, use, and dissemination of intelligence related to Iraq and Operation Iraqi Freedom.

S. 1961

At the request of Mr. HOLLINGS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1961, a bill to provide for the revitalization and enhancement of the American passenger and freight rail transportation system.

S. 2018

At the request of Mr. BUNNING, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 2018, a bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail to include additional sites associated with the preparation or return phase of the expedition, and for other purposes.

S. 2038

At the request of Mr. BAYH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2038, a bill to amend the Public Health Service Act to provide for influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes.

S. 2047

At the request of Mr. BOND, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2047, a bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the compensation program established by that Act.

S. 2049

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2049, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.

S.J. RES. 26

At the request of Mr. ALLARD, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S.J. Res. 26, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 80

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. Con. Res. 80, a concurrent resolution urging Japan to honor its commitments under the 1986 Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COLEMAN:

S. 2055. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids; to the Committee on Finance.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the text of the bill I introduce today, the Hearing Aid Assistance Tax Credit Act, be printed in the RECORD.

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

S. 2055

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 ''Hearing Aid Assistance Tax Credit Act''.

SEC. 2. CREDIT FOR HEARING AIDS FOR SENIORS AND DEPENDENTS.

(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 25B the following new section:

''SEC. 25C CREDIT FOR HEARING AIDS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the amount paid during the taxable year, not compensated by insurance or otherwise, by the taxpayer for the purchase of any qualified hearing aid.

''(b) MAXIMUM AMOUNT.—The amount allowed as a credit under subsection (a) shall not exceed $500 per qualified hearing aid.

''(c) QUALIFIED HEARING AID.—For purposes of this section, the term 'qualified hearing aid' means a hearing aid—

''(1) which is described in section 874.3300 of title 21, Code of Federal Regulations, and is authorized under the Federal Food, Drug, and Cosmetic Act for commercial distribution, and

''(2) which is intended for use—

''(A) by the taxpayer, but only if the taxpayer (or the spouse intending to use the hearing aid, in the case of a joint return) is age 55 or older, or

''(B) by an individual with respect to whom the taxpayer, for the taxable year, is allowed a deduction under section 151(c) (relating to deduction for personal exemptions for dependents).

''(d) ELECTION ONCE EVERY 5 YEARS.—This section shall apply to any individual for any taxable year only if such individual elects (at such time and in such manner as the Secretary may by regulations prescribe) to have this section apply for such taxable year. An election to have this section apply may not be made for any taxable year if such election is in effect with respect to such individual for any of the 4 taxable years preceding such taxable year.

''(e) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Credit for hearing aids.''.

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

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. 2057. A bill to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the memers in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel; to the Committee on Armed Services.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2057

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

SECTION 1. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces for transportation expenses incurred by such member for one round trip by such member between two locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 297—CONGRATULATING THE SAINT JOHN'S UNIVERSITY, COLLEGEVILLE, MINNESOTA, FOOTBALL TEAM FOR WINNING THE 2003 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION III FOOTBALL CHAMPIONSHIP

Mr. DAYTON (for himself and Mr. COLEMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 297

Whereas Saint John's University defeated Mount Union College of Alliance, Ohio, by a score of 24–6 in Stagg Bowl XXXI on Saturday, December 20, 2003;

Whereas Saint John's University finished the season 14–0, with the football program holding the all-time record for victories in Division III at 508–213–24 in 93 seasons;

Whereas the 2003 Championship is the first National Championship won by the Saint John's University football team since 1976 and the fourth in the history of the school;

Whereas the 2003 Championship capped a season in which Coach John Gagliardi of Saint John's University became the winningest football coach in the history of the National Collegiate Athletic Association;

Whereas Blake Elliott, the senior wide receiver of Saint John's University, was the recipient of the 2003 Gagliardi Trophy as the most outstanding Division III football player in the United States in 2003;

Whereas the Saint John's University Johnnies, by winning the championship game, cracked Mount Union's National Collegiate Athletic Association-record winning streak of 55 games in a row;

Whereas loyal fans of Saint John's University, enough to fill 3 chartered planes, were among the crowd of 5,073 who attended the 2003 Amos Alonzo Stagg Bowl in the freezing cold of Salem, Virginia, with many more watching the nationally televised game; and

Whereas all of the players of the Saint John's University team showed tremendous dedication throughout the season to realize the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Saint John's University football team for winning the 2003 National Collegiate Athletic Association Division III Football Championship;

(2) recognizes the achievements of all of the players, coaches, and support staff of the team and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Saint John's University for appropriate display.

SENATE CONCURRENT RESOLUTION 88—EXPRESSING THE SENSE OF CONGRESS THAT THERE SHOULD CONTINUE TO BE PARITY BETWEEN THE ADJUSTMENTS IN THE PAY OF MEMBERS OF THE UNIFORMED SERVICES AND THE ADJUSTMENTS IN THE PAY OF CIVILIAN EMPLOYEES OF THE UNITED STATES

Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. AKAKA, Mr. ALLEN, Ms. COLLINS, Mr. KENNEDY, Mr. DURBIN, Mr. DAYTON, Mr. LEVIN, Mr. JOHNSON, and Mrs. MURRAY) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 88

Whereas members of the uniformed services of the United States and civilian employees of the United States make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining the Nation's defenses;

Whereas civilian employees of the United States play a crucial role in the fight against terrorism, as exemplified by—

(1) the civilian employees of the Department of Homeland Security and the Department of Defense who are working to ensure the security of the United States;

(2) the civilian employees of the Central Intelligence Agency and the Federal Bureau of Investigation who are investigating the September 11, 2001, terrorist attacks and working to prevent further terrorist attacks;

(3) the numerous skilled trade and craft civilian employees of the Federal Government who work side-by-side with the men and women of the armed forces to maintain and deploy our air and sea fleet safely and swiftly; and

(4) the employees of the Centers For Disease Control within the Department of Health and Human Services who work every day protecting Americans from bioterrorism and those at the Department of Agriculture who strive to keep the Nation's food supply safe;

Whereas civilian employees of the United States will continue to support and defend the United States during this difficult time;

Whereas in fiscal year 2004 Congress again reaffirmed its long-standing commitment to parity in pay adjustments for members of the uniformed services and all civilian employees in both the annual budget resolution and the Transportation, Treasury and Independent Agencies Appropriations Act, 2004; and

Whereas for fiscal year 2005, the Administration proposed a 3.5 percent pay raise for members of the uniformed services but only a 1.5 percent pay raise for the dedicated civilian employees of the United States, a disparity in adjustments that violates the traditional principle of parity of pay adjustments: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that rates of pay for all civilian employees of the United States should be adjusted at the same time, and in the same proportion, as are rates of pay for the uniformed services.

Mr. SARBANES. Mr. President, I am pleased to join with Senators MIKULSKI, WARNER, AKAKA, ALLEN, COLLINS, KENNEDY, DURBIN, DAYTON, LEVIN, JOHNSON, and MURRAY in submitting a resolution expressing the sense of the Congress that parity between Federal civilian pay and military pay should be maintained.

Disparate treatment of civilian and military pay goes against the longstanding policy of parity for all those who have chosen to serve our Nation—whether that service is in the civilian workforce or in the armed services. In fact, a comparison of military and civilian pay increases by the Congressional Research Service finds that in 16 of the last 18 years military and civilian pay increases have been identical.

Indeed, the Fiscal Year 2004 Consolidated Appropriations Act Conference Report passed by Congress included a pay parity provision that would provide a 4.1 percent average pay adjustment to military and all civilian employees.

Federal civilian and military employees work side-by-side doing the important work of the Nation, including protecting U.S. citizens from terrorism. As a prime example, during last week's response to the discovery of ricin in the Dirksen Senate Office Building, civilian employees from agencies such as the Environmental Protection Agency, Centers for Disease Control and Prevention, the Coast Guard, the U.S. Capitol Police, the FBI, and the Marine Corps Chemical Biological Incident Response Force from Indian Head, Maryland responded jointly to the crisis and collaborated in the cleanup of the affected Senate Office Buildings. Now more than ever, an efficient and effective Federal Government requires this kind of civilian/military collaboration. We should not undermine the morale of our dedicated public civil servants by failing to bring their pay in line with that of the military personnel they work along side of every day.

Moreover, both the uniformed services and the Federal civilian workforce need to address critical retention and recruitment problems. Our Federal Government is facing a ''human capital'' crisis as a result of attrition that threatens institutional experience and knowledge at every level. By the end of 2005, one out of every three current Federal workers will be eligible for optional retirement and by 2007 an estimated 53 percent of the Federal workforce will be eligible to retire. These vacancies will occur in an era in which those entering the workforce are far less likely to join public service. As evidence of this, a 2002 survey commissioned by the Partnership for Public Service reveals that only one in four college-educated workers expressed significant interest in working for the Federal Government.

Inequitable pay only serves to perpetuate this lack of interest. Congress has continually asked Federal employees to make significant sacrifices for the sake of our Nation's fiscal health, including more than $200 billion in deficit reduction contributed by Federal employees and retirees in lost and delayed compensation. In addition, FEPCA—legislation passed in 1990 to bring the pay of Federal employees in line with that offered in the private sector—has never been fully implemented. Nonetheless, Federal employees have continued to provide high quality service to the American public, usually with fewer resources and personnel.

One way to ensure the Federal Government is able to attract and retain qualified public servants is to ensure parity between civil service employees and members of the uniformed services. I urge my colleagues to join me in support of this important resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2273. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 2274. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2275. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2276. Mr. DORGAN proposed an amendment to the bill S. 1072, supra.

SA 2277. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2278. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2279. Mr. WARNER (for himself, Mrs. CLINTON, Mr. DEWINE, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2280. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2273. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. LIMITATION ON THE APPLICATION OF THE DAVIS-BACON ACT.

The provisions of subchapter IV of chapter 31 of title 40, United States Code (40 U.S.C. 3141 et seq.), commonly known as the Davis-Bacon Act, shall not apply to projects that receive funding under this Act (or an amendment made by this Act).

SA 2274. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 880, before line 7, insert the following:

SEC. 16____. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

''SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

''(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is available, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol (or the highest available percentage of ethanol), rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

''(b) BIODIESEL.—

''(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

''(2) REQUIREMENT.—The head of each Federal agency shall ensure that—

''(A) as of the date that is 5 years after the date of enactment of this paragraph, in areas in which biodiesel is available, the Federal agency purchases biodiesel-blended diesel fuel that contains at least 5 percent biodiesel (or the highest available percentage of biodiesel), rather than nonbiodiesel-blended diesel fuel, for use in vehicles used by the agency; and

''(B) as of the date that is 10 years after the date of enactment of this paragraph, in areas in which biodiesel is available, the Federal agency purchases biodiesel-blended diesel fuel that contains at least 10 percent biodiesel (or the highest available percentage of biodiesel), rather than nonbiodiesel-blended diesel fuel, for use in vehicles used by the agency.''.

SA 2275. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____. INCENTIVES FOR BIODIESEL.

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting after section 40 the following new section:

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

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

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

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year

is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

''(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel in such mixture.

''(2) QUALIFIED BIODIESEL MIXTURE.—

''(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel which—

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

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

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

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

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

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

''(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 4041(n) or section 4081(f).

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

''(1) BIODIESEL DEFINED.—

''(A) IN GENERAL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

''(B) REGISTRATION REQUIREMENTS.—Such term shall only include a biodiesel which meets—

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

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

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

''(A) IMPOSITION OF TAX.—If—

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

''(ii) any person—

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

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

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

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

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

''(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

''(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

''(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

''(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.''.

''(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2013.''.

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

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

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d) of such Code is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year beginning before January 1, 2003.''.

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

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

(C) Section 6501(m) of such Code is amended by inserting ''40A(e),'' after ''40(f),''.

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

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

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

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL MIXTURES.—

(1) IN GENERAL.—Section 4081 of the Internal Revenue Code of 1986 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

''(f) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

''(2) TAX PRIOR TO MIXING.—

''(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the otherwise applicable rate, reduced by the amount determined under subparagraph (B).

''(B) APPLICABLE REDUCTION.—For purposes of subparagraph (A), the amount determined under this subparagraph is an amount equal to the biodiesel mixture rate for the qualified biodiesel mixture to be produced from the diesel fuel, divided by a percentage equal to 100 percent minus the percentage of biodiesel which will be in the mixture.

''(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 of such Code is amended by adding at the end the following new subsection:

''(n) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40A(b)(2)), the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40A(b)(1)(B)).''.

(B) Section 6427 of such Code is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) BIODIESEL MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40A(b)(2)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40A(b)(1)(B)) with respect to such fuel.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2003, and before January 1, 2014.

(c) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section. Such transfers shall be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made to subsequent transfers to reflect any errors in the estimates.

SA 2276. Mr. DORGAN proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. 1409. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

''For:	**The applicable percentage is:**
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year.	2 percent.

''(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance

with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.''.

SA 2277. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs0, and transit prorams, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, after line 7, add the following:

SEC. 3044. INDEPENDENT TRANSPORTATION NETWORK GRANT PROGRAM.

(a) IN GENERAL.—Chapter 53, as amended by this Act, is further amended by adding at the end the following:

''§ 5341. Independent transportation network grant program

''(a) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to award grants to eligible entities to plan and implement community-based, nonprofit transportation services (referred to in this section as a 'service') to provide affordable transportation for elderly individuals and individuals with visual impairments.

''(2) MAXIMUM AMOUNTS.—

''(A) PLANNING GRANTS.—The Secretary shall not award a planning grant under subsection (b) in an amount which exceeds $25,000.

''(B) IMPLEMENTATION GRANTS.—The Secretary shall not award an implementation grant under subsection (c) in an amount which exceeds $500,000.

''(3) ELIGIBLE ENTITIES.—States, units of local government, and non-profit organizations are eligible for grants under this section.

''(b) PLANNING GRANTS.—

''(1) APPLICATION.—

''(A) IN GENERAL.—Each eligible entity desiring a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(B) SELECTION CRITERIA.—The Secretary, in consultation with the Federal Transit Administrator, shall authorize ITN*America* to periodically convene a diverse panel of experts who are familiar with the ITN business model, which shall select successful grantees based on—

''(i) the economic sustainability of the proposed service;

''(ii) community participation in the development of the service; and

''(iii) need for transportation services within the geographic area of the service.

''(2) USE OF FUNDS.—Planning grants awarded under this section shall be used to—

''(A) assess the transportation needs of elderly individuals and individuals with visual impairments within the geographic area of the service;

''(B) identify the resources available within the community to meet the needs described in subparagraph (A); and

''(C) develop a detailed business plan for the implementation of a service.

''(c) IMPLEMENTATION GRANTS.—

''(1) APPLICATION.—

''(A) IN GENERAL.—Each planning grant recipient shall submit an application for an implementation grant to the Secretary that contains a detailed business plan for the implementation of a service.

''(B) SELECTION CRITERIA.—The Secretary, in consultation with the Federal Transit Administrator, shall authorize ITN*America* to periodically convene a diverse panel of experts who are familiar with the ITN business model, which shall select successful grantees based on—

''(i) the economic sustainability of the proposed service;

''(ii) community participation in the development of the service; and

''(iii) need for transportation services within the geographic area of the service.

''(2) USE OF FUNDS.—Implementation grants awarded under this section may be used to—

''(A) recruit transportation volunteers;

''(B) acquire and repair used automobiles; and

''(C) provide transportation services for elderly individuals and individuals with visual impairments within the geographic area of the service.

''(d) MATCHING REQUIREMENT.—Not more than 50 percent of the amount expended on any activity funded through a planning grant or implementation grant under this section may be derived from government funds.

''(e) ITN*America*.—

''(1) ADMINISTRATIVE AND TECHNICAL SUPPORT.—The Secretary shall award a grant to ITN*America* to provide administrative and technical support to the other grantees under this section.

''(2) ANNUAL CONFERENCE.—ITN*America* shall convene a conference during each of the fiscal years 2007, 2008, and 2009 to provide an opportunity for service directors to share ideas and strategies.

''(3) REPORTING REQUIREMENTS.—Not later than 60 days after the end of each fiscal year for which it received financial assistance under this subsection, ITN*America* shall submit a report to the Secretary regarding any activities funded under this subsection.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) PLANNING GRANTS.—There are authorized to be appropriated to the Secretary for planning grants under subsection (b)—

''(A) $2,500,000 for fiscal year 2005;

''(B) $1,350,000 for fiscal year 2006;

''(C) $1,100,000 for fiscal year 2007;

''(D) $1,000,000 for fiscal year 2008; and

''(E) $800,000 for fiscal year 2009.

''(2) IMPLEMENTATION GRANTS.—There are authorized to be appropriated to the Secretary for implementation grants under subsection (c)—

''(A) $1,000,000 for fiscal year 2005;

''(B) $2,350,000 for fiscal year 2006;

''(C) $2,800,000 for fiscal year 2007;

''(D) $3,200,000 for fiscal year 2008; and

''(E) $3,600,000 for fiscal year 2009.

''(3) ADMINISTRATIVE AND TECHNICAL SUPPORT.—There are authorized to be appropriated to the Secretary for the administrative and technical support grant under subsection (e)—

''(A) $1,500,000 for fiscal year 2005;

''(B) $1,300,000 for fiscal year 2006;

''(C) $1,100,000 for fiscal year 2007;

''(D) $700,000 for fiscal year 2008; and

''(E) $600,000 for fiscal year 2009.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

''5341. Independent transportation network grant program.''.

SA 2278. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 1409. COMMERCIAL TRUCK HIGHWAY SAFETY DEMONSTRATION PROGRAM.

(a) SHORT TITLE.—This section may be cited as the ''Commercial Truck Highway Safety Demonstration Program Act of 2004''.

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

(1) Public safety on the highways of the United States is a paramount concern of all who use the highways and all who prescribe public policy for the use of those highways, including public policy on the operation of heavy commercial trucks on highways.

(2) Federal highway funding law effectively imposes a limit of 80,000 pounds on the weight of vehicles permitted to use Interstate System highways.

(3) The administration of this law in Maine has forced heavy tractor-trailer and tractor-semitrailer combination vehicles traveling into Maine from neighboring States and Canada to divert onto small State and local roads where higher vehicle weight limits apply under Maine law.

(4) The diversion of those vehicles onto such roads causes significant economic hardships and safety challenges for small communities located along those roads.

(5) Permitting heavy commercial vehicles, including tanker trucks carrying hazardous material and fuel oil, to travel on Interstate System highways in Maine—

(A) would enhance public safety by reducing—

(i) the number of heavy vehicles that use town and city streets in Maine; and

(ii) as a result, the number of dangerous interactions between those heavy vehicles and such other vehicles as school buses and private vehicles; and

(B) would reduce the net highway maintenance costs in Maine because the Interstate System highways, unlike the secondary roads of Maine, are built to accommodate heavy vehicles and are, therefore, more durable.

(c) DEFINITIONS.—In this section:

(1) COVERED INTERSTATE SYSTEM HIGHWAY.—

(A) IN GENERAL.—The term ''covered Interstate System highway'' means a highway within the State of Maine that is designated as a route on the Interstate System, except as provided in subparagraph (B).

(B) EXCEPTION.—The term does not include any portion of highway that, as of the date of the enactment of this section, is exempted from the requirements of subsection (a) of section 127 of title 23, United States Code, by the last sentence of such subsection.

(2) INTERSTATE SYSTEM.—The term ''Interstate System'' has the meaning given that term in section 101(a) of title 23, United States Code.

(d) MAINE TRUCK SAFETY DEMONSTRATION PROGRAM.—The Secretary of Transportation shall carry out a program, in the administration of this section, to demonstrate the effects on the safety of the overall highway network in the State of Maine that would result from permitting vehicles described in subsection (e)(2) to be operated on the Interstate System highways within the State.

(e) WAIVER OF HIGHWAY FUNDING REDUCTION RELATING TO WEIGHT OF VEHICLES USING INTERSTATE SYSTEM HIGHWAYS.—

(1) PROHIBITION RELATING TO CERTAIN VEHICLES.—Notwithstanding section 127(a) of title 23, United States Code, the total amount of funds apportioned to the State of Maine under section 104(b)(1) of such title for any period may not be reduced under such section 127(a) on the basis that the State of Maine permits a vehicle described in paragraph (2) to use a covered Interstate System highway.

(2) COMBINATION VEHICLES IN EXCESS OF 80,000 POUNDS.—A vehicle referred to in paragraph (1) is a vehicle having a weight in excess of 80,000 pounds that—

(A) consists of a 3-axle tractor unit hauling a single trailer or semitrailer; and

(B) does not exceed any vehicle weight limitation that is applicable under the laws of the State of Maine to the operation of such vehicle on highways in Maine not in the Interstate System, as such laws are in effect on the date of the enactment of this section.

(3) EFFECTIVE DATE AND TERMINATION.—

(A) EFFECTIVE DATE.—

(i) DATE OF SATISFACTION OF ADMINISTRATIVE CONDITIONS BY MAINE.—The prohibition in paragraph (1) shall take effect on the date on which the Secretary of Transportation notifies the Commissioner of Transportation of the State of Maine in writing that—

(I) the Secretary has received the plan described in subsection (f)(1); and

(II) the Commissioner has established a highway safety committee as described in subsection (f)(2) and has promulgated rules and procedures for the collection of highway safety data as described in subsection (f)(3).

(ii) PERMANENT EFFECT.—After taking effect, the prohibition in paragraph (1) shall remain in effect unless terminated under subparagraph (B).

(B) CONTINGENT TERMINATION.—The prohibition in paragraph (1) shall terminate 3 years after the effective date applicable under subparagraph (A) if, before the end of such 3-year period, the Secretary of Transportation—

(i) determines that—

(I) operation of vehicles described in paragraph (2) on covered Interstate System highways in Maine has adversely affected safety on the overall highway network in Maine; or

(II) the Commissioner of Transportation of the State of Maine has failed faithfully to use the highway safety committee as described in subsection (f)(2)(A) or to collect data as described in subsection (f)(3); and

(ii) publishes the determination, together with the date of the termination of the prohibition, in the Federal Register.

(4) CONSULTATION REGARDING TERMINATION FOR SAFETY.—In making a determination under paragraph (3)(B)(i)(I), the Secretary of Transportation shall consult with the highway safety committee established by the Commissioner in accordance with subsection (f).

(f) RESPONSIBILITIES OF THE STATE OF MAINE.—For the purposes of subsection (e), the State of Maine satisfies the conditions of this subsection if the Commissioner of Transportation of the State of Maine—

(1) submits to the Secretary of Transportation a plan for satisfying the conditions set forth in paragraphs (2) and (3);

(2) establishes and chairs a highway safety committee that—

(A) the Commissioner uses to review the data collected pursuant to paragraph (3); and

(B) consists of representatives of—

(i) agencies of the State of Maine that have responsibilities related to highway safety;

(ii) municipalities of the State of Maine;

(iii) organizations that have evaluation or promotion of highway safety among their principal purposes; and

(iv) the commercial trucking industry; and

(3) collects data on the net effects that the operation of vehicles described in subsection (e)(2) on covered Interstate System highways have on the safety of the overall highway network in Maine, including the net effects on single-vehicle and multiple-vehicle collision rates for such vehicles.

SA 2279. Mr. WARNER (for himself, Mrs. CLINTON, Mr. DEWINE, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 733, between lines 10 and 11, insert the following:

''(3) PRIMARY SAFETY BELT LAW.—The term 'primary safety belt law' means a law that authorizes a law enforcement officer to issue a citation for the failure of the operator of, or any passenger in, a motor vehicle to wear a safety belt as required by State law, based solely on that failure and without regard to whether there is any other violation of law.

On page 733, line 11, strike ''(3)'' and insert ''(4)''.

On page 733, line 23, strike ''(4)'' and insert ''(5)''.

On page 734, line 4, strike ''(5)'' and insert ''(6)''.

On page 741, strike line 7 and insert the following:

''made available under this section shall be 90 percent.

''(h) USE OF FUNDS.—

''(1) PROJECTS UNDER SECTION 402.—For fiscal year 2005 and each fiscal year thereafter, 10 percent of the funds made available to a State under this section shall be obligated for projects under section 402, unless by October 1 of the fiscal year, the State—

''(A) has in effect a primary safety belt law; or

''(B) demonstrates that the safety belt use rate in the State is at least 90 percent.

''(2) WITHHOLDING.—

''(A) IN GENERAL.—For fiscal year 2007, the Secretary shall withhold 2 percent, and for each fiscal year thereafter, the Secretary shall withhold 4 percent, of the funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b) and section 144 if, by October 1 of that fiscal year, the State does not—

''(i) have in effect a primary safety belt law; or

''(ii) demonstrate that the safety belt use rate in the State is at least 90 percent.

''(B) RESTORATION.—If, by the date that is 3 years after the date on which funds are withheld from a State under subparagraph (A), the State has in effect a primary safety belt law or has demonstrated that the safety belt use rate in the State is at least 90 percent, the apportionment of the State shall be increased by the amount withheld.

''(C) LAPSE.—If, by the date that is 3 years after the date on which funds are withheld from a State under subparagraph (A), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 90 percent, the amount withheld shall lapse.''.

SA 2280. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

After title IV insert the following:

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

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

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

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

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

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

''(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

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

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

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

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

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

''(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

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

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking ''Surface Transportation Extension Act of 2003'' each place it appears and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

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

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

(B) by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004''.

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

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is

amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

(c) EXTENSION OF TAXES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

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

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

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

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

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

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

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

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended such sums as are necessary for highway use tax evasion projects.

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

SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

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

(c) CONFORMING AMENDMENTS.—

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

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

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

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking ''section 9503(c)(5)'' and inserting ''section 9503(c)(4)''.

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

(d) EFFECTIVE DATES.—

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

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

SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

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

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

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

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

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

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

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

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

Subtitle B—Volumetric Ethanol Excise Tax Credit

SEC. 5101. SHORT TITLE.

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

SEC. 5102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

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

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

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

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

''(2) the biodiesel mixture credit.

''(b) ALCOHOL FUEL MIXTURE CREDIT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(c) BIODIESEL MIXTURE CREDIT.—

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

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

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

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

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

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

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

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

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

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

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

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

''(1) IMPOSITION OF TAX.—If—

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

''(B) any person—

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

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

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

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

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

(b) REGISTRATION REQUIREMENT.—Section 4101(a)(1) (relating to registration), as amended by sections 5211 and 5242 of this Act, is amended by inserting ''and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))'' after ''4081''.

(c) ADDITIONAL AMENDMENTS.—

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

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

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

(3) Section 40(e)(1) is amended—

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

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

(4) Section 40(h) is amended—

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

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

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

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

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

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

''(2) GASOLINE.—The term 'gasoline'—

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

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

''(i) any gasoline blend stock, and

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) Section 6427(i)(3) is amended—

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

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

(C) by adding at the end of subparagraph (A) the following new flush sentence:

''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'',

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

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

(F) by striking ''ALCOHOL MIXTURE'' in the heading and inserting ''ALCOHOL FUEL AND BIODIESEL MIXTURE''.

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.''.

(12) Section 9503(b)(4), as amended by section 5101 of this Act, is amended—

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

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

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

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

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

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

(d) EFFECTIVE DATES.—

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

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

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

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

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

SEC. 5103. BIODIESEL INCOME TAX CREDIT.

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

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

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

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

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

''(1) BIODIESEL MIXTURE CREDIT.—

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

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

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

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

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

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

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

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

''(2) BIODIESEL CREDIT.—

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

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

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

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

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

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

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

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

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

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

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

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

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

''(A) MIXTURES.—If—

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

''(ii) any person—

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

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

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

''(B) BIODIESEL.—If—

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

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

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

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

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

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

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

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

(c) CONFORMING AMENDMENTS.—

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

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

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

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

''Gross income includes—

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

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

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

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

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

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

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

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

Subtitle C—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

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

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

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

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

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: ''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''AND KEROSENE'' after ''DIESEL FUEL''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking ''subsection (l)(5)'' and inserting ''paragraph (4)(B) or (5) of subsection (l)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

''(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

''(A) after September 30, 1997, and before September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

''(ii) in any other case, 11.3 cents per gallon, and

''(B) after September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

''(ii) in any other case, 4.3 cents per gallon.''.

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(G) Section 6416(b)(2) is amended by striking ''4091 or''.

(H) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(I) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(L)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(P) The last sentence of section 9502(b) is amended to read as follows:

''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A. Motor and aviation fuels.

''Subpart B. Special provisions applicable to fuels tax.''.

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A—Motor and Aviation Fuels''.

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart B—Special Provisions Applicable to Fuels Tax''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

''(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

''(i) $395,000,000 in fiscal year 2005,

''(ii) $425,000,000 in fiscal year 2006,

''(iii) $429,000,000 in fiscal year 2007,

''(iv) $432,000,000 in fiscal year 2008, and

''(v) $435,000,000 in fiscal year 2009.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

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

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

''SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) IMPOSITION OF PENALTY—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

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

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

''(3) any use described in section 4041(a)(1)(C)(iii)(II).''.

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

''(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

''(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting ''subsections (b)(4) and'' after ''filed under''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

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

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

''SEC. 6717. REFUSAL OF ENTRY.

''(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

''(b) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking ''ENTRY.—The penalty'' and inserting: ''ENTRY.—

''(A) FORFEITURE.—The penalty'', and

(B) by adding at the end the following new subparagraph:

''(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.''.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

''Sec. 6717. Refusal of entry.''.

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

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

''SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

''(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

''(A) $10,000, or

''(B) $1 per gallon.

''(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity,

each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

''Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.''.

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

(2) by adding at the end the following new paragraph:

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

''SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

''Sec. 6719. Failure to display registration of vessel.''.

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

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

''(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

''(B) holds an inventory position with respect to a taxable fuel in such a terminal.''.

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

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

''SEC. 6720. FAILURE TO REGISTER.

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

''Sec. 6720. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

''SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

''(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

''(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

''(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

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

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

''SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

''(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

''(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

''(1) seize the fuel on which the tax is due, or

''(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

''(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

''Sec. 4105. Tax at entry where importer not registered.''.

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

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

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

''(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.''.

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

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'', and

(2) by inserting at the end the following new subparagraph:

''(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 40A(b)(1)(B), as amended by section 5103 of this Act, is amended by striking ''4083(a)(3)'' and inserting ''4083(a)(3)(A)''.

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking ''4083(a)(3)'' and inserting ''4083(a)(3)(A)''.

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

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

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

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

''SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

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

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect

to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

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

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting ''or reportable liquid'' after ''taxable fuel'' each place it appears, and

(B) by inserting ''such liquid'' after ''such fuel'' in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).''.

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

''(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

''(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

''(ii) the sale is to the ultimate purchaser of such liquid.''.

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

''(c) REPORTABLE LIQUID.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

''(2) TAXATION.—

''(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

''(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).''.

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting ''or reportable liquid'' after ''taxable fuel'', and

(II) by inserting ''or such liquid'' after ''such fuel'' each place it appears, and

(ii) in subparagraph (B), by inserting ''or any reportable liquid'' after ''any taxable fuel''.

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting ''or a reportable liquid'' after ''taxable fuel''.

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting ''or any reportable liquid'' before the period at the end.

(F) Section 4102 is amended by inserting ''or any reportable liquid'' before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting ''or any reportable liquid (as defined in section 4083(c)(1))'' after '' section 4083(a)(1))'', and

(II) in the heading, by inserting ''or reportable liquids'' after ''taxable fuel''.

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting ''or reportable liquids'' after ''taxable fuels''.

(H) Section 6427(h) is amended to read as follows:

''(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

''(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

''(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.''.

(I) Section 7232, as amended by this Act, is amended by inserting ''or reportable liquid (within the meaning of section 4083(c)(1))'' after ''section 4083)''.

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting ''and reportable liquids (as defined in section 4083(c)(1) of such Code)'' after ''Internal Revenue Code of 1986)''.

(b) DYED DIESEL.—Section 4082(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''and'', and by inserting after paragraph (3) the following new paragraph:

''(4) which is removed, entered, or sold by a person registered under section 4101.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

''SUBPART E—EXCISE TAX REPORTING

''SEC. 6025. RETURNS RELATING TO FUEL TAXES.

''(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

''(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.''.

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

''Subpart E—Excise Tax Reporting''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

''The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.''.

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

Subtitle D—Definition of Highway Vehicle

SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

''(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

''(C) USES IN MOBILE MACHINERY.—

''(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

''(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

''(I) the design-based test, and

''(II) the use-based test.

''(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

''(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

''(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

''(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.''.

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).''.

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

SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(48) OFF-HIGHWAY VEHICLES.—

''(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

''(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

''(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

''(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

''(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5101 of this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 4064 (relating to gas guzzler tax),''.

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

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

SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking ''or a diesel-powered train'' each place it appears and by striking ''or train''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows ''section 6421(e)(2)'' and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.''.

(D) Subsection (f) of section 4082 is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (d)(3) and (a)(1) of section 4041, respectively''.

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act, are amended by striking ''or a diesel-powered train''.

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

''(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.''.

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

''(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.''.

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) 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 subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

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

PART II—AQUATIC EXCISE TAXES

SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking ''Fund—'' and all that follows through ''shall be transferred'' in subparagraph (B) and inserting ''Fund which is attributable to motorboat fuel taxes shall be transferred'', and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4), as amended by section 5102 of this Act, is amended—

(i) by adding ''or'' at the end of subparagraph (B),

(ii) by striking the comma at the end of subparagraph (C) and inserting a period, and

(iii) by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking ''ACCOUNT'' in the heading and inserting ''TRUST FUND'',

(ii) by striking ''or (B)'' in clause (ii), and

(iii) by striking ''Account in the Aquatic Resources''.

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking '', but only to the extent such taxes are deposited into the Highway Trust Fund''.

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking ''Account in the Aquatic Resources'' in subparagraph (A), and

(ii) by striking '', but only to the extent such taxes are deposited into the Highway Trust Fund'' in subparagraph (B).

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

''(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking ''ACCOUNT'' in the heading and inserting ''TRUST FUND'',

(ii) by striking ''Account'' both places it appears in paragraphs (1) and (2) and inserting ''Trust Fund'', and

(iii) by striking ''ACCOUNT'' both places it appears in the headings for paragraphs (1) and (2) and inserting ''TRUST FUND''.

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking ''AQUATIC RESOURCES'' in the heading,

(ii) by striking ''any Account in the Aquatic Resources'' in paragraph (1) and inserting ''the Sports Fish Restoration'', and

(iii) by striking ''any such Account'' in paragraph (1) and inserting ''such Trust Fund''.

(C) Subsection (e) of section 9504, as amended by section 5002 of this Act, is amended by striking ''Boat Safety Account and Sport Fish Restoration Account'' and inserting ''Sport Fish Restoration Trust Fund''.

(D) Section 9504 is amended by striking ''**AQUATIC RESOURCES**'' in the heading and inserting ''**SPORT FISH RESTORATION**''.

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking ''aquatic resources'' and inserting ''sport fish restoration''.

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

''(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).''.

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

SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) IN GENERAL.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking ''or'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', or'', and by adding at the end the following new paragraph:

''(5) an LED display.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

''(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding ''or'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking ''imposed—'' and all that follows through ''in any other case,'' and inserting ''imposed''.

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

SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

''(1) IMPOSITION OF TAX.—

''(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

''(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.''.

(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking ''paragraph (1)'' both places it appears and inserting ''paragraph (1)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) IN GENERAL.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting ''or a portable aerated bait container'' after ''fish''.

(b) CONFORMING AMENDMENT.—The heading of section 4161(a)(2) is amended by striking ''ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH'' and inserting ''CERTAIN SPORT FISHING EQUIPMENT''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

PART III—AERIAL EXCISE TAXES

SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting ''(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)'' after ''by air'' in clause (i), and

(2) by striking the period at the end of subclause (II) of clause (ii) and inserting '', or'', and by adding at the end of clause (ii) the following new subclause:

''(III) is not connected by paved roads to another airport.''.

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

SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) EXEMPTION FOR SEAPLANES.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: ''For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking '', on payment of a special tax per annum,''.

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

''PART II—MISCELLANEOUS PROVISIONS

''Subpart A. Manufacturers of stills.

''Subpart B. Nonbeverage domestic drawback claimants.

''Subpart C. Recordkeeping by dealers.

''Subpart D. Other provisions.''.

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

''Part II. Miscellaneous provisions.''.

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking ''and rate of tax'' in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking ''and rate of tax'' in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

''Subpart C—Recordkeeping by Dealers

''Sec. 5121. Recordkeeping by wholesale dealers.

''Sec. 5122. Recordkeeping by retail dealers.

''Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.''.

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

''SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.'',

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) WHOLESALE DEALERS.—For purposes of this part—

''(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

''(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

''(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

''(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.''.

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking ''section 5146'' and inserting ''section 5123''.

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

''SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.'',

(ii) by striking ''section 5146'' in subsection (c) and inserting ''section 5123'', and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) RETAIL DEALERS.—For purposes of this section—

''(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

''(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

''(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

''(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).''.

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

''Subpart D—Other Provisions

''Sec. 5131. Packaging distilled spirits for industrial uses.

''Sec. 5132. Prohibited purchases by dealers.''.

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting ''(as defined in section 5121(c))'' after ''dealer'' in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

''SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

''(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

''(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

''(c) PENALTY AND FORFEITURE.—

''For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.''.

(11) Subsection (b) of section 5002 is amended—

(A) by striking ''section 5112(a)'' and inserting ''section 5121(c)(3)'',

(B) by striking ''section 5112'' and inserting ''section 5121(c)'',

(C) by striking ''section 5122'' and inserting ''section 5122(c)''.

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking ''section 5134'' and inserting ''section 5114''.

(13) Subsection (d) of section 5052 is amended to read as follows:

''(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).''.

(14) The text of section 5182 is amended to read as follows:

''For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.''.

(15) Subsection (b) of section 5402 is amended by striking ''section 5092'' and inserting ''section 5052(d)''.

(16) Section 5671 is amended by striking ''or 5091''.

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking ''this part'' each place it appears and inserting ''this subchapter''.

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking ''(except the tax imposed by section 5131)'' each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking ''liquors'' both places it appears and inserting ''tobacco products and cigarette papers and tubes''.

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

''Sec. 5732. Payment of tax.

''Sec. 5733. Provisions relating to liability for occupational taxes.

''Sec. 5734. Application of State laws.''.

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking ''section 5142'' and inserting ''section 5732''.

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking ''subpart F'' and inserting ''subpart B'', and

(B) by striking ''section 5131(a)'' and inserting ''section 5111''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking ''January 1, 2004'' and inserting ''October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2004, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term ''Conservation Trust Fund transfer'' means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term ''Puerto Rico Conservation Trust Fund'' means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

PART V—SPORT EXCISE TAXES

SEC. 5441. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL MANUFACTURERS, ETC.—

''(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

''(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

''(1) BOWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

''(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

''(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

''(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.''.

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) ARROWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

''(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

''(i) section 6416(b)(3) shall not apply, and

''(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

''(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

''(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

''(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.''.

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting ''(other than broadheads)'' after ''point'', and

(2) by striking ''ARROWS.—'' in the heading and inserting ''ARROW COMPONENTS.—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) IN GENERAL.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; and'', and by adding at the end the following new paragraph:

''(8) for purposes of chapter 35 (relating to taxes on wagering).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

PART VI—OTHER PROVISIONS

SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

''(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

''(1) in the case of—

''(A) any eligible wholesaler—

''(i) the number of cases of bottled distilled spirits—

''(I) which were bottled in the United States, and

''(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

''(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

''(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

''(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

''(c) AVERAGE TAX-FINANCING COST.—

''(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

''(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

''(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

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

''(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

''(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5103 of this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the distilled spirits credit determined under section 5011(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5103 of this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.''.

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

''Sec. 5011. Income tax credit for average cost of carrying excise tax.''.

(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. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(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. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) TERMINATION.—This section shall not apply with respect to any calendar year after 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:

''(18) the commercial power takeoff vehicles credit under section 45G(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45G. Commercial power takeoff vehicles credit.''.

(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. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

"SEC. 45H. AUXILIARY POWER UNIT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

''(1) purchased by the taxpayer, and

''(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED AUXILIARY POWER UNIT.—The term 'qualified auxiliary power unit' means any integrated system which—

''(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

''(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

''(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

''(2) QUALIFIED HEAVY-DUTY HIGHWAY VEHICLE.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

''(c) TERMINATION.—This section shall not apply with respect to any installation occurring after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:

''(19) the auxiliary power unit credit under section 45H(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF SECTION 45H CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

''Sec. 45H. Auxiliary power unit credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the ''Commission'').

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation - Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the ''Commission''). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) TIME FRAME OF INVESTIGATION AND STUDY.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on

Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ON-BOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking ''$100'' and inserting ''$120''.

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking ''2002'' and inserting ''2005'', and

(2) by striking ''2001'' and inserting ''2004''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the

Committee on Ways and Means of the House of Representatives.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

''(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

''(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

''(I) is manufactured primarily for use on public streets, roads, and highways,

''(II) is not subject to section 280F, and

''(III) is rated at not more than 14,000 pounds gross vehicle weight.

''(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

''(I) does not have the primary load carrying device or container attached,

''(II) has a seating capacity of more than 12 individuals,

''(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

''(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

''(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

PART II—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

SEC. 5611. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 2, 2004.

SEC. 5612. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 5613. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

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

SEC. 5614. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 2, 2004.

SEC. 5615. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''.

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

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

SEC. 5616. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 5617. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 5618. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 5619. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 5620. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''.

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''.

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

SEC. 5621. 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. 5622. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 5623. 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. 5624. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on

such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''.

SEC. 5625. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 5626. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 5627. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''.

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

SEC. 5628. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

PART III—OTHER CORPORATE GOVERNANCE PROVISIONS

SEC. 5631. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''.

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 5632. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL CORPORATE INCOME TAX RETURN.

(a) IN GENERAL.—The Federal tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the chief executive officer has established processes and procedures that ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) EFFECTIVE DATE.—This section shall apply to Federal tax returns filed after the date of the enactment of this Act.

SEC. 5633. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 5634. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

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

SEC. 5635. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

(2) by adding at the end the following new subsection:

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''misdemeanor'' and inserting ''felony'', and

(ii) by striking ''1 year'' and inserting ''10 years'', and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SEC. 5636. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term ''Voluntary Offshore Compliance Initiative'' means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

PART IV—ENRON-RELATED TAX SHELTER PROVISIONS

SEC. 5641. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

''(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.''.

''(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

''(A) IN GENERAL.—If—

''(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 5642. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 5643. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking '', and any regular interest in a FASIT,''.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: ''An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.''.

(B) The last sentence of section 860G(a)(3) is amended by inserting '', and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property'' before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: ''For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.''.

(8)(A) Section 860G(a)(3)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

''(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

''(II) occurs after the startup day, and

''(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.''.

(B) Section 860G(a)(7)(B) is amended to read as follows:

''(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

''(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

''(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).''.

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking ''and any regular interest in a FASIT,'', and

(B) by striking ''or FASIT'' each place it appears.

(11) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 5644. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking ''or a related party'' and inserting ''or equity held by the issuer (or any related party) in any other person''.

(b) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

''(4) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.''.

(c) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

''(5) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.''.

(c) CONFORMING AMENDMENTS.—Paragraph (3) of section 163(l) is amended—

(1) by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person'', and

(2) by striking ''or interest'' each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 5645. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

''(a) IN GENERAL.—If—

''(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

''(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 5646. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

PART V—PROVISIONS TO DISCOURAGE EXPATRIATION

SEC. 5651. TAX TREATMENT OF INVERTED CORPORATE ENTITIES

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (B) APPLIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

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

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1)

would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 5652. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 2, 2004.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 2, 2004.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 2, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 5653. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

''(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

''(e) DEFINITIONS.—For purposes of this section—

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

''(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A). Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 5654. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

PART V—PROVISION TO REPLENISH THE GENERAL FUND

SEC. 5661. MODIFICATION TO CORPORATE ESTIMATED TAX REQUIREMENTS.

The amount of any required installment of corporate estimated income tax which is otherwise due under section 6655 of the Internal Revenue Code of 1986 after June 30, 2009, and before October 1, 2009, shall be 119 percent of such amount.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Monday, February 9, 2004, at 10 a.m. for a hearing regarding the Department of Homeland Security's budget submission for fiscal year 2005.

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

UNANIMOUS CONSENT REQUEST

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the appointments that are at the desk appear separately in the RECORD as if made by the Chair.

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

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the unanimous consent request be vitiated.

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

CONGRATULATING THE ST. JOHN'S UNIVERSITY FOOTBALL TEAM

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 297 submitted earlier today by Senators DAYTON and COLEMAN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 297) congratulating the Saint John's University, Collegeville, Minnesota, football team for winning the 2003 National Collegiate Athletic Association Division III Football Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the resolution be printed in the RECORD as if read, without any intervening action or debate.

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

The resolution (S. Res. 297) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 297

Whereas Saint John's University defeated Mount Union College of Alliance, Ohio, by a score of 24–6 in Stagg Bowl XXXI on Saturday, December 20, 2003;

Whereas Saint John's University finished the season 14–0, with the football program holding the all-time record for victories in Division III at 508–213–24 in 93 seasons;

Whereas the 2003 Championship is the first National Championship won by the Saint John's University football team since 1976 and the fourth in the history of the school;

Whereas the 2003 Championship capped a season in which Coach John Gagliardi of Saint John's University became the winningest football coach in the history of the National Collegiate Athletic Association;

Whereas Blake Elliott, the senior wide receiver of Saint John's University, was the recipient of the 2003 Gagliardi Trophy as the most outstanding Division III football player in the United States in 2003;

Whereas the Saint John's University Johnnies, by winning the championship game, cracked Mount Union's National Collegiate Athletic Association-record winning streak of 55 games in a row;

Whereas loyal fans of Saint John's University, enough to fill 3 chartered planes, were among the crowd of 5,073 who attended the 2003 Amos Alonzo Stagg Bowl in the freezing cold of Salem, Virginia, with many more watching the nationally televised game; and

Whereas all of the players of the Saint John's University team showed tremendous dedication throughout the season to realize the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Saint John's University football team for winning the 2003 National Collegiate Athletic Association Division III Football Championship;

(2) recognizes the achievements of all of the players, coaches, and support staff of the team and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Saint John's University for appropriate display.

ORDERS FOR TUESDAY, FEBRUARY 10, 2004

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1072, the highway bill. I further ask unanimous consent that the Senate recess from 12:30 until 2:15 p.m. for the weekly party luncheons.

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

PROGRAM

Mr. MCCONNELL. Mr. President, tomorrow the Senate will resume consideration of S. 1072, the highway bill. The chairman and ranking member have been in the Chamber all day to receive amendments. They will be back here in the morning. We encourage all Members who have amendments to contact the managers as soon as possible. Rollcall votes are expected during tomorrow's session, and Senators will be notified when the first vote is scheduled.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:38 p.m, adjourned until Tuesday, February 10, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 9, 2004:

AMTRAK

ENRIQUE J. SOSA, OF FLORIDA, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS, VICE LINWOOD HOLTON, TERM EXPIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, PACIFIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

To be vice admiral

REAR ADM. HARVEY E. JOHNSON, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. CHARLES C. BALDWIN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. CHARLES B. GREEN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL JAMES B. ARMOR JR., 0000
BRIGADIER GENERAL CURTIS M. BEDKE, 0000
BRIGADIER GENERAL JOHN T. BRENNAN, 0000
BRIGADIER GENERAL ROGER W. BURG, 0000
BRIGADIER GENERAL JOHN J. CATTON JR., 0000
BRIGADIER GENERAL MICHAEL A. COLLINGS, 0000
BRIGADIER GENERAL DANIEL J. DARNELL, 0000
BRIGADIER GENERAL FRANK R. FAYKES, 0000
BRIGADIER GENERAL VERN M. FINDLEY II, 0000
BRIGADIER GENERAL JOHN H. FOLKERTS, 0000
BRIGADIER GENERAL STEPHEN M. GOLDFEIN, 0000
BRIGADIER GENERAL GILMARY M. HOSTAGE III, 0000
BRIGADIER GENERAL THOMAS P. KANE, 0000
BRIGADIER GENERAL PERRY L. LAMY, 0000
BRIGADIER GENERAL ROOSEVELT MERCER JR., 0000
BRIGADIER GENERAL GARY L. NORTH, 0000
BRIGADIER GENERAL ANTHONY F. PRZYBYSLAWSKI, 0000
BRIGADIER GENERAL LOREN M. RENO, 0000
BRIGADIER GENERAL EDWARD A. RICE JR., 0000
BRIGADIER GENERAL MARC E. ROGERS, 0000
BRIGADIER GENERAL ARTHUR J. ROONEY JR., 0000
BRIGADIER GENERAL STEPHEN T. SARGEANT, 0000
BRIGADIER GENERAL DARRYL A. SCOTT, 0000
BRIGADIER GENERAL WINFIELD W. SCOTT III, 0000
BRIGADIER GENERAL NORMAN R. SEIP, 0000
BRIGADIER GENERAL LOYD S. UTTERBACK, 0000
BRIGADIER GENERAL DONALD C. WURSTER, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. EDWARD T. REIDY III, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. JAMES A. BARNETT JR., 0000
CAPT. WENDI B. CARPENTER, 0000
CAPT. JEFFREY A. LEMMONS, 0000
CAPT. ROBIN M. WATTERS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. SHARON H. REDPATH, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. CAROL M. POTTENGER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. ALBERT GARCIA III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. NATHAN E. JONES, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. NORTON C. JOERG, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. GREGORY A. TIMBERLAKE, 0000