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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 20, 2004, at 2 p.m.

Senate

TUESDAY, APRIL 6, 2004

The Senate met at 10 a.m. and was called to order by the Honorable JOHN CORNYN, a Senator from the State of Texas.

PRAYER

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

Let us pray.

O God, who remains the same though all else fades, in this season that is holy for so many we pause to thank You for loving us, even when we wander from Your purposes. Incline our hearts to respond to Your amazing grace and to cling to You, who alone can give us rest and joy.

We pray for our Senators. May they follow in the footsteps of their noble forebears who risked all for freedom. Help them through the decisions they make to build monuments of moral excellence and courage for generations to behold. Open their eyes to Your wisdom and may they hear the distant triumph songs of Your throne. Lord, uphold this great Nation with Your strong right hand. We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN CORNYN 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, April 6, 2004.

To the Senate:

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

TED STEVENS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, this morning there will be a period of morning business until 11 a.m. Following morning business, the Senate will then resume consideration of the motion to proceed to S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004.

I remind my colleagues, on Friday of this past week I asked for consent to proceed to S. 2207 to allow us to begin debate on this important medical liability issue, an issue which addresses a crisis which affects us all. There was an objection from the other side and it was necessary to file a cloture motion on the motion to proceed to the pregnancy and trauma care bill. Under the order, that vote will occur at 2:15 tomorrow afternoon. Members will debate that motion and the merits of this underlying medical liability legislation throughout the day today. I do hope we are able to invoke cloture Wednesday afternoon so we may proceed to this very important measure.

I also remind Senators yesterday it became necessary for me to file a second cloture motion with respect to the JOBS bill, the bill known as the FSC/ETI, or the Jumpstart JOBS bill. Consideration of this timely measure—timely because sanctions right now are in effect and the sanctions are affecting U.S. companies every day—consideration of this timely measure has been slowed because of unrelated amendments, amendments that have nothing to do with these manufacturing jobs and trade issues.

I have had a number of discussions with the two managers of the bill in an effort to finish the bill in a reasonable amount of time with a reasonable number of amendments, but we have been unable to reach an agreement today. Due to the desire to offer these unrelated amendments not relevant to the bill, and with no end to the number of amendments in sight, it became necessary for this second cloture vote.

I now ask consent that the vote on cloture on the motion to recommit occur tomorrow afternoon following the 2:15 vote, regardless of the provisions of rule XXII.

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

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

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Mr. FRIST. Yesterday, I also mentioned the need to act on the pension equity conference report. We would like to lock in agreement for a short period of debate and a vote on the conference report prior to the end of this week. An important piece of legislation, the pension bill had gone to conference; it has come out of conference; it is ready for floor action. I know there are objections to this on the Democratic side at this time. However, I hope we will be able to reach a time agreement this week on this timely conference report as well.

Mr. President, as we look at the medical malpractice and medical liability bill, as we look at FSC/ETI or the JOBS bill, as we look at the pension equity conference report, we have a lot to do over the next 4 days. We have a short amount of time to do it. It is important we stay focused on these important bills for the American people.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 11 a.m., with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

The Senator from Utah.

FEAR AND PESSIMISM IN CAMPAIGN POLITICS

Mr. BENNETT. Mr. President, on the 5th of April, the senior Senator from Massachusetts, Senator KENNEDY, appearing before the Brookings Institute, delivered what Larry King described as a blistering attack on the Bush administration. Last night, Larry King and Senator KENNEDY had a conversation about the speech and Senator KENNEDY's comments that is worthy of comment and reaction in the Senate.

First, let me make this observation. Senator KENNEDY earlier in this campaign made personal attacks on the President which I felt compelled to respond to in the Senate.

I am happy to report in his conversations with Larry King, Senator KENNEDY backed away from that degree of personal attack on the President, and I salute him for that. I think it important for us to recognize how much we can get carried away with election-year rhetoric and how personal we can get in our attacks sometimes. I salute Senator KENNEDY, in spite of the vigorousness of his attack on the administration, for his decision to back away from personal attacks on the President. I would hope other members of his party would follow his lead.

We have seen the former Vice President of the United States attack the President of the United States in language reminiscent of that which Joe McCarthy used to use to attack Harry Truman. We should back away from that kind of personal hatred, even though historically it has been part of our election tradition.

There has probably not been a President more personally hated than Franklin Roosevelt in my lifetime. I remember the things that were said about him. I remember the things that were said about Harry Truman. I remember some of the things that were said about Richard Nixon, about Bill Clinton. We should back away from those kinds of personal attacks. Unfortunately, this election year has seen them come back to the point where one could almost say the basis of the campaign against the President is, in fact, personal hatred.

Former Governor Dean certainly went into that direction in his attacks against the President. We have seen Senator KERRY, in an unguarded moment, refer to his opponents as a bunch of lying crooks. I would hope we could back down from hatred as the primary theme of this campaign.

But there is another theme in this campaign which did come out in Senator KENNEDY's speech I would like to respond to and comment on. It is the theme of fear. There is an underlying sense of fear that pervades the rhetoric of the President's opponents here. It is interesting to me, because the founder of the modern Democratic Party, Franklin D. Roosevelt, is perhaps best remembered for his statement in his first inaugural when he said: We have nothing to fear but fear itself.

It would seem in this campaign there are those who have nothing to offer but fear itself—fear and its handmaiden, indeed, its standard derivative, which is pessimism. We have great fear, and we are convinced nothing is going to work. That, if I may, Mr. President, is what pervaded Senator KENNEDY's speech before the Brookings Institute, a conviction that nothing is going to work, that nothing is going to save this country except the personal replacement of the President. But none of the policies the President has put in place can possibly work, and we are in such a terrible morass and difficulty that we live in fear.

I was tempted to go through Senator KENNEDY's speech point by point and rebut it one at a time. I believe I could do that. It would take a great deal of time, and it would probably bore everybody. It is the kind of thing lawyers do in courtrooms where it is essential to build a record. But, as you know, Mr. President, I am unburdened with a legal education. I would like to step back from the point-by-point kind of refutation that would be called for in a courtroom and have an overall view of what Senator KENNEDY was saying. I refer to him personally, but I think this speech, in fact, is a distillation of the position the Democratic Party will take in the upcoming election. So I think we should step back from the point-by-point situation and look at the overall message of what they are trying to tell us. That is what I would like to address today.

Basically, as I say, it is rooted in fear and its derivative, pessimism. That is what they are offering the American people: fear and pessimism. This is the fundamental position Senator KENNEDY's speech takes: If it is bad, and it happened on President Bush's watch, he is responsible for it. If it is good, and it happened on President Bush's watch, it was coincidence or anybody could have done it, and he does not deserve any of the credit.

Let's go down the history of what has happened on President Bush's watch and see if, in fact, that pattern I have just described did play itself out.

Turn to today's headline where we have a Commission examining what happened prior to 9/11 in the year 2001. Well, we are being told repeatedly it was Bush's fault. He is responsible for 9/11 because he did not do enough to prevent it. 9/11 was his fault. Then the Commission goes on to detail what he did. Basically what he did was what the Clinton administration did. They kept track of al-Qaida. They monitored what was happening. They did their best to find out what was happening, but they did not do enough. In other words, they did not invade Afghanistan.

It is interesting to me that the people who are now saying President Bush did not do enough prior to 9/11 are the same people who are saying he did too much in Iraq. He acted before Iraq became a threat. That is in Senator KENNEDY's speech—he should have waited until Iraq became a threat. But, of course, the same critics are saying he should have acted before al-Qaida became a threat. You cannot have it both ways. Either he was prudent in doing what the Clinton administration did prior to 9/11, and watched the situation carefully to see how it would play out, or he was too timid. And if he was too timid and should have taken more forceful action prior to 9/11, he learned that lesson and took more forceful action with respect to Iraq. You cannot attack him for doing the one in the one situation and then the other in the other; you must be consistent. But the President's critics are not.

As I say, he is responsible for 9/11, according to his critics, because he did basically what the Clinton administration did, but he should have seen it coming and done more. Then when he did do more—that is, when the President led us into Afghanistan—the President's critics were outraged. What did we hear over and over again? Maybe the media has short memories, but I do not. We heard lessons from history: The British went into Afghanistan, they got bogged down, and they

could not accomplish anything. The Soviets went into Afghanistan; they got bogged down and ultimately humiliated. We are going to get bogged down, and we are going to get humiliated. And going into Afghanistan is a terrible mistake.

Then suddenly the battlefield situation changed, and now we hear the President's actions in Afghanistan were brilliantly planned and brilliantly executed. We see Afghanistan on the verge of a new constitution. We see women back in the Afghanistan economy, women going to school, women now being allowed rights they did not have under the Taliban. But we do not give President Bush any credit for that. No. As I say, the mantra is: If it is bad, and it happened on Bush's watch, he is responsible. But if something good comes out of what happened on President Bush's watch, that was coincidence, and he has no right to claim any credit for it.

I am interested in a comment Senator KENNEDY did make in his speech, and I will go to the speech for this one. He said, referring to our decision to go to war in Iraq:

> . . . President Bush gave al Qaeda two years—two whole years—to regroup and recover in the border regions of Afghanistan.

I find that an incredible statement—incredible in the true meaning of that word: incredible, not credible, not to be accepted.

Afghanistan, prior to the time we went in—Afghanistan, during the period of the Clinton administration—was a haven for al-Qaida. It was a training ground for al-Qaida. President Clinton ordered the lobbing of cruise missiles into some of those training grounds but did nothing more.

Now, in response to 9/11, President Bush led the world into cleaning out the al-Qaida training camps in Afghanistan. The al-Qaida leadership has been disrupted. A large percentage of their leadership has been either killed or arrested. Assets, totaling in the tens if not hundreds of millions of dollars, of al-Qaida have been discovered and frozen, and yet the Senator says: ''President Bush gave al Qaeda two years . . . to regroup and recover in the border regions of Afghanistan.''

Al-Qaida has been on the run. Al-Qaida has been disrupted. Al-Qaida has seen its assets destroyed in the 2 years we have been at war with al-Qaida and Afghanistan has been freed. Those are solid accomplishments for which the President's enemies give him no credit whatsoever.

Let's talk about Iraq. That is the core of most of the criticism of the President. There are those who suggest Iraq was created by George W. Bush; that is, the crisis was created by George W. Bush. There are those who suggest—and Senator KENNEDY comes very close to it—that George W. Bush was the first one to indicate there might have been weapons of mass destruction in Iraq. Again, the media may not have any memory on these issues, but I have a clear memory. Sitting in this body, I remember who it was who first convinced me al-Qaida had weapons of mass destruction. That was Madeleine Albright, President Clinton's Secretary of State.

We all went to 407, the room in the Capitol where we receive briefings on confidential and top secret information, classified information. Madeleine Albright laid out in chilling fashion all of the evidence to tell us there were weapons of mass destruction in Iraq. In response to that evidence, President Clinton went to war against Iraq. We forget that. We pretend that never happened. President Clinton, using his powers as Commander in Chief and acting under the authority of the U.N. resolutions that had condemned Iraq following the first gulf war, launched a heavy bombing attack upon Iraq for the sole purpose of destroying their weapons of mass destruction. And to his credit, during the current political debate, President Clinton has made it clear we did not know whether or not that bombing attack destroyed all of Iraq's weapons of mass destruction. President Clinton has made it clear we had no way of knowing how successful that bombing attack was.

Yes, the difference between President Bush and President Clinton is President Clinton bombed. He carried on the war from the air. President Bush decided to carry on the war at ground level. I do not suggest that is a trivial difference. It is a very significant difference. But if we are going to talk about who went to war in Iraq over the issue of weapons of mass destruction, we have to say the answer is President Clinton. If we are going to talk about Secretaries of State who informed the Congress about Iraq's program of weapons of mass destruction, we have to say the first one who did it was Madeleine Albright.

I am one who believed Madeleine Albright. I am one who believed and supported President Clinton. I find it a little disheartening to have those who agreed with us then now suggesting it was President Bush who first brought up the issue of weapons of mass destruction, and it was President Bush who first said we had to deal with those weapons by acts of war. Memories should be longer than that.

When President Bush decided to go ahead in Iraq, what did his critics have to say? It will never work—fear, pessimism; we can't succeed. On the floor of this Senate, we heard over and over again: There will be thousands and thousands of body bags coming back as Saddam Hussein uses chemical weapons against our troops. We cannot send our troops there to be exposed to these weapons.

These are the same voices now who are saying: There were no weapons. But certainly they believed there were, as they warned us that our troops would be gassed, that they would be killed with chemical weapons, and we could not run that risk.

Then when the action started, these same voices said: Bogged down on the road; held down by the resistance of the Iraqis. We are in a quagmire; we will never succeed.

Then when Baghdad fell within a matter of weeks from those prophesies and predictions, now we are being told: Anybody could have done it. No big deal. We can't give Bush any credit for having gone into Iraq and winning the war. It was a piece of cake.

Before the fact, fear and pessimism; after the fact, blame, no credit for success, determination that it is not going to work in the long term.

I could go on about Iraq in that regard, but there will be many more debates. Let me go into the other substance of Senator KENNEDY's speech and demonstrate the same pattern: fear and pessimism.

The Senator talks about education, talks about No Child Left Behind. He takes credit for having helped write No Child Left Behind, appropriately. One of the reasons I voted against No Child Left Behind is because I thought the things the Senator from Massachusetts succeeded in getting into that bill would be too heavy handed in terms of the Federal pressure on State boards of education. In that, I feel vindicated because State board after State board has complained that this represents entirely too much Federal control on education.

Now Senator KENNEDY says: No money for education; lots of promises out of the administration but no money.

The facts are that under President Bush's leadership, this Congress has increased Federal spending on education to higher actual levels and at a higher percentage increase than any other administration in history. This administration has spent more on education than the Clinton administration did and has accelerated that spending at a higher rate than the Clinton administration did.

Yet we are being told: No, they are holding back on education spending. They are being too stingy on education spending—as they spend more than any other administration and Congress in history.

In advance, can't work; after the fact, pessimism that we can't get there—fear and pessimism.

The Senator talks about cost estimates with respect to the Medicare bill. Here we have to get into a little inside baseball so people can understand exactly what happened. Senator KENNEDY quotes the fact that we used the figure in the Senate of $400 billion as the cost of this bill and that an official in the Department of Health and Human Services said it is going to be closer to 500, that it is going to be over 500. And he was told not to make that estimate public. Senator KENNEDY berates the administration for selling the $400 billion number when it knew $500 billion was the correct one.

Now let's get into the facts. A number of us on this side of the aisle were

equally disturbed by this gap between numbers. We assaulted the chairman of the Budget Committee, Senator NICKLES, to ask him: How did this happen? How did we get trapped with a low estimate when there was a higher estimate out there?

He pointed out this fact that doesn't get into the public consciousness and that the media does not take the time to understand and explain: By law, we in the Congress, as we are adopting a budget, can use only one source for our estimate of costs. By law we have to take the estimate or score—to use the word we all understand around here—of the Congressional Budget Office.

As Senator NICKLES pointed out to us, during the debate, the Congressional Budget Office said: This will cost $400 billion.

That is where it was scored. After the estimate came out of the administration that it was going to be higher, the Congressional Budget Office said: The number is still $400 billion, according to our estimates.

By law, we could not have used the higher estimate in writing the budget because it came from a source outside of the Congressional Budget Office. Now, the one thing I know about the $400 billion number offered by the CBO and the $500 billion-plus number offered by OMB is that both of them are wrong. I cannot tell you whether either one of them are too high or too low. I can only make my own estimate.

But stop and think about it for a moment. We are talking about a program, spread over 5 years, that is not working yet, and we are making guesses as to what it would cost. You feed into your computer certain assumptions and you get a number; you change the assumptions in the computer and it will give you another number. The question is not, Is the number correct? The question is, Are the assumptions correct? The answer is, all of the assumptions are guesses—whether CBO is making the guess or whether HHS is making the guess or whether it is OMB. Everybody is making the guess.

But in terms of the debate on the floor of the Senate, we had no choice but to accept the CBO number as the controlling number. That is the law. So Senator KENNEDY is attacking the Republicans and the decisions in this Senate with respect to the budget for following the law. He is attacking us for not accepting estimates which, by law, we cannot use. I think it is important to understand that as we go through this debate, and talk about what is going to happen in the election.

In summary, as we look ahead to the election, I think we should pay attention to the details, but we should also understand the overall thrust of the two campaigns. I do believe that the campaign mounted on the Democratic side of the aisle has begun out of personal hatred of President Bush, and now more into a litany of fear and pessimism. They are afraid the economy is not coming back. They tell us pessimistically that we are never going to get any jobs.

Once again, before this last Friday, we were told, well, the unemployment rate might be coming down, but that isn't the rate we should look at; we should look at the number of jobs created. On Friday, it was announced that 308,000 jobs were created in March. Now we are told, no, don't look at that, look at the unemployment figure; it is not coming down fast enough. Don't pay attention to the number of jobs created.

We are told this is the worst economy in 50 years. I have heard that rhetoric on the floor. According to the blue-chip economists who are looking at this recovery, they are projecting for 2004—another guess, I make that clear—the highest growth rates in 40 years. If that is the example of the kind of economy we are getting from George W. Bush, I say give us more. The highest growth rate in 40 years is what the experts on Wall Street are projecting.

And the pessimists are complaining about that. The pessimists are telling us we cannot get there. Look at Iraq. Of course, things are bad in the Sunni Triangle in Iraq. The deaths of Americans and the deaths of Iraqis are tragic, and we should mourn them and do everything we can to try to prevent them, but let us not focus solely on those deaths.

Let us look at the fact that Iraq is on its way—however haltingly or however slowly, and with whatever difficulty—toward establishing a constitution and, one hopes, a democracy. The pessimists say we can never get there. The pessimists are filled with fear and are saying we will fail and when we fail al-Qaida will destroy our cities. But George W. Bush is not a pessimist. He is an optimist and he does not peddle fear.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BENNETT. I ask unanimous consent that I be allowed to continue for an additional 4 minutes.

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

Mr. BENNETT. That is the core of this election. Do we face the future with fear and pessimism and a conviction that we cannot do it or do we face the future with a clear, realistic understanding of how difficult it will be, but with a confidence and an optimism that we can do it, that we can succeed in implanting a democracy in Iraq, in bringing freedom into that part of the world in a way that it has never known before?

We see signs that we are succeeding already. We see India and Pakistan, two nuclear powers that have been on the verge of war, now looking out over the world of George W. Bush and American resolve and saying maybe we should talk and try to resolve our differences short of war. We see Qadhafi in Libya saying: Maybe it is not a good idea to have weapons of mass destruction and I will voluntarily surrender them and dismantle them in this new situation that George W. Bush has created.

I believe the American people will respond more actively to hope and optimism than they will to fear and pessimism. For that reason, I look forward to this election season with some relish about debating the details of the issues raised by the Senator from Massachusetts and, at the same time, some confidence in the wisdom of the American people and their willingness to embrace hope and optimism and put aside the fears and pessimism that are being peddled by the President's opponents.

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

Mr. GREGG. I ask unanimous consent that I be allowed to proceed for 10 minutes as in morning business.

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

MEDICAL MALPRACTICE

Mr. GREGG. Mr. President, later on, we are going to move to the medical malpractice bill, which is an important piece of legislation. It will allow women, especially, to have access to OB/GYN doctors, some of whom are giving up their practices of delivering babies because of the cost of medical liability insurance. It will also address the issue of doctors in emergency rooms and make sure those doctors are able to practice in emergency rooms so people, when they are seriously injured and they go to an emergency room, will have doctors. We will be on that bill at 11 o'clock.

JOBS

Mr. GREGG. Mr. President, I want to talk about the approach being taken by the other side of the aisle toward a lot of issues in the Senate but specifically two dealing with jobs; that is, this attitude of obstruction for the purpose of basically stopping legislation and not allowing this body to move forward and do the business of the people.

There are two bills pending in this body. One is the JOBS bill, which deals with correcting the tax structure of the United States so we are no longer out of compliance with a ruling made by the WTO, which ruling, if it is allowed to stand, will have the practical effect of raising duties on American products sold overseas rather significantly. In fact, they could raise as high as 18 percent, as I understand it.

The effect of those duties, of course, which have now been ruled legal under this international tribunal that we subscribe to as a member state, will be that those American goods are not as competitive as they should be, and therefore those American goods will not be able to be effectively sold into

those markets overseas. The practical effect of that will be that jobs will be lost here in the U.S.

The other side of the aisle continues to filibuster that bill. The effect of the filibuster will be that these duties will go into place and jobs will be lost. This bill which is called the JOBS bill is just that, a jobs bill. Yet we hear from the other side of the aisle what appears to be and must be crocodile tears on the issue of creating more jobs, because they have the opportunity to pass a piece of legislation that will clearly impact the creation and maintenance of jobs in the United States, and they are obstructing it and filibustering it.

We hear from the other side a great deal about outsourcing, American jobs being moved overseas. The practical effect of objecting to this bill, obstructing this bill and of filibustering this bill, is that those jobs will probably move overseas because those manufacturers, in order to avoid the duty, are going to have to move overseas in order to be competitive with the products in those nations where they are selling them. So the effect of the filibuster and obstruction we are seeing on the other side on the issue of the JOBS bill is to basically energize the loss of jobs in the U.S. and the outsourcing of jobs overseas.

Therefore, when we hear all this discussion and concern about the creation of jobs in this country today from the other side of the aisle in the context of the Presidential election, one wonders how serious they are, because clearly if they are serious they would pass this bill which, by the way, is supported by a majority of the Senate. The objection to this bill is not the underlying law. It is not the correction to the tax law which will allow these jobs to be retained in the United States. It is, rather, they wish to bring forward extraneous legislation and put it on this bill, legislation which we voted on a couple of times before in committee and which we voted on at least once on the floor of the Senate.

Therefore, it is a tangential idea and a desire to make a political point, and their willingness to pursue that tangential idea and desire at the expense of these jobs, I find, is cynical and clearly inappropriate. That is the first bill being stopped.

The second bill is a bill I managed and which just came out of conference, and it is the pension reform bill. It did not have everything in it that I wanted. It did not have everything in it the House wanted. But it has key pieces of legislation in it which will have a direct impact on jobs. I called this pensions bill the ultimate jobs bill because, quite honestly, that is exactly what it is.

If this pensions bill is not passed and passed promptly, the practical effect is there will be a misallocation of up to $80 billion of resources within the investment community and in the small and large business communities of this country. What has happened today is that companies fund what is known as a defined benefits plan under rules which they say, in order to determine how much they are going to pay to the plan each year, they have to look at the rate of return on the 30-year Treasury bond.

The 30-year Treasury bond is a vehicle which does not exist anymore. We do not sell it, basically, as a country. Therefore, the price of a 30-year Treasury bond has been moved to an artificially low number, and the practical effect of that is that companies, businesses, and unions which must see their pension funds funded for these defined benefits plans are going to see those payments to those defined benefits plans increased at an arbitrary rate based on a nonexistent bond vehicle, the 30-year bond. It is technical, but it is an important point.

This pensions bill corrects that situation. It sets up a new structure for defining how much must be contributed to a defined benefits plan for a period of 2 years based on a bond rate which does actually exist, which is a market basket of corporate bonds. The practical effect of that will be an appropriate allocation of money into these defined benefits plans, leaving dollars available to invest in new plant, new equipment, and expansion of business in the United States, which leads directly to jobs.

Thus, if this pensions bill is not enacted in the next week, we will have these arbitrary reallocations of funds occurring by April 15. This pensions bill will have a direct and proximate effect on the ability of business in the United States to be competitive, to create investment, and, in return, to create jobs.

Yet, once again, we were told by the leadership on the other side of the aisle—at least the leadership in the committees, Senator KENNEDY and Senator BAUCUS—that they oppose this bill and they are going to use all their means available to them to stop it.

They can stop this bill. There is no question about it. They can stop it for at least 2 or 3 weeks, and the practical effect of that will be that we will go beyond the April 15 funding date, and this rather horrific misallocation of resources will kick in, the practical effect of which will be instead of investing to create jobs, they will be investing arbitrarily in these defined benefits funds at a rate which is not reflective of what the actual return rate on those funds would be if they had an appropriate market basket of corporate bonds on which they were basing their yield rates.

Yes, they can hold this bill up. And, yes, I guess they intend to hold this bill up. What is the effect of that? It is going to cost Americans jobs. It is going to mean jobs will not be created. It is going to mean investment will not be made. It will mean dollars will be arbitrarily allocated rather than flowing where they can most effectively be used through investment in new plant and equipment and the resulting jobs that occur from that.

So, once again, we see from the other side of the aisle an attitude that says: We are going to obstruct you; we are going to stop business in the Senate. We don't care that in the process of doing that we are going to create an atmosphere where jobs are lost, as in the case of the JOBS bill where the duties are increased against American manufacturers and maybe as a result jobs have to be outsourced. In any event, we will certainly have our products being less competitive, which means probably fewer jobs will be created in those businesses and maybe jobs will be lost in those businesses in the area of the pensions bill. They do not care. They are going to obstruct, and they are going to stop this bill because they are tweaked about the issue of how far it went and, as a result, what is going to be the impact. Jobs will be lost because the dollars for investing in plant and equipment will not be available. It is a rather cynical strategy from the other side of the aisle. First, they go out to the public in the Presidential campaign and say: Why don't we have more jobs? Then, on the floor of the Senate, they are aggressively pursuing strategies which stop us from creating more jobs. It is a lot like the kids who killed their parents and then go to the court and claim they should receive special treatment because they are orphans.

These folks on the other side of the aisle are shooting the programs which would create jobs, and then they are going out in the Presidential politics arena and saying: Why aren't we creating more jobs?

The cynicism of it is rather extreme. From my standpoint, I certainly hope they are not going to continue this practice because, in the end, it means people in America will not have jobs and will have fewer opportunities to work. For me, that is not right.

I hope we can pass this pensions bill this week, and I hope we can pass this JOBS bill this week, but it certainly doesn't look like that is going to occur.

I yield back the remainder of my time. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I listened with great interest to comments of some of my colleagues, especially on this issue of obstructionism as it relates to jobs. It is true there is a JOBS bill, as it is called, on the floor of the Senate that has been delayed. This JOBS bill is a bill that gives tax breaks to U.S. manufacturers, and it has, in fact, been delayed. Let me explain why it has been delayed and why the obstructionism on the part of the majority party in Congress exists.

When that bill came to the floor of the Senate, someone on this side of the aisle offered a very important amendment. It also had to do with jobs, so it had to do with the subject of the bill.

Because the majority party did not want to vote on the amendment, they took all their marbles, walked off the floor, and went home and accused our side of being obstructionist. Let me describe the circumstances.

Senator HARKIN offered an amendment on overtime pay. Why did he do that? Because the Department of Labor is about to produce new regulations that, for the first time in 60 years, will obliterate the 40-hour workweek and tell workers, Oh, by the way, if your employer decides to work you more than 40 hours, anywhere from 6 to 8 million Americans who now receive overtime will not be able to receive overtime pay. The employer will be able to say: You work overtime, you work 50 hours; if you don't like it, tough luck, and I am not going to pay you overtime. For the first time in 60 years, the 40-hour workweek will be gone for about 6 to 8 million people.

These new rules are touted as worker-friendly rules, but, of course, we know that is not the case at all because there are consulting companies—and the Department of Labor itself—putting out information to businesses to say: Here is the way you structure your company to avoid paying your workers overtime under these new rules.

Senator HARKIN offered an amendment on this important JOBS bill. Why is it germane to this JOBS bill? Because if employers are able to say to workers, You work overtime for no extra pay, instead of creating new jobs which ought to be created, they will say to existing workers: You work overtime; we are not going to pay you extra.

This new rule from the Department of Labor is an approach that will diminish jobs, that will retard the creation of new jobs. Yet, when Senator HARKIN offered that amendment, the majority party had some kind of an apoplectic seizure.

According to the majority party, Senator HARKIN is apparently obstructing things because he offers an amendment dealing directly with jobs. No, it is not Senator HARKIN who is obstructing. What is obstructing the business of this Chamber is the majority party. Senator HARKIN offered an amendment that deals directly with jobs and they refused to have a vote on it, and they are going to take their marbles and just go home. They are going to go home and accuse someone else of obstructing.

The obstruction in this Chamber is by the majority party that refuses to allow votes on issues that are important and that are relevant to the matters at hand. That is the obstruction. It is a curious strategy to know the majority party would obstruct its own agenda, but obstruct they do. Then they rush out to the microphones to accuse others of obstructing.

There is a very simple way to remove all of these issues. We do not have to have any obstruction by anybody. Bring the bills to the floor and let us try to deal with them in a thoughtful way. When someone offers an amendment, like Senator HARKIN, give us an opportunity to have a vote on it. Let's move ahead. That is not the case these days. It is just a little bizarre to hear these charges of obstructionism.

I would also say to those who came to the floor this morning to say what they really want to see is a positive campaign for the Presidency, I say amen to that. But there is a large, well-oiled attack machine in this town. In fact, I watched the television commercials last evening by the administration, which represent Senator KERRY's position on taxation. It is a wholly negative television commercial.

I agree with my colleague who said, let's be positive. How about maybe we see the other side, maybe see the White House take some of those commercials off the air and then let us talk about being positive.

FOREIGN COMPANIES MUST PAY TAXES

Mr. DORGAN. Mr. President, I came to the floor not to talk about the obstruction by the majority party; I came instead to talk about a new report that is just out. It is a report by the GAO, and it says something important about fiscal policy in this country.

The GAO report, which Senator CARL LEVIN and I asked for, compares the reported tax liabilities of some of the biggest companies that do business in this country, both domestic companies and foreign companies.

This report studied a period of time when we had robust economic growth in our economy, 1996–2000. On the summary page, it says that an average of 71 percent of all foreign corporations doing business in the United States of America pay no income tax at all. These are names almost all Americans would easily recognize. Obviously, this report does not provide these names. But when one talks about the major foreign corporations selling products in this country, earning billions of dollars from those sales and paying zero to the Federal Government in tax liability, it raises very serious questions about gaping holes in this country's tax system.

We are nearing April 15, when Americans will march off to the post office and pay their taxes. They will pay their taxes because they do not have any alternative or any flexibility. They understand the obligation in this country to pay taxes.

Now, 71 percent of the foreign corporations that do business and make money in this country have decided they want to participate in our country and market system, but they do not want to participate in paying taxes on those profits. There is something fundamentally wrong with that. Once again, it demonstrates the gaping holes in our tax system. No, not for ordinary people, just for the big interests who do a lot of business, make a lot of money and pay no taxes. Shame on them.

This report also found that 61 percent of domestic companies during this period of economic growth paid no income taxes in this country.

We know the stories about companies that have decided they want to run their company out of a mailbox in Bermuda or the Bahamas. Why? Because they do not want to pay taxes to the United States. I say this to companies that want to do that: If they want to run their company out of a mailbox in the Bahamas, the next time they get in trouble, call the Bahamian Navy. I understand they have 21 sailors. Call them to get their company out of trouble.

These foreign corporations that do business and make profits in this country have an obligation to pay taxes in this country. Domestic companies that make profits in this country have an obligation as well. That obligation is to participate with ordinary Americans who understand that part of the cost of citizenship in this country is to help fund schools, pay for defense and pay for the social services that make this a great country. That is part of the obligation.

We have some of the biggest economic interests who have decided they want to participate in every way of being an American except paying taxes. That has to stop. I hope this Congress will begin to take this seriously.

This is the second GAO report we have done in the last 6 years on this subject. The tax avoidance problem is not getting better, it is getting worse. Tax loopholes are not getting narrower, they are getting wider.

Again, as we near April 15, when Americans think about the obligation to pay taxes into this Government, I think it is shameful to get a report like this that says so many big economic interests that make so much money have decided they want all of the advantages America has to offer, but they do not want to pay taxes to the United States of America. That is a shameful situation and one we ought to fix.

THE JOBS BILL

Mr. DORGAN. Mr. President, when we return to the JOBS Act, the bill that the majority party pulled from the Senate floor because Senator HARKIN offered an amendment on overtime, Senator MIKULSKI and I are going to offer an amendment. The amendment is very simple. It says this: We are going to end that provision in our Tax Code that says to American companies, if they will just pack up all of their belongings, fire all of their workers and move somewhere else offshore, make the same product and ship it back into our country, we will give them a tax break. Talk about perversity, that is perverse, offering a tax break to someone who moves their American jobs

overseas. Yet, that is exactly what exists in the Tax Code. We have voted on this before because I offered a similar amendment a number of years ago.

Let me describe exactly how this tax break works. Let's say there are two companies in this country with manufacturing plants. Each company produces garage door openers and these companies do a good job. They employ American workers, they produce garage door openers for sale in the U.S. marketplace and they earn some profit. But one company decides what it really wants to do is move overseas because it does not have to pay $11 an hour for a manufacturing worker. The company can go to Sri Lanka, Bangladesh, Indonesia or China and hire a 16 year-old-kid or a 12-year-old kid and pay them 12 cents an hour, working them 12 hours a day 7 days a week.

So one of the companies that makes garage door openers leaves, makes exactly the same garage door opener now in Sri Lanka and ships it back into this country.

The other company that makes garage door openers stays in America. The difference is that the company that left this country does not have to pay income taxes on their profits any longer because we have something called tax deferral. Until and unless they repatriate those earnings, those earnings are tax free in this country.

Our amendment is very simple. It says this: If a company leaves this country and moves its jobs overseas to produce a product to ship back into this marketplace, the company loses tax deferral that now perversely incentivizes companies to leave this country. It is one thing to have companies leave because of bad trade agreements, because they can avoid the things we have fought for for years in this country—safe workplaces, fair labor standards, and decent wages. It is quite another thing for them to leave because in part we say we will give them a tax break if they leave our country. What a nutty idea and one that we ought to change.

REIMPORTATION OF PRESCRIPTION DRUGS

Mr. DORGAN. Mr. President, I will make one additional point on another subject. Last week, I went to see the Secretary of Health and Human Services, Tommy Thompson, and made a presentation in support of a pilot project I want him to approve which would allow the reimportation of prescription drugs from Canada. My pilot project is very simple. It sets up a 2-year pilot project for North Dakota that would allow North Dakota pharmacists to access FDA-approved drugs from pharmacists in Canada.

As you know, the administration has been fighting this notion of reimporting prescription drugs. The pharmaceutical industry is fighting it. The administration is fighting it.

This is why it is important: In every case—the drug Lipitor, Prevacid, Zocor, Celebrex—it is the same drug put in the same bottle made by the same company sold in two countries, but the charges are much higher to the U.S. consumer. It is not just true with Canada; it is true for every country in the world because the U.S. consumer is charged the highest prices in the world for FDA-approved prescription drugs, and that is not fair.

Let me ask consent to show two pill bottles on the floor of the Senate.

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

Mr. DORGAN. These are bottles of a drug called Lipitor. This, I believe, is one of the fastest selling, most popular drugs in the United States. It is used for the lowering of cholesterol. By all accounts, it is a very successful drug and it sells rapidly and is prescribed often.

As you can see, these two bottles of Lipitor are identical. These are both bottles that have 10 milligram tablets of Lipitor in them. They are made in the same plant. These are FDA-approved drugs made in an FDA-approved plant. The same pill is put in the same bottle made by the same company. There is one difference. This one is sold to Canadians at $1.01 per tablet. This one is sold to Americans at $1.81 per tablet. It is the same pill, the same bottle, same company, FDA approved, but nearly twice as much money is charged to the American consumer than the Canadian consumer.

I could have used Germany as an example, Italy, England, France, Spain—almost anyone. I could have used almost any country and come up with nearly the same result.

In Europe, they have something called parallel trading. If you are in Spain and want to buy a drug from Germany, there is no problem, you go through the parallel trading system. If you are in Italy and want to buy a drug from France, no problem, parallel trading. In this country we are told by FDA and others that there would be a huge safety problem if we purchased drugs from Canada—total nonsense. The Canadians have virtually the same chain of custody as we do. The Canadian drug supply is safe. Even our health authorities will admit that. So having licensed U.S. pharmacists acquire from licensed pharmacists or licensed distributors in Canada the identical drug and passing the savings along to the American consumer makes good sense and poses no—I repeat no—safety issues for citizens of this country.

I have asked the Secretary of Health and Human Services for a waiver to allow this pilot program to go forward. We will continue on the floor of the Senate to pass legislation. I believe we will soon pass legislation that deals with this issue, but, in the meantime, I am asking the Secretary of Health and Human Services to make a decision on this waiver request. He is now studying that. I assume it will be some weeks. But my hope is he will understand that the issue, which is a safety issue that they have described, simply does not, cannot, and will not exist with respect to this matter.

The question is, Who is going to stand up for the American consumer? Will somebody stand up and say, on behalf of the American consumers, that what is happening here is not fair? I hope so.

This proposal is called Prairie Prescriptions. It is a 2-year pilot project I put together. My hope is my State can be a pilot project that will demonstrate for everyone that the issue of safety in the reimportation of drugs with Canada, which has a nearly identical chain of custody, will always be a bogus issue. The issue is whether the American people will continue to pay the highest prices in the world for prescription drugs.

Miracle drugs offer no miracle for those who cannot afford them. Our senior citizens of this country are 12 percent of America's population and they take one-third of the prescription drugs. They are often the people least able to afford these prices. Yet day after day, month after month in this country we have senior citizens going down to their grocery store, and finding out how much their prescription drugs are going to cost so they know how much they have left to buy their groceries.

I notice my colleague Senator HARKIN is waiting to speak. I am sure in Iowa, as we have in North Dakota, when you go to a meeting someplace you often have somebody 80 years old touch you on the elbow and say: Can you help me? You say: What is it? And the tears well up in their eyes and their chin begins to quiver and they say: I have heart disease and diabetes and I am supposed to take this medicine and I can't afford it. Can you help me?

The fact is, we pay too much for prescription drugs. We pay the highest prices in the world, and it is just not fair.

Obviously, my interest is at some point to force a repricing in this country, but in the absence of that, I believe reimportation is the way to let the market system even out these prices. I believe that can, should, and will be done without any safety issues whatsoever.

I await anxiously the decision by the Secretary of Health and Human Services and the administration. The Prairie Prescriptions Pilot Project is a solid project, one that will benefit, in my judgment, the entire country by demonstrating once and for all this phony issue that has been raised by the former head of FDA, Dr. McClellan, and so many others. The issue of safety is just not an issue at all. The issue really is will the American people finally be treated fairly with respect to prescription drug pricing.

I yield the floor.

Mr. HARKIN. Mr. President, how much time is left?

The PRESIDING OFFICER. Five minutes fifty seconds.

Mr. HARKIN. I understand that the Senate will then resume consideration of the motion to proceed.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, I am going to ask unanimous consent, since I had 15 minutes—I am going to ask unanimous consent that I be allowed to speak for 5 minutes as in morning business and then the Senate would then interrupt my presentation to return to the motion to proceed and that I be recognized to finish my statement then.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, might I ask—reserving the right to object, may I ask unanimous consent that the Senator from Iowa be given 15 minutes in morning business?

Mr. HARKIN. We will just go to the motion to proceed. That is fine.

The PRESIDING OFFICER. Is there objection to the original request?

Without objection, it is so ordered.

Mr. HARKIN. Which one?

The PRESIDING OFFICER. Your request that you be allowed 5 minutes now, then we go to the bill, and then you be recognized to speak for an additional 10 minutes.

Mr. HARKIN. I thank the Chair and I thank my colleague from North Dakota. We might as well go on with the motion to proceed. I can make my presentation then, too.

THE ECONOMY

Mr. HARKIN. Mr. President, there is no secret that there is a great frustration in the American workplace today. There is a great anxiety among American working families. You can sense it, you can feel it, you can hear it no matter where you go in America, whether it is in Iowa or Wyoming or New York or wherever it is. Something is happening out there. You get it all the time from people who have been working, maybe have lost their jobs, maybe they took another job, they are not making ends meet. They see the economy doing much better. They read this in the paper all the time—the economy is getting better, tax cuts are going into effect, foreign car sales, the big cars, the Mercedes and all those, are up. We see all the higher end items being purchased and sold.

For example, over the recent Christmas holidays, the Sharper Image, I believe, which sells high end electronics stuff, and Neiman Marcus had great sales. But Wal-Mart was down.

There is a great sense among American working people that something is not quite right with what is going on in this country. Maybe most Americans don't have degrees in economics; they haven't studied it, but they sense something is going wrong.

In his recent book, ''Wealth and Democracy,'' Kevin Phillips pointed out that there is a trend that different countries go through at various stages of their growth. One of those stages is where more and more of the output of a country accumulates to capital and less and less accumulates to labor, to the working people.

It is with great interest I note that, after I had read Kevin Phillips' book, yesterday in the New York Times an article by Bob Herbert brought it home. The title of the piece was ''We're More Productive. Who Gets the Money?'' As Mr. Herbert wrote yesterday in the New York Times:

> It's like running on a treadmill that keeps increasing its speed. You have to go faster and faster just to stay in place. Or, as a factory worker said many years ago, ''You can work 'til you drop dead, but you won't get ahead.''
>
> American workers have been remarkably productive in recent years, but they are getting fewer and fewer of the benefits of this increased productivity. While the economy, as measured by the gross domestic product, has been strong for some time now, ordinary workers have gotten little more than the back of the hand from employers who have pocketed an unprecedented share of the case from this burst of economic growth.
>
> What is happening is nothing short of historic. The American workers' share of the increase in national income since November 2001, the end of the last recession, is the lowest on record. Employers took the money and ran. This is extraordinary, but very few people are talking about it, which tells you something about the hold that corporate interests have on the national conversation.
>
> The situation is summed up in the long, unwieldy but very revealing title of a new study from the Center of Labor Market Studies at Northeastern University: ''The Unprecedented Rising Tide of Corporate Profits and the Simultaneous Ebbing of Labor Compensation—Gainers and Losers from the National Economic Recovery in 2002 and 2003.''

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

PREGNANCY AND TRAUMA CARE ACCESS PROTECTION ACT OF 2004—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will resume consideration of the motion to proceed to the consideration of S. 2207, which the clerk will report.

The legislative clerk read as follows:

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

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized for an additional 10 minutes.

Mr. HARKIN. Mr. President, parliamentary inquiry. I did not understand I was under a time limit. I had asked to continue to proceed after morning business on the motion to proceed, but I didn't recognize there was a time limit there. I did not ask consent for 10 minutes.

The PRESIDING OFFICER. The Senator has been granted 10 minutes to speak on any subject he wishes. But the total is 15 minutes under the request.

Mr. HARKIN. I think the record will show that I asked for consent to continue to speak in morning business, to yield the floor, to then return to the motion to proceed, and that I be recognized to continue to speak on the motion to proceed. That does not have a time limit.

The PRESIDING OFFICER. The Senator is recognized to speak on the motion to proceed or on whatever subject he wishes to speak for 10 minutes and thereafter on the bill.

Mr. HARKIN. I understand that. I thank the Chair.

Mr. GREGG. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. HARKIN. Sure.

Mr. GREGG. At the end of the Senator's 10 minutes, does the Senator come back and retain the floor?

The PRESIDING OFFICER. It was my understanding that the time under the request was that he was going to have a total of 15 minutes. Otherwise, there would have been an objection.

Mr. GREGG. Mr. President, I will be seeking the floor at the conclusion of the 10 minutes as the manager of the bill, for everybody's knowledge.

The PRESIDING OFFICER. Under the normal procedure, the manager of the bill may speak as soon as a bill is brought up, with the exception of the 10 minutes as a continuation of the total of 15 minutes.

The Senator from Iowa may proceed.

Mr. HARKIN. I do not mean to take more than 15 minutes. I might go into 18 or 20 minutes. I wasn't going to take a long time. I wanted to finish my statement without being constrained with the 15 minutes I had under morning business. That is why I went on the motion to proceed. I will speak on that for an additional few minutes. But I will take whatever time I can now. If I am cut off, I will be back.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, Mr. Herbert further said:

> Andrew Sum, the center's director and lead author of the study, said: ''This is the first time we've ever had a case where two years into a recovery, corporate profits got a larger share of the growth of national income than labor did. Normally labor gets about 65 percent and corporate profits about 15 to 18 percent. This time profits got 41 percent and labor [meaning all forms of employee compensation, including wages, benefits, salaries and the percentage of payroll taxes paid by employers] got 38 percent.''
>
> The study said: ''In no other recovery from a post-World War II recession did corporate profits ever account for as much as 20 percent of the growth in national income. And

at no time did corporate profits ever increase by a greater amount than labor compensation.''

In other words, an awful lot American workers have been had. Fleeced. Taken to the cleaners.

The recent productivity gains have been widely acknowledged. But workers are not being compensated for this. During the past two years, increases in wages and benefits have been very weak, or nonexistent. And despite the growth of jobs in March that had the Bush crowd dancing in the White House halls last Friday, there has been no net increase in formal payroll employment since the end of the recession. We have lost jobs. There are fewer payroll jobs now than there were when the recession ended in November 2001.

So if employers were not hiring workers, and if they were miserly when it came to increases in wages and benefits for existing employees, what happened to all the money from the strong economic growth?

The study is very clear on this point. The bulk of the gains did not go to workers, ''but instead were used to boost profits, lower prices, or increase C.E.O. compensation.''

This is a radical transformation of the way the bounty of this country has been distributed since World War II. Workers are being treated more and more like patrons in a rigged casino. They can't win.

Corporate profits go up. The stock market goes up. Executive compensation skyrockets. But workers, for the most part, remain on the treadmill.

The study found that the amount of income growth devoured by corporate profits in this recovery is ''historically unprecedented,'' as is the ''low share . . . accruing to the nation's workers in the form of labor compensation.''

I thought Mr. Herbert wound up his statement quite adequately when he said:

I have to laugh when I hear conservatives complaining about class warfare. They know this terrain better than anyone. They launched the war. They're waging it. And they're winning it.

One of the reasons they are winning it is because workers no longer have organized labor. Organized labor has been weakened to the point where workers are told: Take what you got or go get something else or we will take your job and we will take it to China or we will take your job and move it to India or South Africa or some other place. You have no recourse as a worker.

I have tried for years in this Senate and in this Congress to try to get a bill passed called the striker replacement bill which says if you are on strike you can't be replaced with a replacement worker. That one thing alone has broken the back of organized labor to the point where workers no longer have the power to withhold their labor, the only tool with which they have to bargain.

So here we have more and more of the earnings from increased productivity going to capital and less going to workers. What do we do about it? We say now we are going to take away your time-and-a-half overtime. That is the next assault on the time-and-a-half overtime. For our workers who are working more and more in this country and working longer hours than any other industrialized country, we are going to say to workers we will take away your right to overtime.

That issue was brought up on the bill that was before us earlier. That was my amendment, to say these proposed rules by the Department of Labor that would deny up to 8 million Americans their right to time-and-a-half overtime could not go into effect. Now we find that not only is the administration trying to push through new rules to eliminate overtime pay; at the same time, many employers are illegally pushing the same thing. They are doctoring their employee time records in order to avoid paying overtime. This practice is shaving time. It is easy to do, it is hard to detect, and is done in a matter of a few keystrokes.

According to the New York Times article on Sunday by Steven Greenhouse:

Workers have sued Family Dollar and Pep Boys, the auto parts and repair chain, accusing managers of deleting hours. A jury found the Taco Bell managers in Oregon had routinely erased workers' time. More than a dozen former Wal-Mart employees said in interviews and depositions that managers had altered time records and shortchanged employees.

I ask unanimous consent a copy of the New York Times article be printed in the RECORD.

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

[From the New York Times, Apr. 4, 2004]

ALTERING OF WORKER TIME CARDS SPURS GROWING NUMBER OF SUITS

(By Steven Greenhouse)

As a former member of the Air Force military police, as a play-by-the-rules guy, Drew Pooters said he was stunned by what he found his manager doing in the Toys ''R'' Us store in Albuquerque.

Inside a cramped office, he said, his manager was sitting at a computer and altering workers' time records, secretly deleting hours to cut their paychecks and fatten his store's bottom line.

''I told him, 'That's not exactly legal,' '' said Mr. Pooters, who ran the store's electronics department. ''Then he out-and-out threatened me not to talk about what I saw.''

Mr. Pooters quit, landing a job in 2002 managing a Family Dollar store, one of 5,100 in that discount chain. Top managers there ordered him not to let employees' total hours exceed a certain amount each week, and one day, he said, his district manager told him to use a trick to cut payroll: delete some employee hours electronically.

''I told her, 'I'm not going to get involved in this,' '' Mr. Pooters recalled, saying that when he refused, the district manager erased the hours herself.

Experts on compensation say that the illegal doctoring of hourly employees' time records is far more prevalent than most Americans believe. The practice, commonly called shaving time, is easily done and hard to detect—a simple matter of computer keystrokes—and has spurred a growing number of lawsuits and settlements against a wide range of businesses.

Workers have sued Family Dollar and Pep Boys, the auto parts and repair chain, accusing managers of deleting hours. A jury found that Taco Bell managers in Oregon had routinely erased workers' time. More than a dozen former Wal-Mart employees said in interviews and depositions that managers had altered time records to shortchange employees. The Department of Labor recently reached two back-pay settlements with Kinko's photocopy centers, totaling $56,600, after finding that managers in Ithaca, NY, and Hyannis, MA, had erased time for 13 employees.

''There are a lot of incentives for store managers to cut costs in illegal ways,'' said David Lewin, a professor of management who teaches a course on compensation at the University of California, Los Angeles. ''You hope that would be contrary to company practices, but sometimes these practices become so ingrained that they become the dominant practice.''

Officials at Toys ''R'' Us, Family Dollar, Pep Boys, Wal-Mart and Taco Bell say they prohibit manipulation of time records, but many acknowledge that it sometimes happens.

''Our policy is to pay hourly associates for every minute they work,'' said Mona Williams, vice president for communications at Wal-Mart. ''With a company this large, there will inevitably be instances of managers doing the wrong thing. Our policy is if a manager deliberately deletes time, they're dismissed.''

Compensation experts say that many managers, whether at discount stores or fast-food restaurants, fear losing their jobs if they fail to keep costs down.

''A lot of this is that district managers might fire you as soon as look at you,'' said William Rutzick, a lawyer who reached a $1.5 million settlement with Taco Bell last year after a jury found the chain's managers guilty of erasing time and requiring off-the-clock work. ''The store managers have a toehold in the lower middle class. They're being paid $20,000, $30,000. They're in management. They get medical. They have no job security at all, and they want to keep their toehold in the lower middle class, and they'll often do whatever is necessary to do it.''

Another reason managers shave time, experts say, is that an increasing part of their compensation comes in bonuses based on minimizing costs or maximizing profits.

''The pressures are just unbelievable to control costs and improve productivity,'' said George Milkovich, a long time Cornell University professor of industrial relations and co-author of the leading textbook on compensation. ''All this manipulation of payroll may be the unintended consequence of increasing the emphasis on bonuses.''

Beth Terrell, a Seattle lawyer who has sued Wal-Mart, accusing its managers of doctoring time records, said: ''Many of these employees are making $8 an hour. These employees can scarcely afford to have time deleted. They're barely paying their bills already.''

In the punch-card era, managers would have had to conspire with payroll clerks or accountants to manipulate records. But now it is far easier for individual managers to accomplish this secretly with computers, payroll experts say.

Mr. Pooters, a father of five who left the Air Force in 1997 for a career in retailing, talks with disgust about photocopied Toys ''R'' Us records that he said showed how his manager made it appear that he had clocked out much earlier than he had.

''Unless you keep track of your time and keep records of when you punch in and punch out, there's no way to stop this,'' he said.

After leaving Toys ''R'' Us and Family Dollar, Mr. Potters moved to Indiana and took a job as an account manager with Rentway, a chain that leases furniture and electronics. There, he and a co-worker, William Coombs, said, the workload was so intense that they typically missed four lunch breaks a week. Nonetheless, they said, their

manager inserted a half-hour for lunch into their time records every day, reducing their pay accordingly.

''They told us to sign the payroll printouts to confirm it was right,'' Mr. Pooters said, describing a confrontation last November. ''When we protested about what happened with our lunch hours, the manager said, 'If you don't sign, you're not going to get paid.' ''

Mr. Coombs said: ''They removed our lunch hours all the time. We were told if we didn't sign the payroll sheets, we'd be terminated.''

Larry Gorski, Rentway's vice president for human resources, said his company strictly prohibited erasing time. ''As soon as we hear this is going on, we jump all over it,'' he said.

Shannon Priller, who worked at a Family Dollar store in Rio Rancho, N.M., sheepishly acknowledged that she sometimes watched her district manager erase her hours. ''The manager and I would sit there and go over everybody's time cards,'' she said. ''We were told not to go over payroll, or we would lose our jobs. If we were over, my hours would get shaved.''

Some weeks, she said, she lost 10 or 15 hours, and her 6 a.m. clock-in time became 9 a.m. Patricia Bauer, a clerk at the store, said her paycheck was sometimes cut to under 30 hours on weeks when she worked 40.

Like Mr. Pooters, these women have joined a lawsuit that accuses Family Dollar of erasing time and requiring off-the-clock work. ''It needs to stop,'' said Ms. Priller, who now cleans houses.

Kim Danner said that when she ran a Family Dollar store with eight employees in Minneapolis, her district manager urged her to erase hours so that she never paid overtime or exceeded her allotted payroll. Federal law generally requires paying time-and-a-half to nonmanagerial employees who work more than 40 hours a week.

Ms. Danner said her employees could not do all the unloading, stocking, cashier work and pricing of merchandise in the hours allotted. ''The message from the district manager was, basically, 'I don't care how you do it, just get it done,' '' she said.

So she altered clock-out times and inserted half-hour lunch breaks even when employees had worked through them. ''I felt horrible that I was doing this,'' she said. ''I felt pressured, absolutely. If I refused, I would have been terminated easily.''

After five months, she quit.

Sandra Wilkenloh, Family Dollar's communications director, declined to respond to the lawsuit, but said, ''Family Dollar's policy is to fully comply with all wage and hour laws and to take appropriate disciplinary action in any case where we determine that such policy has been violated.''

She said Family Dollar maintained a hot line that employees could call anonymously to report wage violations.

Rosann Wilks, who was an assistant manager at a Pep Boys in Nashville, said she was fired in 2001 after refusing to delete time. She said her district manager told her, ''Under no circumstances at all is overtime allowed, and if so, then you need to shave time.''

At first, she bowed to orders and erased hours. Some employees began asking questions, she said, but they refused to confront management. ''They took it lying down,'' she said. ''They didn't want to lose their job. Jobs are hard to find.''

When she started feeling guilty and confronted her district manager, she said, ''It all came to a boil. He fired me.''

Bill Furtkevic, Pep Boys' spokesman, said his company did not tolerate deleting time.

''Pep Boys' policy dictates, and record demonstrates, that any store manager found to have shaved any amount of employee time be terminated,'' he said. He added that the company's investigation ''revealed no more than 21 instances over the past five years where time shaving'' had occurred.

More than a dozen former Wal-Mart employees said time records were altered in numerous ways. Some said that when they clocked more than 40 hours a week, managers transferred extra hours to the following week, to avoid paying overtime. Federal law bars moving hours from one week to another.

Wal-Mart executives acknowledged that one common practice, the ''one-minute clock-out,'' had cheated employees for years. It involved workers who clocked our for lunch and forgot to clock back in before finishing the day. In such situations, many managers altered records to show such workers clocking out for the day one minute after their lunch breaks began—at 12:01 p.m., for example. That way a worker's day was often three hours and one minute, instead of seven hours.

Ms. Williams, the Wal-Mart spokeswoman, said Wal-Mart had broadcast a video to store managers last April telling them to halt all one-minute clock-outs. Under the new policy, when workers fail to clock in after lunch, managers must do their best to determine what their true workday was.

In interviews, five former Wal-Mart managers acknowledged erasing time to cut costs. Victor Mitchell said that as an assistant manager in Hazlehurst, Miss., in 1997, he frequently shaved time.

''We were told we can't have any overtime,'' he said. ''It's what the other assistant managers were doing, and I went along with it.''

Mr. Mitchell said the store's manager ordered them to stop. But he said that in 2002, after becoming manager of a Wal-Mart in Bogalusa, La., a new district ordered him to erase overtime. He said he refused.

Ms. Williams said Wal-Mart had increased efforts to stop managers from shaving time or allowing off-the-clock work.

Wal-Mart has circulated a ''payroll integrity'' memo, saying that any worker, ''hourly or salaried, who knowingly falsifies payroll records is subject to disciplinary action up to an including termination.''

Employees at Wal-Mart and other companies complain that they receive no paper time records, making it hard to challenge management when their paychecks are inexplicably low.

Ms. Danner, the former Family Dollar manager, praised the system at the McDonald's restaurant she managed for seven years. At day's end, she said, employees received a printout detailing total hours worked and when they clocked in and out.

''We never had any problems like this at McDonald's,'' she said.

Mr. HARKIN. I also ask unanimous consent that yesterday's article by Bob Herbert be printed in the RECORD.

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

[From the New York Times, Apr. 5, 2004]

WE'RE MORE PRODUCTIVE. WHO GETS THE MONEY?

(By Bob Herbert)

It's like running on a treadmill that keeps increasing its speed. You have to go faster and faster just to stay in place. Or, as a factory worker said many years ago, ''You can work 'til you drop dead, but you won't get ahead.''

American workers have been remarkably productive in recent years, but they are getting fewer and fewer of the benefits of this increased productivity. While the economy, as measured by the gross domestic product, has been strong for some time now, ordinary workers have gotten little more than the back of the hand from employers who have pocketed an unprecedented share of the cash from this burst of economic growth.

What is happening is nothing short of historic. The American workers' share of the increase in national income since November 2001, the end of the last recession, is the lowest on record. Employers took the money and ran. This is extraordinary, but very few people are talking about it, which tells you something about the hold that corporate interests have on the national conversation.

The situation is summed up in the long, unwieldy but very revealing title of a new study from the Center for Labor Market Studies at Northeastern University: ''The Unprecedented Rising Tide of Corporate Profits and the Simultaneous Ebbing of Labor Compensation—Gainers and Losers from the National Economic Recovery in 2002 and 2003.''

Andrew Sum, the center's director and lead author of the study said: ''This is the first time we've ever had a case where two years into a recovery, corporate profits got a larger share of the growth of national income than labor did. Normally labor gets about 65 percent and corporate profits about 15 to 18 percent. This time profits got 41 percent and labor [meaning all forms of employee compensation, including wages, benefits, salaries and the percentage of payroll taxes paid by employers] got 38 percent.''

The study said: ''In no other recovery from a post-World War II recession did corporate profits ever account for as much as 20 percent of the growth in national income. And at no time did corporate profits ever increase by a greater amount than labor compensation.''

In other words, an awful lot of American workers have been had. Fleeced. Taken to the cleaners.

The recent productivity gains have been widely acknowledged. But workers are not being compensated for this. During the past two years, increases in wages and benefits have been very weak, or nonexistent. And despite the growth of jobs in March that had the Bush crowd dancing in the White House halls last Friday, there has been no net increase in formal payroll employment since the end of the recession. We have lost jobs. There are fewer payroll jobs now than there were when the recession ended in November 2001.

So if employers were not hiring workers, and if they were miserly when it came to increases in wages and benefits for existing employees, what happened to all the money from the strong economic growth?

The study is very clear on this point. The bulk of the gains did not go to workers, ''but instead were used to boost profits, lower prices, or increase C.E.O. compensation.''

This is a radical transformation of the way the bounty of this country has been distributed since World War II. Workers are being treated more and more like patrons in a rigged casino. They can't win.

Corporate profits go up. The stock market goes up. Executive compensation skyrockets. But workers, for the most part, remain on the treadmill.

When you look at corporate profits versus employee compensation in this recovery, and then compare that, as Mr. Sum and his colleagues did, with the eight previous recoveries since World War II, it's like turning a chart upside down.

The study found that the amount of income growth devoured by corporate profits in this recovery is ''historically unprecedented,'' as is the ''low share . . . accruing to

the nation's workers in the form of labor compensation.''

I have to laugh when I hear conservatives complaining about class warfare. They know this terrain better than anyone. They launched the war. They're waging it. And they're winning it.

Mr. HARKIN. Mr. President, the article went on to point out that Kim Danner used to manage a Family Dollar store with eight employees in Minneapolis. She says:

. . . her district manager urged her to erase hours so she never paid overtime or exceeded her allotted payroll.

She said her employees could not do all of the unloading, stocking, cashier work, and pricing in the hours allotted, so she altered clock-out times and inserted half-hour lunch breaks, even when employees worked through lunch. She says:

I felt horrible that I was doing this. I felt pressured, absolutely. If I refused, I would have been terminated easily.

Instead of issuing new rules to officially eliminate overtime for millions of Americans, the Department of Labor ought to be cracking down on these unscrupulous companies. The Department of Labor ought to be enforcing the overtime laws so American workers are not gouged and cheated out of their hard-earned pay.

Now we see clearly where the increased productivity is coming from. American workers are working longer hours, they are working through their lunchtimes, but their hours are being shaved. Their time is taken away from them. Sometimes they clock out and they are made to come back to work. Rather than making an example of these companies and going after them, the Department of Labor is coming around the other side and saying, well, that may be illegal, but what we are going to do is make it legal to take away the overtime rights of up to 8 million workers. In fact, even in the proposed rules, the Department offered employers helpful tips on how to avoid paying overtime to the lowest paid workers, the very workers, of course, supposedly helped by the new rules.

For example, the Department of Labor, in their own writing, suggests cutting a worker's hourly wage so any new overtime payments will not result in a net gain to the employee. The Department of Labor also recommends raising a worker's salary slightly to meet the threshold at which eligibility for time-and-a-half pay ends.

Again, American workers face a double-barreled threat to their overtime rights. They face a threat from unscrupulous employers who deny overtime illegally and now they face a threat from the Department of Labor which wants to deny overtime legally. But the result is the same: an assault on the American worker's right to time-and-a-half pay for hours worked in excess of 40 hours a week.

We are going to continue to try to offer this amendment and to try to get a vote on it. In Rollcall today there is an article saying ''Will 'Obstructionist' Label Stick?'' Evidently, our majority leader last week said: Obstruction, obstruction, obstruction—every bill. That is according to Majority Leader FRIST, at least according to the article in Rollcall.

I have the greatest respect for Senator FRIST. He knows that. I like him as a friend. But quite frankly, that will not wash. The first ruling on FSC was in 2002.

Mr. President, I will continue my remarks later today.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I understand the motion to proceed has been reported.

The PRESIDING OFFICER. Yes.

Mr. GREGG. We are now moving on to the issue of how we give the American people better access to doctors, especially women who are having children, people who have experienced a traumatic event and have gone to the emergency room.

Regrettably, in our society today we are seeing a lot of highly qualified people in the medical professions—not only doctors, but nurse midwives and ambulance professionals, EMT professionals—giving up the practice which they love; in the case of an OB doctor, delivering a baby, and in the case of emergency room personnel, especially the doctor, trying to save lives—having given up those professions or significantly curtailed the extent to which they practice their profession because the cost of their liability insurance due to lawsuits has gotten so high there is no way they can earn enough money to cover the premiums they have to pay to purchase the liability coverage. Of course, there is no hospital in America today which allows a doctor to practice unless that doctor has adequate liability coverage.

This is a crisis. It is a crisis in a lot of States in this country. It is soon to be a crisis in even more States. There are 19 States which the American Medical Association has identified as in crisis. There is another group, I think 23, the American Medical Association has said moving toward crisis. The red States on the chart are in crisis and the yellow States are the States moving toward crisis. There are 11 States which are doing pretty good, which have their medical liability issues under control.

This bill attempts to create a national response to this problem so women who are having children or want to have children can see a doctor. If you are in a car accident and you have a serious injury, or you are walking down the road and you slip and fall and have a serious injury, or you have any other type of physical injury and you go to your emergency room, you will see a doctor who is capable of taking care of you. That is what this bill tries to address.

The issue, of course, is these doctors want to deliver these services. It is not as if they want to get out of the business or out of the activity for which they have trained all their lives, such as delivering a baby. I have had meetings with doctors in my home State. I remember distinctly a doctor from Dover, a woman who loves to deliver babies. This is what really excites her about being a doctor. It is why she went to medical school. It is why she went to graduate school afterwards. But she has actually had to stop delivering babies. The only babies she now delivers are members of her own family. She has to get special dispensation from the hospital to do that because as an OB/GYN she cannot afford the insurance necessary to cover her costs of delivering those children.

We have regions in our State, and it is true in every State that has any sort of rural atmosphere, where we literally do not have any coverage at all, where a woman in northern New Hampshire who has decided to have a child has to drive 10 miles—10 would be conservative—20, 30, 40 miles or more in order to see an obstetric doctor, in order to get care during her pregnancy.

It is darn dangerous in New Hampshire in the middle of the winter to drive those miles, especially if you are pregnant or, Lord forbid, you happen to actually be in labor. The local hospitals do not have doctors on call, do not have doctors, period, who are willing to practice delivering babies. So these women find themselves placed on the road in order to see a doctor.

This is true across the country in our urban areas. A lot of hospitals are finding it very hard to get coverage in their emergency rooms—emergency room closed. In Phoenix Memorial Hospital—emergency room closed.

Why was it closed? It was closed because the doctors who covered the emergency room could not afford the cost of the insurance they had to pay to meet the demands of the trial bar which has been suing the doctors. They had to back out of the business or out of the activity of covering the emergency room, so the emergency room got closed.

You talk to hospitals across this country, and they are finding it very difficult to get doctors to do the call, to do their period where they have to come in and do their coverage responsibilities because of the fact the local doctors do not want to put at risk their insurance premiums as a result of going into the emergency room and practicing 1 day a week or 2 days a week, as has been the tradition.

I know in the town I grew up in, Nashua, NH, the medical community, the physicians, would take turns. They would come on rotation into the emergency room and cover the emergency room. They were not all trauma specialists, but that was sort of their responsibility as being part of the medical community in the city of Nashua, and they were proud of it.

Today it is very hard to get doctors who are not trauma specialists into the emergency room because of the fact

these insurance premiums have gotten so out of control, and the trauma specialists themselves cannot afford the premiums because it is a low-paying area of the medical profession. As a result, they cannot work long enough hours; and they work outrageous hours already. There are not enough hours in the day for them to work in order to cover the cost of their insurance. This is a crisis.

The same is true of baby doctors. I had a doctor in Laconia tell us—Laconia, NH; a great town on Lake Winnipesaukee. I hope everybody will go up and visit this summer. It is a beautiful place to take your summer vacation. He told us he has to work 5½ months of the year to pay the premiums on his insurance because he delivers babies, and they are down to two doctors who do this in his area. That makes it economically unviable for him to practice obstetrics. When it takes 5½ months to pay your premiums and 6 months to pay your taxes, you only have 2 weeks of the year you earn for yourself, and you still have to send your kids to college and maybe even buy your wife something for Christmas—you cannot do it—or your husband. A lot of the OB doctors are, obviously, women. So it is serious.

Yet we have in this institution tried time and again to raise the issue, and what has happened? We have been stonewalled by the other side. Why would the other side not even be willing to allow us to proceed to these bills? This is the third time we have tried this, to get to these bills to discuss how we are going to relieve the pressure on doctors who deliver babies and doctors who take care of emergency rooms. We are not even expecting it necessarily to pass. We would like it to pass, but we at least want to be able to debate it. Yet time and again the Democratic leadership of this institution has said: No, you are not even going to be allowed to proceed to the bill. That is what we are trying to get to today with the motion to proceed. It is a technical motion, meaning it is a way to try to get the bill to the floor so it is up for action.

I heard the Senator from Iowa out here railing about a rule at the Labor Department, and he cannot get his amendment up. Well, one of the reasons he cannot get his amendment up is because we cannot move to this bill. If we could move to this bill, he could offer his amendment. So why is he voting against moving to this bill? Because it appears he is more inclined to support the position of the trial lawyers, who are resisting, in a manner of extreme intensity, any action in this area to try to improve the ability of doctors to deliver care, by making more doctors available to women specifically, or more doctors available in the emergency room, and who are resisting that so aggressively they have told the leadership of the other side, the Democratic leadership: You shall not, if you expect to continue to get our support—the trial lawyers' support—allow this bill to be debated on the floor of the Senate. You shall not allow a motion to proceed. So it is an ironic situation, to say the least.

We hear the Members of the other side saying they want to offer amendments, they want to get this issue up and that issue up. Yet they are filibustering a motion to proceed to a bill which, if we did proceed to it, would allow them to offer the exact amendments they claim they cannot raise. But it appears there is a countervailing force here which is, maybe they do not want to offer that amendment so much they would affront the trial lawyers by allowing this bill to proceed. That appears to be the case.

But in the end, who is the loser? Who is the loser? Well, the loser is, obviously, the doctors who cannot practice what they have been trained to do. We are about to hear from one member of that profession who is an extraordinary example of that profession in quality and ability. And, secondly, the most important, the women, especially in rural areas, who cannot see a doctor if they are having a baby; and people who walk into that emergency room under extreme stress and trauma and suddenly find there is nobody there to take care of them.

Mr. President, I will reserve my further comments because I do see the leader is on the floor. Of course, this is an issue which he has an intimate knowledge of and an intense desire to move forward. I congratulate him for his efforts in this area, and thank him for making this time available to us.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I will take a few moments to comment on a bill that deserves to be debated on this floor and brought to this floor because, as the distinguished Senator from New Hampshire said, the patients—not the doctors and not the system; all of them are disadvantaged—but it is the patients who suffer.

When people hear of patients, they say: That is somebody in a hospital somewhere who is suffering. No, it is you and your children, and everybody who is listening to me. Who knows? You could be driving home today from work, and you might have an accident and have to go to the emergency room or the trauma room. Or after you pick up your kids from school—or maybe they are taking the bus home from school today—if they are struck by a car, or fall down and break a bone, they have to go to the emergency room. Or if you are one of the millions of women who anticipate the joy of having a baby in the near future, it is you who will suffer as you look for an obstetrician, as you look for an obstetrician who will be with you during that prenatal period or over the whole 9-month period.

All of this comes down to a fundamental issue. Our medical litigation system is broken. It is failing. It is failing the American people. It is failing our communities. It is failing our hospitals. It is failing our doctors. It is failing our families. And, most importantly, it is failing our patients.

The medical litigation system should be strong. Its purpose is to promote the common good, first and foremost; and, second, to improve health care for all Americans through the fair and efficient resolution of meritorious medical negligence claims. Indeed, those two purposes—to promote the common good and to improve health care through the fair and efficient resolution of meritorious medical negligence claims—are noble goals.

But instead of achieving these noble goals, our litigation system is out of control and patients are being hurt. Due to this broken system of medical justice, medical liability premiums today are unnecessarily skyrocketing. You will hear the words ''skyrocketing'' and ''runaway'' because that is what is happening. The ultimate victims are the patients—the potential patients, the future patients—and that means all of us, our families and future generations.

The ultimate victims are patients who see their access to care—to that obstetrician, to that emergency room, to that trauma center—threatened and, in some cases, totally disappearing. The American Medical Association now lists 19 States where access to care is threatened. The situation is a crisis that is getting worse day by day by day. That is why as majority leader, in terms of scheduling in the Senate, we are going to keep bringing this issue back because the crisis is getting worse. If we are not successful, we will come back again and again.

While the crisis does affect all people who will need or who need appropriate access to care, it affects those who are seeking help from specialists in particular. When we say ''high-risk specialist physicians,'' they are the ones who are responding to a trauma accident or the neurosurgeon who has to be highly trained to respond to a brain injury, a contusion, a head injury. When we say ''high-risk medical specialist,'' we mean the cardiac surgeon, a high-risk specialty physician who is called in if trauma comes into an emergency room.

These patients who seek the high-risk medical specialist indeed are among the most sick and the ones who most desperately need urgent attention. But our litigation system is increasingly forcing these medical specialists, such as neurosurgeons and obstetricians, to drop their services altogether and not do those higher risk responses; to limit those services maybe to certain hours to not provide those services; not to offer those services in the emergency setting but do them in a much more controlled environment.

It is even causing these high-risk medical specialists to pick up their practices and move from one State,

say, from cities such as Philadelphia, where premiums are skyrocketing, to a city in California that has done a much better job and that is not in crisis because they have legislated appropriately in terms of addressing what was 20 years ago a crisis in California in medical liability. It causes these neurosurgeons and obstetricians—the two areas we are addressing in part with the legislation we are doing our best to bring to the floor over the next 24 hours—to retire from the practice of medicine altogether. They are saying: It is too much, $400,000 as a neurosurgeon in some cities, just for liability premiums. I can't afford that. I am going to leave the whole practice of neurosurgery. It does not make sense for me anymore.

That is the reality today. It is a reality that is getting worse. And when we say it is a crisis, it is a crisis getting worse. And that demands a response by this body. As the services these specialists provide become harder and harder to find, who is hurt? Everybody, yes, but the sickest and, indeed, the most vulnerable are the ones hurt the worst; again, demonstrating the perverse and unintended consequences of a failing medical litigation system. That is why this week we are bringing to the floor this medical liability reform. It is for the patients.

The Pregnancy and Trauma Care Access Protection Act focuses liability reform on two areas: Emergency and trauma care, and obstetrical services, where the services are provided right before, during, and after the delivery of babies. It is these two critical areas that are literally under siege today because they rely on medical specialists who are suffering the most from this lawsuit abuse.

Of course, the true victims are those who need to go to the emergency room, as the distinguished Senator from New Hampshire said. It is not the physicians themselves. It is the people who have to go to the emergency rooms and wait longer for a specialist to be called in because they are not in the hospital, or there is nobody in the region. It is the expectant mother who is having difficulty even finding an obstetrician. And it is the stories that are increasingly occurring of once you get an obstetrician, right after you become pregnant, that obstetrician leaves and moves and another obstetrician comes in, and maybe that obstetrician stays a few months and then another obstetrician. So we have a huge medical problem. It is our responsibility to respond.

Before coming to the Senate, I spent 20 years both training and practicing as a thoracic surgeon, a chest surgeon, which is heart, lungs, trachea—really everything between the diaphragm and the neck. That is what I did. As a member of the thoracic surgical team at Vanderbilt University Medical Center, we handled all of the trauma to the chest, the lungs, the heart. That is what I did every day.

At that level I trauma center, which covered throughout the middle section of Tennessee, if somebody came in with a knife wound to the chest, they would call Dr. FRIST, and I would go down and repair the knife wound to the chest or to the heart, as a medical specialist. Based on that experience, I can tell you that emergency care and trauma care is an absolutely necessary and critical component of our overall health care system.

Each year, there are 110 million visits to the emergency room, and 90 percent of these visits require urgent attention, emergency attention within 2 hours. These are emergencies. As I implied earlier, no one can predict when you are going to need that care. Driving home today, will you be in an accident, or will your child fall down and break a bone climbing a tree this afternoon? That is emergency care that you want a response to immediately.

The Alliance of Specialty Medicine has documented the important details of this critical care. Approximately 28 million Americans visit the emergency room each year due to an accident. Ninety-nine percent will recover after receiving care; in many cases, lifesaving care. Over 3.5 million emergency room visits are related to bone fractures or to broken bones. Of these, 888,000 require hospitalization, and delays in treatment can result in loss of the use of that limb, amputation of that limb, or indeed permanent disability. Over 1.5 million people suffer traumatic head injury with damage to the brain itself.

Neurosurgeons, a focus in the legislation we are debating, perform over 36,000 emergency brain operations on head-injured patients each year. They place little intracranial monitoring devices to control brain swelling in another 8,000 patients each year. Trauma frequently inflicts damage to the spinal cord which runs through the body. Indeed, over 70,000 Americans are hospitalized because of spinal injuries each year. Another 26,000 are hospitalized with acute or emergency or sudden neck injuries.

And, as we all know, nerve tissue heels in a very slow, different way. You cut off blood supply to the spinal cord or to the brain and there is not an immediate response. That tissue pretty much dies forever; very slow recovery. Thus that time of response becomes critical. Delay in treating any sort of injuries to the spinal cord can cause paresthesia or tingling, paralysis, can cause permanent disability, and, of course, can cause death.

My own specialty was the chest and was cardiothoracic, cardiovascular, the heart itself. When you look at emergencies coming in because of heart attack or cardiovascular disease or stroke, the blood vessel is huge. Sixty-five million Americans have some form of heart and blood vessel, or cardiovascular disease, which could lead to a heart attack or stroke; and each year over 1 million Americans suffer a myocardial infarction, or a heart attack. You want to take them to the emergency room because today, as cardiac surgeons, cardiologists, heart specialists—and it is very different today than 30 or 40 years ago—there are medicines you can give and procedures you can do that can open up the blood supply when you have a heart attack and get blood to the heart before the millions of cells die. Every moment counts. It is important to get that blood supply opened by heart specialists.

Unfortunately, our broken litigation system is stretching those moments—if those specialists are not available to respond—into hours. It is stretching them longer and longer, and that causes death of that heart muscle.

Of course, patients and most people listening today expect, if they have an emergency and are going to be rushed to the emergency room, that there will be people to treat them, including heart specialists who can rush down and open the blood vessels; or if they have a brain injury or a concussion or a contusion to the head, they expect there will be somebody there to respond appropriately.

However, that assumption is getting to be less and less true, due in large part to our broken medical malpractice litigation system. Because of runaway medical malpractice costs, many medical specialists have been forced to stop treating patients in the emergency room—the neurosurgeons; the orthopedics, or bone surgeons; the heart and lung surgeons; the obstetricians; the cardiologists; and the list goes on in terms of specialists we have to respond in the emergency room. They are simply saying: I will practice my specialty, but I am not going to do it in the emergency setting. I will not sign up for what we call ''on-call'' for the emergency room or for the trauma team because if I do, my own insurance premiums will skyrocket, or I cannot get the insurance at all. So fewer and fewer specialists are volunteering for this ''on-call'' in emergency rooms.

Because of the high-risk operations they are called upon to perform in these emergency situations, neurosurgeons, the specialty of the brain and spine, have been particularly hit hard by the litigation process. According to the American Association of Neurological Surgeons and the Congress of Neurological Surgeons, between the years 2000 and 2004, that 4-year period, the national average, of medical liability premiums for neurosurgeons increased 100 percent. It literally practically doubled, from $45,915 up to $91,848.

As I mentioned a few minutes ago, in some States, neurosurgeons are now paying insurance premiums of almost $400,000 per year. That is not the cost of doing the medicine or delivering the care or of the practice or being in the operating room or paying the nurses to help you or the cost of the equipment or the cost of the drugs or the cost of your training; that is just a tax of $400,000 placed on top of all those expenses that the physicians pay to have

the opportunity to treat you if you come into the emergency room. It doesn't make sense.

It is a crisis. It is getting worse. It should be no surprise that this medical malpractice liability crisis is having a negative effect on the way these much needed specialists practice medicine. In fact, a recent survey—a fascinating survey—showed that 70 percent of neurosurgeons responding said they have had to make at least one of five practice changes. So if 100 responded, 70 said they have had to do one of these following things to narrow down or change their practice in response to the medical malpractice crisis: referred complex cases, closed their practice, moved to a different state, stopped providing patient care or retired.

Runaway lawsuits are forcing neurosurgeons and other specialists to limit emergency services. Again, it is not the doctor who is being hurt, it is the patients who are being hurt, and it is future patients, and that means potentially everybody listening to me now.

Many patients are rushed to these trauma centers. When I was on call at Vanderbilt Trauma Center as a thoracic surgeon, we had somebody actually in the hospital, or very close to the hospital, practically all the time. For heart disease, heart attacks, you need somebody there almost all the time. Why is that? Because you have a golden hour, especially for spinal disease and heart disease. Every second that goes by that you have the blood supply cut off, especially when you can open that blood supply up, the patient is being hurt.

Unfortunately, patients are having to endure longer and longer waits as these precious lifesaving minutes tick by. If you have a broken bone, a gunshot wound, frequently you might be diverted from one facility to another because of the lack of availability of a specialist or the resources in one of the hospitals. Then you have this frantic search of finding a needed specialist for that broken bone, or that gunshot wound to the heart, or that stab wound.

According to a recent study—because people say that could not be what is happening today, but it is what is happening—76 percent of emergency departments recently have diverted patients to another facility because of a lack of specialty physician coverage. Of these, over 33 percent diverted patients 6 or more times a month, and an additional 28 percent have diverted patients to other facilities 3 to 5 times a month. Over a quarter of hospitals report that the reason they have lost specialty coverage is because of medical liability concerns. These concerns simply discourage specialists from offering their services or volunteering their services for this on-call emergency coverage.

The medical litigation crisis is affecting health care, patient care, all across the country. The consequences are obvious—the consequences of death. Here is an example. According to the Palm Beach Post, a Florida woman, Mildred McRoy, suffered a hemorrhagic stroke in February. That is where you actually bleed into the brain itself, and because the skull is a fixed cavity, when you bleed into the brain, it swells and it requires an emergency response. She was rushed to JFK Medical Center in Atlantis for treatment, but JFK stopped providing around-the-clock neurosurgical coverage in July because of the medical liability crisis. In fact, there wasn't a single neurosurgeon on call in all of Palm Beach County when this occurred. Again, that shows how pervasive the impact is if you don't have specialists signing up because of high medical liability premiums. Ms. McRoy was then transported 40 miles away to North Broward Medical Center. More than 8 hours later she was operated on by a neurosurgeon but died after being in a coma for several days.

That is the story. That is why we must act. We know there is a problem, a crisis, and we know the crisis is getting worse. We know it is going to take action on this floor to reverse it. Florida is one of the 19 States the AMA considers in crisis.

In a few cases, trauma centers and emergency rooms have been actually forced to shut down—as we saw on the chart that was behind me a while ago, which the Senator from New Hampshire had shown—because either the emergency department physicians or the on-call specialists could not obtain medical liability insurance at any price whatsoever. The most infamous example occurred in the summer of 2002 when Las Vegas lost its only level I trauma center. When I use that term, level I, that is the highest level. They can take anything that comes. Level I is the most sophisticated, most prepared, most responsive level of trauma center that we have. Las Vegas lost their level I trauma center which, by the way, was one of the 10 most busiest in the country for several days, forcing residents from that major city of Las Vegas to travel over 100 miles to seek urgent care.

For me as a physician who has gone through 4 years of medical school and 8 years of medical training, what is sad and tragic is we are not getting rid of a few bad doctors. Right now we have highly qualified, highly committed physicians, women and men, who have chosen to dedicate their lives to helping their fellow man—really mankind, humanity broadly—through neurosurgery or obstetrics or heart surgery, and we are literally forcing them to leave the field they cherish, that they spent years working to become so they can help other people. These are people who are devoting their professional lives to healing others, and we are saying because of this medical litigation system, which is out of control: You are no longer going to be able to do that.

They do not want to drop these specialized services. They do not want to make themselves unavailable for emergency care. Indeed, that is why they got into the business. Tragically, and all too often, the medical litigation system, with these skyrocketing, out-of-control costs simply leaves them no choice. In the end, our health care system suffers, but it is the patients who really suffer.

The story is the same for obstetricians. Right now we know women are having a harder time finding an obstetrician. As I said earlier, one might have two or three obstetricians over one pregnancy period today because obstetricians are having to move. A few weeks ago, we brought the Healthy Mothers and Healthy Babies Access to Care Act to the floor of the Senate. That bill specifically addressed the medical liability challenges we have focusing on OB/GYNs and women and the babies they serve. We did that because all across the country, indeed in my home State of Tennessee, the current medical litigation system is forcing many OB/GYNs to simply stop delivering babies.

Floor discussions at that time several weeks ago demonstrated the crisis. It showed the extent of the crisis. There is no reason at this juncture to restate all of the arguments, but the doctor drain has gotten so bad that it is clear that women are having a harder time finding doctors to give them prenatal care and to deliver their babies.

What happened several weeks ago? Unfortunately, opponents to this needed medical liability reform filibustered the mere consideration of the bill on the floor of the Senate. We simply cannot allow people to keep their heads in the sand any longer. The crisis is real. It is time for us to act.

The crisis is getting worse every day. As a physician and as a policymaker, as someone who has had the opportunity, a real blessing, to take care of patients in the setting of trauma, the emergency room, and responding to their needs, I am simply not, as majority leader, going to sit back and allow this crisis to continue to explode.

The legislation itself we are considering, the Pregnancy and Trauma Care Access Protection Act, addresses these two areas—delivering babies and responding to emergency care. Why? Because these areas have been hit the hardest. It is common sense in medical litigation reform that will protect our patients, our families from medical negligence with fair compensation. If somebody has been negligently injured, they deserve just and fair compensation. If there are bad doctors, they need to be punished accordingly.

The problem is the overall system is broken. The overall system has these frivolous lawsuits with these runaway costs. The legislation is based on sound models that have worked in States, that have a demonstrated track record, such as California. It is supported by numerous medical specialty societies and speciality groups. The American

College of Obstetricians and Gynecologists, the American Association of Neurological Surgeons, the American Academy of Orthopedic Surgeons all support this legislation and, of course, the list goes on.

I hope opponents of reform do not make excuses. They seem to put the blame of the crisis everywhere except where it belongs—our medical litigation system. It is time to face that simple fact that we need to reform our medical litigation system. It is in desperate need of reform. It is hurting all patients. It is hurting our vulnerable patients the most.

In addition, I should add that all of this has a huge, unnecessary cost in the practice of defensive medicine, the reaction of our medical system to frivolous lawsuits. These are your health care dollars that are being wasted. These are your health care dollars that are taken from you and not being channeled back into better health care for you.

Congress should act now. I am very hopeful we will be allowed to act now by putting patients first rather than the special interests who have been so vocal in obstructing this bill.

For the sake of all Americans who will be forced to go to the emergency room this year and for the sake of all expectant mothers, I ask my colleagues to allow this debate to move forward tomorrow by voting to proceed to this critical medical litigation reform bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of S. 2207, the Pregnancy and Trauma Care Access Protection Act: Senator FITZGERALD, Senator CORNYN, and Senator HATCH.

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

Mr. CORNYN. I thank the Chair.

I wish to express my gratitude to the majority leader for his important comments. He brings an expertise to this debate no one else in this body can offer by virtue of his training, education, and extensive practice as a medical doctor in Tennessee. I am not going to speak from the perspective of a doctor because I am not one. I am going to speak from the perspective of a patient because, like it or not, I will be one at some point in my life, and from the standpoint of other prospective patients which would include not only my family and loved ones, but literally everyone within the sound of my voice.

I want to express again my appreciation that the majority leader would bring this issue back up. This is our third attempt in recent months to enact significant medical liability reform. The reason why it is so important to bring this issue back up is to ask our colleagues across the aisle who have obstructed our ability to go to a vote on this important issue to reconsider because the truth is their obstruction of our ability to get meaningful medical liability reform is not hurting doctors only, it is not hurting insurance companies only, it is hurting everyone who has been or will be a patient in a medical care facility or at the hands of a doctor.

We have had the opportunity to discuss these issues before, as I said, but before I get into what I consider the meat of this issue—and that is access to good quality health care for all Americans—let me say on other issues that affect American competitiveness in terms of our ability to compete in a global economy, the ability of employers to provide health insurance for their employees, which is diminishing day by day because the costs of health care continue to go up in part because of our broken medical liability system, that, in turn, puts pressure on the uninsured in our society. Where employers are unable to carry medical insurance on their employees, that means that too many people who cannot afford health care coverage are forced to emergency rooms where they know they can and will be treated. In the vast majority of those cases, they could be more efficiently, more humanely, and more cost-effectively treated in a primary care setting in a doctor's office or in a clinic, but because of the pressures being put on our health care system by a broken liability component, it is hurting us in so many different ways.

As I said, I want to talk about access, but it also hurts us in terms of our global competitiveness, in terms of job creation and job growth, and in terms of diminished access to health care because people have nowhere else to turn if they do not have medical insurance, except the emergency room where they know they can and will be treated but in a way that is insufficient, inhumane, and certainly not cost effective and causes a host of other problems in all of our big cities and everywhere else where emergency rooms are frequently put on divert status because they are so clogged up with cases that probably, in a medical sense, should not be there because they could be treated more cost effectively and more humanely in another setting, but they are there and then the true emergencies are diverted to emergency rooms that are farther away.

The majority leader, Dr. FRIST, talked about the medical consequences of delayed treatment when people have to travel sometimes many miles just to get treated, what complications can occur because of a traumatic injury or because a baby that is delivered because the mother cannot find a hospital that can take her nearby. My point is, it creates a cascading of problems that are not just limited to medical liability but which have a lot of ramifications and a huge ripple effect.

Unfortunately, our colleagues on the other side of the aisle are offering no solutions but are merely trying to score political points, trying to divert the attention to other nonissues and will not allow us to do what we have been sent here by the American people to do and that is to pass legislation that will meaningfully and significantly improve the quality of their lives.

We have had a chance to deal with this medical liability problem before and, unfortunately, we have not done so. My hope is that our colleagues will reconsider and we will do so today. If those on the other side of the aisle are truly serious about their concern for the American people and the quality of health care they receive, I hope they will join us in passing the bill we are discussing today.

The solutions to their professed concerns are right before us. They just need to allow an up-or-down vote. I hope the American people are paying close attention to what is happening, because if we do not get an up-or-down vote it is they who will pay the price for those who would prefer to score political points over actually producing results.

The bill offered by the Senator from New Hampshire, the distinguished chairman of the HELP Committee, the Health, Education, Labor, and Pensions Committee, is designed to improve access to health care, both for women who need obstetrical and gynecological care and for patients who need emergency care.

As I am sure every Member of this body has, I have heard complaints from our constituents about how badly the system is broken.

There are those on the other side of the aisle who would say that, because we have been rejected twice before, by bringing it up a third time this is somehow just a political exercise. I assure them that is not true. We were not allowed to vote before, despite support from a bipartisan majority.

The bottom line is, we are simply unwilling to put up with or to accept, without a fight, the kind of obstruction we have seen on this and so many other important issues.

This bill would provide desperately needed relief to a health care system that is in crisis, focusing especially on emergency room doctors and obstetrics, baby doctors, to critical areas that deserve our support.

This chart has been seen before, and my colleagues will notice that this chart reflects in red States that are in crisis because of the difficulty of purchasing medical liability insurance, the huge increases in cost which have simply caused medical doctors either to retire early or to move to States that have provided some commonsense reform or just discouraging people from getting into the medical profession at all.

The States in red, including my State of Texas, are indicated as States in crisis. The ones in yellow are the States showing problem signs but do not yet qualify as a crisis State, and

the ones in white are States that are currently considered to be OK. I would not suggest by saying that they are currently OK that they have no problems. It is just that they have not gotten to the point that conditions have in my State and other States indicated in red.

The truth is, this crisis is not something that just popped up this week. It is a crisis that we had last fall when we were blocked from bringing up comprehensive medical liability reform for an up-or-down vote. It was a crisis that existed a month ago when we were blocked from having an up-or-down vote for legislation that offered immediate help for mothers and their babies, and it remains a crisis today even as we attempt to debate this legislation and bring it up for another vote.

The fact is, frivolous lawsuits are causing escalating medical malpractice insurance premiums which are driving doctors out of practice. We can debate what the cause of that is, but we cannot debate the result. It is a fact. Indeed, opponents of this legislation do not appear to debate the fact of the result—that is, doctors leaving, retiring, not going into practice, access being denied. They just want to say there may be other causes, but they do not want to deal with this cause because, unfortunately, an important constituency, the personal injury trial lawyers, simply are unwilling to agree that any change in this current broken system can be made.

The problem is that those who are preventing us from taking up this legislation are simply caving in to the demands of this narrow special interest group that are prospering mightily, that are getting rich off the current system, at the same time that the rest of America is getting hurt.

This is a picture of a doctor formerly who practiced in Fort Worth, TX, representing medical specialists, especially neurosurgeons, orthopedic surgeons, obstetricians, and emergency physicians, who are being forced to retire early or move their practices to States where effective liability reforms are in place.

For example, Dr. Malone comes from my home State. He is an orthopedic surgeon who has practiced more than 20 years in Fort Worth, TX. He reluctantly was forced to leave his practice, citing the extreme costs of liability insurance for physicians as being too much of a financial burden for him to bear.

We simply cannot expect physicians to practice their chosen profession after their lengthy education and training and not be able to provide for their families. We don't expect them to do it at a loss to themselves and their families. I don't think we can blame them, when the costs of doing business exceed what comes in the door such that they simply have no choice but to leave.

In the State of Texas, this crisis, particularly as it regards baby doctors, obstetrician-gynecologists, means that out of 254 counties of Texas, 154 of them have no OB/GYN specialist. In other words, a woman who is pregnant and perhaps needs prenatal care, so increasing the chances her baby will be delivered healthy, must travel to another county in order to get that prenatal care from a specialist; or once she goes into labor, she must travel to another county to have the doctor, medical specialist in obstetrics, deliver that baby. This means almost 6 out of the 10 counties in my home State alone have no doctor specializing in obstetrics, representing approximately 2 million Texans in my State.

Let me talk about another story, another case that is worth referring to also in my State. Just last year a pregnant woman showed up at Dr. Lloyd Van Winkle's Castroville office in south Texas. She showed up in Dr. Van Winkle's Castroville office less than 10 minutes from delivery of her baby. Her family doctor in Uvalde, another Texas town, had recently stopped delivering babies altogether, citing medical liability concerns, and this pregnant woman was trying to drive the 80 miles to her San Antonio doctor from her home in Uvalde.

Let me give another story about a woman by the name of Denise Payne. Denise Payne walked into an emergency room recently. The doctors there did not want to treat her. She said, ''They didn't want to touch me because I was pregnant,'' this 38-year-old pregnant woman, who was 6 weeks along in her pregnancy at that time.

Luckily for Denise Payne the delay getting treatment didn't kill her. Although she couldn't get a kidney biopsy in Corpus Christi on the gulf coast of Texas, she was able to get one about 150 miles away in San Antonio, but she doesn't blame the doctors. ''I would say it's because of all the lawyers scaring the doctors,'' she said. ''They are scared to death to treat you.''

Indeed, that reminds me of other situations where I have heard doctors, concerned about their patients, but saying because of the broken liability system, every time you walk into an examining room, every time you walk into the emergency room, every time you walk into the delivery room, you are putting at risk everything that you have worked a lifetime to build for yourself and your family. Physicians and others are simply not able to put up with it, resulting in a crisis that even Ms. Payne, who no doubt was frustrated by her inability to get doctors to treat her in Corpus Christi, had to drive 150 miles away to get treated because she was pregnant and she needed a kidney biopsy. But because she was a higher risk patient who is at a higher risk of medical complications but also a higher risk of litigation, the doctors were scared to death to treat her, so she had to travel a long way to get that treatment.

These stories are not unique to Texas. Let me tell you about Linda Sallard of Arizona. At 2 a.m. on the morning of March 20, 2002, 22-year-old Melinda Sallard woke up with labor pains. She and her husband hopped into their car and started driving the 45 miles to Sierra Vista, which housed the only hospital within a 6000-square-mile area with obstetricians able to deliver babies. En route, they passed the Copper Queen Community Hospital, which was forced to close its maternity unit just 2 months earlier because all the practitioners able to deliver babies had lost their medical liability coverage.

Just 3 miles past Copper Queen, which is where they had a hospital that could have delivered her baby but had since closed its delivery facilities because of medical liability concerns, just 3 miles past this hospital, while her husband continued to drive their car, Melinda delivered her own baby girl, who you can see here in this picture in her lap. She gave birth on a desert highway to her daughter, Susanna. While Susanna, as you can tell from this picture, looks healthy and thriving today, when she was born she was not breathing. So Melinda, after she had the baby by herself, unassisted, without a physician—because she couldn't get to a hospital that had obstetrical services in time—Melinda, after she had her baby, cleared the baby's breathing passage and started CPR. Fortunately, the baby started breathing and Melinda wrapped her newborn in a sweater and held her to her chest as her husband drove them all the way to Sierra Vista Hospital, where the ER staff cut the umbilical cord in the parking lot.

As a result of the medical liability crisis, Sierra Vista is now the only hospital in a county of 140,000 residents that actually delivers babies. All high-risk patients are sent to Tucson, an hour and a half away, in a neighboring county. I shudder to think what could have happened in Melinda's case. Thankfully, as I said, Susanna Sallard is a healthy young girl—no thanks to a medical liability system that almost left her as a casualty.

The skyrocketing liability insurance premiums have also affected emergency and trauma services for patients. This is where the severity of the crisis becomes even more apparent.

Let me tell you about Jim Lawson. This is a picture of Jim Lawson, Mary Rasar's father. Mary lost her father in 2002 when Nevada's only level I trauma center was forced to close because of skyrocketing medical liability costs. The majority leader, Dr. FRIST, told us earlier that level I trauma centers are the ones that handle the most serious trauma cases. But Nevada's only level I trauma center was forced to close in 2002 because of skyrocketing medical liability costs.

Jim Lawson was injured in a car accident in Las Vegas, where he suffered multiple injuries and required immediate care. The State's only level I trauma center, the University of Nevada's medical center, where Mr.

Lawson should have been taken, was forced to shut its doors just days before this accident because rising liability costs had forced insurers to drop coverage on high-risk specialists, high-risk specialists like neurosurgeons, like emergency room physicians, and others who handle the most seriously injured patients.

Unfortunately, as I indicated at the outset, this story does not have a happy ending. Mr. Lawson was rushed to Desert Springs Hospital, where he died while awaiting air transport to the next nearest level I trauma center facility, more than an hour away, at Salt Lake City, UT. So this gentleman, who was in a car accident in Las Vegas, who could have been treated at the University of Nevada's medical center but for the fact it had to shut down because it lost its medical liability coverage, died because the only facility that could treat him was more than an hour away in Salt Lake City.

Let me tell you about Leanne and Tony Dyess. Leanne is a 48-year-old wife and mother of two from Mississippi. This is Leanne and her family. On July 5, 2002, Leanne's husband Tony was involved in a car accident in Gulf Port, MS, and suffered serious head injuries. After removing him from the car, paramedics rushed Tony to Garden Park Hospital in Gulfport, MS. But there were no neurosurgeons there available to treat Tony because rising medical liability costs forced doctors in that community to abandon their practice. Six critical hours passed before Tony could be airlifted to University Medical Center. As a result of the inability to locate a specialist to provide him immediate care, today Tony is permanently brain damaged, mentally incompetent, and unable to care for himself or his children.

In addition to this tragedy and the others I have mentioned, there are numerous other examples from my home State of Texas of tragedies, or near tragedies, or worse than injuries as a result of the inability to get medical care close by because of this crisis.

Another couple of stories: George Kuempe, who recently retired as a reporter for the Dallas Morning News not too long ago, fell from an oak tree and broke his back on a Sunday afternoon in the Austin area. He had to be flown to Scott & White Clinic in Temple, TX, because there were no neurosurgeons available in Austin, TX. There was a long delay in the amount of time necessary to treat his injuries in order to travel just 60 miles up the road. There were hours of delay. Dr. Path Crocker, chief of emergency medicine at Brackenridge Hospital in Austin, where he could have been and should have been treated had a neurosurgeon been available, said this is a warning flag to the citizens of Texas that a major problem is brewing.

In 2002, an elderly man was taken to an emergency hospital room in McAllen, TX, in south Texas in the Rio Grand Valley after falling and injuring his head. After 7 hours, the emergency room could still not locate a neurosurgeon to treat this elderly man's head injury, even though they searched in Corpus Christi, in San Antonio, and Austin. Unfortunately, this elderly man, with a head injury, died because he could not get timely medical treatment for that condition.

There are even more stories that illustrate the lengths to which patients must go just to receive desperately needed care.

Neurosurgeons in Houston, TX, are bombarded with trauma and emergency cases from around the State because doctors have dropped emergency services in efforts to lower their professional liability premiums just so they can earn a living.

You can see Houston, TX, located in the southeast part of our State where patients, let us say, down in the Rio Grand Valley—this shows Harlingen, a distance of 330 miles, which is close to McAllen where that elderly man had a head injury and where he would have to be airlifted to Houston to receive those treatments by a qualified neurosurgeon or other specialist. The time it takes to travel 330 miles from the Rio Grand Valley to Houston, the time it takes to travel from the Rio Grand Valley to San Antonio, or San Antonio to Houston, or El Paso to Houston, obviously, has medical consequences which means people who are injured and suffer more serious injuries and people whose lives could have been saved lose their lives because of this medical liability crisis with which our colleagues on the other side of the aisle simply refuse to deal.

Houston neurosurgeon Bruce Ehni described it like this. He said:

> We are the recipient of much more serious and risky cases that would have otherwise been cared for locally. Here at our hospital in Houston we are receiving hemorrhages, traumas and other dire emergencies from as far away as El Paso on the opposite side of the State, and Brownsville, which is down near Harlingen in the southern part of the State—sometimes up to 600 miles or more away.

Some of the examples include a patient with head trauma and a blown pupil flown in from Harlingen to Houston, more than 300 miles away; an intracranial hemorrhage flown in from Laredo on the United States-Mexico border 300 miles away; and a brain tumor causing an abrupt paralysis flown in from San Antonio, 200 miles away.

Dr. Ehni continued:

> All of these communities have neurosurgeons. The ''bad'' cases end up in Houston despite the presence of neurosurgeons locally because everyone is trying to avoid being sued. It is bad for patients and it is bad for us. We are being dumped on endlessly.

For the rest of this body, and perhaps others listening, let me put all of this in perspective geographically. For a medical transfer from El Paso to Houston, it would be as if a patient was hurt in Washington, DC, and because he could not find a surgeon, he had to be flown farther than Chicago, IL, for surgery. For a transfer from Harlingen to Houston, it would be like forcing a patient to fly from Washington almost to Buffalo, NY. For a transfer from San Antonio to Houston, it is as if a patient were forced to fly from Washington to New York City.

Can anyone in this body state they would be content to have their family or loved one suffer those sorts of delays in treatment if they really needed a medical specialist and couldn't find one? Of course, they wouldn't accept that. Neither should the American people. But that is what they are being forced to do because of the inaction and obstruction of those on the other side of the aisle who will not allow us to have a true debate and an up-or-down vote on this reform to our broken medical liability system.

The chief obstacle to making our health care system the best in the world is our liability lottery. In the liability lottery, people aren't free to act because doctors simply can't meet the demand, and Americans end up paying more for health care and suffering medical complications because of it.

It is not all bad news, I must say. I am glad to say, in response to many of the concerns which I have raised that pertain to my State of Texas, the legislature and the people of my State have acted. Last September voters took to the ballot and passed Proposition 12, an amendment to the Texas Constitution providing caps on noneconomic damages and paving the way for the full implementation of important medical liability reform.

We already have, even though this passed just last September, some of the early signs of beneficial results. One medical liability insurance carrier has reduced their medical liability premiums by 12 percent, and another medical liability insurance company has canceled their planned 19-percent rate increase because of these reforms.

My home State of Texas recognizes the need for government to step in and help address this urgent problem. But more needs to be done, and there is still too little recourse for patients in States without reform.

Let me mention briefly some of those States. In Illinois, more than 15 percent of the neurosurgeons have left the State in the last 2 years. That is according to the American Association of Neurological Surgeons. There are currently no hospitals in the northwest suburbs of Chicago that have 24/7 neurosurgery coverage. Most patients in need of care are transferred either to Rockford, which is 60 miles away, or to the University of Illinois in Chicago, 45 miles away—not quite the distances we talked about in my State but still nevertheless consequential distances in terms of the delay in treatment of serious cases.

In the State of Massachusetts, the home State of Senator KENNEDY and Senator KERRY, a third of the State's hospital beds have closed in the past

decade, and 32 percent of physicians say they plan to leave the State if the practice environment fails to improve. In the 1990s in Massachusetts the number of practicing obstetrician/gynecologists declined by more than 20 percent. In New York, record numbers of people seeking emergency care are overwhelming emergency departments across the State in areas including Long Island, Syracuse, Rochester, and Buffalo. Many doctors and higher risk specialties are eliminating services, retiring early, or contemplating leaving. The exodus of 4,000 doctors in New York alone from 2000 to 2002 has been attributed to a litigious atmosphere in that State.

In North Carolina, in 2002 alone, medical liability rates increased by 50 percent and high-risk specialists are facing increases between 50 percent and 100 percent. Physicians are simply going out of business, leaving a State, or substantially increasing prices as they pass along costs, as they can, to their patients. But the problem is especially acute for obstetricians, neurosurgeons, and emergency physicians.

Finally, the last State I will mention is the State of Washington. Since 1998, Washington State has seen a 31-percent increase in its physicians moving out of the State, and between 1996 and 2001 the number of retirements increased 50 percent with the average age of those retirees dropping from age 63 to age 58.

We know this liability reform can have a beneficial impact on reducing costs and improving access because some States have done it for a while. My State has done it since September and has not yet seen the full benefit although we have seen some very hopeful early signs. California has adopted something called MICRA, which has been the medical liability tort reform package. With MICRA, California has achieved a more stable marketplace and lower premium increases over the years than have other States without the kind of medical liability reform we are advocating today. According to the data, California medical liability premiums grew 167 percent over the past 25 years compared to 505 percent for States without medical liability reform.

I have taken more time than perhaps I should, but I thought it was important to go over in detail what the problem is, what we think the solution may be, at least in part, and demonstrate for our colleagues on the other side of the aisle, if they would allow an up-or-down vote on this legislation, we could see some very real, substantial benefits, not just to physicians.

I like physicians. I respect physicians. But this is not something we ought to do to help members of the medical profession. The reason we ought to do it is to help patients. Like it or not, all of us will be patients at some future point in our lives. The best way we can ensure the good quality health care is available for us and our loved ones, should we need it in the future, is to pass this meaningful reform.

I ask our colleagues to seriously reconsider and not to obstruct this important reform. We know it can help. If they have other ideas they think will add to the substantial beneficial effect of this legislation, let them come to the floor and talk about it. We will be willing to talk to them and engage them on it. If a consensus develops that an even better package can be produced as a result of the kind of debate and negotiations and compromise that characterize this body and which this body is so good at when it works properly, I say, bring it on.

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

The ACTING PRESIDENT pro tempore (Mr. CORNYN). Without objection, it is so ordered.

Mr. ENZI. Mr. President, I rise to speak about the Nation's medical litigation crisis. I begin by explaining where we are in this process. It is the right of the majority leader to bring a bill up for debate. On the Senate side, it requires unanimous consent to have that debate. We have been denied unanimous consent to debate the medical litigation solution.

What are the options? We can have a cloture vote. We will have that tomorrow afternoon. The cloture vote requires 60 votes of approval in order to debate the medical litigation crisis solution. On most of the bills we see brought up, the unanimous consent is almost automatic. However, on this particular bill, we are not even able to debate the bill. We can debate it, but it has no effect. There can be no amendments. There can be no votes until the filibuster is broken.

What happens when the filibuster is broken? Technically there can be 30 hours of debate on that particular right to debate before the actual debate begins. Then when we actually do get to the debate, every single amendment can be filibustered and the bill can be filibustered. Supposing we make it past those roadblocks and the House passes the bill and there are differences between the two, there has to be a conference committee. At that point, there can be three more filibusters.

Our Founding Fathers intended for the Senate to be the cooling saucer for legislation. I don't think they intended it to become a stagnant pond. I do think they intended the bills would be debated and conclusions reached, there would be some time taken, but not all time taken.

We have a medical litigation crisis in this country. The system is broken. We need to start working to fix it. I urge my colleagues to vote for cloture on the Gregg-Ensign bill. It is time to stop filibustering and to start working. We should not be having this filibuster on whether to debate. We need to pass the motion to proceed and get into amendments on the bill if amendments are needed.

This is the third time in this Congress we have brought a medical litigation reform bill to the Senate. We need to pass this legislation. We need to pass some legislation that deals with this crisis. Passing this bill would be the best thing we can do to stabilize medical liability premiums in the short term, which will allow us to retain doctors in states like Wyoming, which will allow people to have access to doctors.

I proposed legislation aimed at solving this problem over the long term and I will speak to that later. But right now, we need to vote in favor of ending this filibuster against this bill so we can begin to debate the bill. I am willing to consider any amendments my colleagues in the minority might have, but we cannot consider any of their amendments until they agree to end this filibuster and begin debate on the bill.

I understand some Senators are concerned this bill would limit the ability of an injured patient to get fair compensation. This bill would do no such thing. This bill will not limit the ability of an injured patient to get fair compensation. This bill would permit full and fair compensation to patients for their economic losses. This is an important point for everyone to keep in mind. If a judge and jury were to decide a person suffered an injury due to a doctor's mistake or a hospital's negligence, that person would still be entitled, under this bill, to receive full compensation for their economic loss, including everything from rehabilitation to lost wages resulting from their injury.

I cannot stress this point strongly enough. This bill would not limit awards for economic losses. What the bill would do is place a ceiling on noneconomic damages. The bill would limit the maximum award for noneconomic damages to $250,000 in States that do not have their own limits on such awards. Noneconomic damages are those for pain and suffering.

I want to ask, How much pain and suffering do you have if you cannot even see a doctor? And if you cannot see a doctor, and you die, who do you sue? The trial lawyers? Maybe so. They are a part of the problem. I am not going to try to cover all of the parts of the problem. We are trying to fix one specific part of the problem. This bill will not take care of the whole thing.

But I want to ask you, How much pain and suffering do you have if you cannot even see a doctor? This is not primarily a city problem. You can have the problem in the city, and doctors are leaving cities as well. But in cities it gets glossed over a bit because there are so many doctors. There are so many doctors everybody anticipates they can find a doctor. Well, there are also more people in cities, so there are

more people waiting in lines to see the doctors. There is a limit to how long you want to wait in line to see a doctor, particularly if you are having an emergency.

This bill only covers two categories; one is emergency medical services, and the other is people who deliver babies. So I ask again: how long do you want to wait in the emergency room?

Is this proposal for a limit of $250,000 for noneconomic damages way out of line? I do not know. I do know California passed this limit. California put a limit of $250,000 on noneconomic damages, and it has made a difference. They are one of the few States in the Nation that is not having the problem.

Now, California, viewed by Wyoming folks, where I am from, is considered to be very liberal. So if they did it, this could not be a conservative move. If California can have a $250,000 limit, why shouldn't other places be able to? You may say: Well, States could pass their own. California did. States can. It is a very long procedure for some States. Wyoming has very limited legislative time, and then a lengthy procedure for having votes of the people before it then comes back to the legislature for additional work. So there are limitations in the States.

This can be handled on a national basis. If you hear this bill would limit an injured patient to receiving $250,000 in compensation, though, you can say that is simply false. There is no other way to put it. That contention is false.

This bill would also only apply, as I mentioned, to obstetrical services and emergency medical services. These are two of the areas of medicine where patients are in the most danger of losing their access to these services.

Once more, I ask, how many will be harmed by not getting to see a doctor? What do you do if you are a woman and you cannot see a doctor to deliver your baby? Baby doctors are particularly hard hit because the child can sue when the child reaches age, so the tail on their insurance is extremely long, and that provides additional opportunities to sue, which means additional cost for the insurance.

But we are also talking about the emergency medical services. In an emergency, as Senator FRIST, the doctor of the Senate, pointed out, every single moment counts. There is, at most, a ''golden hour'' in emergency treatment. So if you have to spend that golden hour traveling 750 miles—as the Senator from Texas showed on his chart of Texas showing how far some people have to travel for specialized care—it could be too late.

Physicians are being hit with six-figure annual premiums in the medical specialties of obstetrics and trauma care. As a result, they are curtailing their practices, retiring early, or moving to States with better legal environments, because a better legal environment means lower insurance premiums.

In Wyoming, we have one of those bad legal environments. We do not have limits on noneconomic damage awards. We do not have limits, despite evidence that shows reasonable limits on noneconomic damage awards have helped control the rising cost of medical liability insurance premiums in other States.

As a result, people in Wyoming are losing access to affordable health care in their communities. The rising cost of medical liability insurance in my State of Wyoming is forcing doctors to curtail their practices or close them entirely. We have a shortage of doctors in Wyoming as it is, and the cost of medical liability insurance is making a bad problem even worse.

I want my colleagues to know we have a full-fledged medical liability crisis on our hands in this country, and particularly in Wyoming. Just last month, the largest of the three insurers in Wyoming announced they would be leaving the Wyoming market later this year. As a result, 381 doctors and 7 hospitals are going to have to find new insurance coverage. Of the two companies that are left, one of them is not writing new policies for emergency and trauma care physicians. So the few emergency room specialists we have in Wyoming soon will have only one company to choose from for their professional insurance.

These insurance company executives are not dumb people. Just as doctors are moving to States with better legal environments, so are the insurance companies.

As I mentioned, some have left Wyoming. People say, well, yes, there go those rich insurance companies. They are going to move somewhere else where they can make a lot more money. Did you know some of them are going broke? If the profit is all that prolific, why are some going broke?

One of the doctors in Wyoming was doing his calculation about whether to stay in business or not, whether to deliver babies anymore or not. He ran a calculation based on the rise in insurance premium costs he had, despite that he has not been sued at all. He found out $25 of each doctor visit goes to pay the insurance. If you are paying $100 for a doctor visit, $25 of that is going to pay for the insurance. The other $75 is not all profit either. It has to go to pay for the nurses, the supplies, the building—all of those things. But $25 of each visit goes to insurance.

I do not care which insurance companies are writing policies in my State, as long as there are some. But I do care when good doctors leave the State. Wyoming is a big State with a lot of small communities. In fact, people out here in the East cannot even comprehend the small communities we have. If you grew up in a small town, you probably got to know your family doctor pretty well. Doctors are part of the fabric of life in the small towns that dot the map of my State. It is not easy for them to pick up and leave, but that is what is happening. As hard as it is for the doctors to leave, it is even harder on the families they serve—the families who have grown comfortable with the care these doctors provide.

I commend Senators GREGG and ENSIGN and our majority leader, Dr. FRIST, for trying again to pass a sensible short-term solution to this Nation's crisis. They have developed a bill that is focused on providing relief to the doctors who serve mothers and their babies, and the doctors who save lives in our Nation's emergency rooms.

Every day, thousands of patients depend on these doctors when it comes time to bring a new life into the world or to save a life that is already here.

I hope we can all agree to support this short-term solution that will maintain access to the services these doctors provide.

I have noticed something interesting during the debate on the issue of medical liability reform. While we have been debating the pros and cons of reform, no one is standing up to defend our current system of medical litigation. I have yet to hear a rousing defense of our medical litigation system. Even some of the lawyers in this body have agreed that frivolous lawsuits are a problem and that our medical liability system needs reform. Why aren't we hearing anyone defend the merits of our current medical litigation system? It is because it is indefensible. Our system does not work. It does not work for patients, nor does it work for their doctors.

The bill we are debating today is a good bill. It will help us stabilize insurance premiums and preserve access to critical medical services. But even the sponsors would probably admit it is a short-term measure that does not address the fundamental problems with our medical litigation system. This is an important bill, but it is just a tourniquet to stop the bleeding. It is not going to heal our broken system.

It reminds me of the town that lived on the edge of a cliff. The town had a tremendous problem because kids fell off of this cliff, and the fall killed a lot of them. They decided they needed to do something about it. After extensive meetings and committee work, they purchased the finest ambulance that could be found, and they put that ambulance at the base of the cliff. They hired the best EMTs they could get so the person could be loaded on to the ambulance and served while they got to the nearest hospital. Somebody then suggested: Why don't you just put a fence on the cliff. And they said: No, we don't do fences.

That is what we are doing with this medical litigation crisis. We are avoiding putting up the fence for the short-term solution and we are letting people fall off the cliff; then we are trying to provide them with the best possible service we can after they fall. What are we going to do when they use this fine ambulance and these great EMTs and they get to the hospital and there is no emergency room doctor? We need the fence and the emergency room doctors

too. This bill is designed to make sure there is medical liability insurance so the doctors can continue to operate.

We like to say that justice is blind. With respect to our medical litigation system, I would say that justice is absent and nowhere to be found.

Every Member of this body wants to make sure that someone who is truly injured by a medical error gets the compensation they deserve. But a number of studies have shown that many patients who were hurt by negligent actions received no compensation at all for their losses.

I have also seen studies that suggest that those who receive compensation end up with about 40 cents on every dollar in insurance premiums, once the lawyers' fees and their courtroom costs are subtracted. So the victim gets 40 cents on the dollar. Somebody else is getting the other 60 cents. I don't think that sounds fair.

What is more, studies have demonstrated the likelihood of a doctor or hospital being sued, and the result of such a suit, bears little relation to whether the doctor or hospital was at fault.

These facts led the congressionally chartered Institute of Medicine to issue a report in 2002. That report called upon Congress to create demonstration projects to encourage States to evaluate alternatives to current medical tort litigation.

In response, I have introduced a bill that would turn these expert recommendations into action. My bill, the Reliable Medical Justice Act, would authorize funding for States to create alternatives to current tort litigation. The funding would cover the costs of planning and initiating proposals. My bill would require participating States and the Federal Government to work together in evaluating the results of the alternatives as compared to the traditional tort litigation. This way all States and the Federal Government could learn from new approaches. We could see if there is not a way to get people fairly and justly compensated, compensated more quickly, and to actually receive the majority of the money, not just a small pittance.

The bill outlines some model approaches States could employ. For instance, one State might want to evaluate the idea of health care courts where judges with special expertise could hear medical cases. This concept is similar to the special courts we have for taxes, domestic violence, drugs, and other complex and emotional issues. That way we would get some fairness between cases. One person with the same kind of hurt would get compensated the same way, approximately, that somebody else with that same hurt had, not based on who picked the best lawyer or who picked the best injury—with fairness, quickness, and the victim receiving the money.

Another State might want to test an administrative approach. For instance, a State could set up classes of avoidable injuries and a schedule of compensation for them and then establish an administrative board to resolve claims related to those injuries. A scientific process of identifying preventable injuries and setting appropriate compensation for them might offer better results than the randomness of the court system.

Another State might want to provide health care providers and organizations with immunity from lawsuits if they make a timely offer to compensate an injured patient for his or her losses. This could give a health care provider who makes an honest mistake the chance to make amends financially with a patient without the provider fearing that their honesty would land them in a lawsuit.

The point of my bill is there are plenty of ideas for better ways to resolve medical disputes. One of the best ways Congress can help fix the flawed litigation system in the long term is by encouraging States to test alternatives and to learn from them.

As I speak, some States are already looking into alternatives. My State of Wyoming is one of them. Another is Massachusetts, where the Governor is working with Harvard University on an innovative project. Another is Florida, where the Governor's task force recommended projects for which my bill could provide support.

Believe it or not, both Newt Gingrich and the editors of the New York Times have endorsed this idea. If Newt Gingrich and the New York Times can agree on something, maybe we can find enough support for it in this Chamber as well.

I want to remind my colleagues that I support the Gregg-Ensign bill. It will provide some short-term relief for this medical liability crisis. We don't have time just for testing at the moment. We are losing the doctors who provide emergency care and the doctors who deliver babies. In my own State, several of the doctors have quit delivering babies because they can't afford the insurance. Others have had to cut back on the number of babies they deliver to be able to afford the insurance. That means ladies having babies are not able to get doctors with the necessary expertise.

We need short-term relief from the medical liability crisis, and I know many of my colleagues will join me in voting for it. But I know that some will vote against it. Regardless of whether you feel this is the right solution for the short term, let's acknowledge that our medical litigation system is failing us and that we must work together to find a long-term solution.

Medical lawsuits are supposed to compensate people fairly and deter future errors, but most patients don't get fair and timely compensation. There is nothing to show that lawsuits are deterring medical errors or making patients safer.

I urge Members to vote for the Gregg-Ensign bill. I also ask that Members take a serious look at S. 1518. My basic reason for introducing S. 1518 is that most patients don't want to sue their doctors. If their doctor made a mistake, they want an apology. They want to be compensated for their loss. They want the situation to be resolved quickly and fairly. I believe most physicians want the same thing. They want to apologize. They want to make amends financially.

If patients and their doctors want the same thing, what stands in the way? Our legal system, that is what.

Our legal system pits doctors against their patients. Doctors cannot apologize to their patients because admitting a mistake might end a doctor up in court, and probably would. As a result, doctors order more expensive tests and spend less time getting to know their patients—anything to protect against a career-threatening lawsuit.

Patients feel this distrust, and they respond in kind. If a patient has a bad medical outcome, they assume their doctor was at fault, even if there was nothing their doctor would or could have done differently.

Sometimes bad outcomes happen in health care, and no one is at fault. But if a doctor doesn't feel free to say ''I am sorry'' when he or she makes a mistake, how will a patient know whether their doctor is at fault? It is hard to blame the patient for assuming the worst.

This is a fundamental flaw in the way we resolve medical disputes today. The courtroom stands between the people who matter most—the patient and the doctor. The courtroom ought to be the last resort for resolving disputes, not the only resort. Patients and doctors ought to be on the same side, working together; but fear of the legal system puts them in opposite corners and pits them against one another.

There has to be a better way. My bill would be another step toward replacing the medical lawsuits with a better and fairer system for compensating and protecting patients. But it is a long-term solution, and we do have a short-term solution, the Gregg-Ensign bill. I hope we can work together to find the long-term solution, but that we will do the short-term solution now.

Again, our debate now is whether we get to the debate the bill. Unless we have cloture tomorrow, we won't actually get to debate the short-term solution.

I want to recap and remind you that this bill doesn't limit economic damages. It will assure that we can have emergency care, that doctors who deliver babies can continue to deliver babies.

If you don't get care at all, how much pain and suffering will you have? How much injury can be caused if you cannot go to a doctor in your community and you have to travel extensively to do it?

This bill is a limit on noneconomic damages, similar to the limit in California, where the crisis has been averted. I ask my colleagues to support cloture on the motion to proceed so we can proceed to pass the Gregg-Ensign bill, so we will have a short-term solution to the medical liability crisis we face in our country, which keeps us from getting the medical treatment we need, when we need it.

I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I rise in strong support of S. 2207, the Pregnancy and Trauma Care Protection Act of 2004. I strongly encourage my colleagues to vote for this very important legislation.

This is the third time in the 108th Congress that I have come to the floor to argue for medical liability reform. It should not be this difficult to pass a piece of legislation that will improve access of all Americans to timely and efficient medical care, reduce the cost of hospitalization insurance and health insurance, and do something about the enormous cost of defensive medicine being practiced today by physicians throughout the country, which is contributing also to the high cost of health insurance premiums.

I start off today by telling a story of the Schweiterman family in Ohio's rural west-central Mercer County. Doctors Jim and Tom Schweiterman are brothers who, along with their father, who is retired, have delivered about 5,700 babies over the years. The family has a 113-year history of bringing babies into the world. Their great-grandfather started the current medical practice in 1896. They have never been sued for a delivery.

Yet this family is giving up delivering babies because of escalating malpractice insurance costs. Their insurance rates rose from $32,000 6 years ago to this year's quote of $78,000. Dr. Jim Schweiterman stated he would continue to deliver babies if he could just break even, but unfortunately, because of insurance costs, he cannot. Their last delivery will take place this September.

This is happening all over the United States. This legislation is a must. It is important because the effects of medical liability crises can be felt most acutely by obstetricians/gynecologists and emergency room physicians.

Data from the American Medical Association indicates that 19 States currently face a medical liability ''crisis'' and 25 States show ''problem signs.'' That is 44 States out of our 50. The doctors in these 44 States will either leave the practice of medicine entirely or move their practice to a neighboring State with better malpractice insurance rates. This phenomenon cries for national legislation.

One category of patients impacted greatly by this crisis and who we are trying to help with this legislation is women of childbearing age. One out of every 11 obstetricians nationwide has stopped delivering babies and, instead, scaled back their practices to gynecology only. In addition, one in six has begun to refuse high-risk cases. Most alarming is recent data showing that for a third year in a row, the number of obstetrics/gynecology residency training slots filled by U.S. medical students declined by 65.1 percent—the lowest level ever. People are not going into residencies in OB/GYN and in ER.

How does this affect a woman's access to care? As premiums increase, a woman's access to general care, including regular screenings for reproductive cancers, high blood pressure, cholesterol, diabetes, and other serious health risks, will decrease.

With fewer health care providers offering full services, the workload has increased significantly for those who still do. Wait time increases, putting women at risk.

Women receive less prenatal care in our current environment. Improved access to prenatal care has resulted in low infant mortality rates, an advance now threatened as OB/GYNs drop obstetrics. As you may have read, for the first time since 1958, the U.S. infant mortality rate is up. According to the preliminary data released this month by the statisticians for the CDC, the Nation's infant mortality rate in 2002 was 7 per 1,000 births. That is up from 6.8 in 2001, and some experts are attributing that to poor access to quality prenatal care.

Another group of physicians that has been significantly affected by the medical liability crisis, and that we are trying to help out with this legislation, is emergency room physicians. When patients rush to the ER, they assume the hospital will be open and doctors will be there to treat them. However, to secure affordable medical liability insurance, or to minimize their risks of lawsuits, many physicians, including neurosurgeons, orthopedic surgeons, cardiothoracic surgeons, obstetricians, and cardiologists, are no longer able to serve on-call to hospital emergency departments. In extreme cases—for example, Nevada, Florida, and Pennsylvania—emergency departments and trauma centers have been forced to shut down completely because the physicians have been unable to secure medical liability insurance at any price. It is not available.

In fact, in the past 10 years, hundreds of emergency departments have closed in the United States in such States including Arizona, Florida, Maryland, Mississippi, Nevada, Ohio, Pennsylvania, Texas, and West Virginia. Over the same period, the number of visits in the Nation's emergency departments climbed over 20 percent. While more Americans are seeking emergency medical care, emergency departments continue to lose staff and resources and are almost at the breaking point.

In addition, three in four of emergency departments diverted ambulances in the last 12 months. I will repeat that. Three of four emergency departments diverted ambulances in the last 12 months in part because no specialists were available.

Of these, one-third diverted patients six or more times a month, and an additional 28 percent diverted patients three to five times a month.

This is devastating, especially in light of the volume of patients treated by emergency room physicians. Each year there are 110 million visits to emergency rooms in the United States. Over 3.5 million ER visits are related to bone fractures. Of these, some 885,000 people have such severe fractures which can cut off or reduce blood flow to a limb or lead to shock. Patients cannot afford delays in treatment which can lead to death, amputation of a limb, loss of use of a limb, or permanent disability.

Each year, over 1 million Americans suffer a heart attack. Approximately 20 percent of heart attack victims will die. Cardiologists and cardiovascular surgeons can perform lifesaving treatments and, in some cases, can even reverse heart damage if the patients are treated promptly. Stroke patients treated within 90 minutes of the onset of their symptoms show the most improvements.

We need this legislation to keep these ERs open and fully staffed and to make sure there are no delays in treatment that can result in death or permanent injury.

How does this affect a person's access to care in the emergency room or the trauma care center? Today, in many hospitals, there is no neurosurgeon available to treat patients with major head trauma or no orthopedic surgeon to care for patients with open fractures.

According to a recent study, over 70 percent of the Nation's hospitals, again, were forced to divert patients in the past month. That is a startling statistic. According to a recent study, over 70 percent of this Nation's hospitals were forced to divert patients in this past month, in part because of lack of specialists on call.

Neurosurgeon Thomas Hawk of Columbus stopped providing trauma and emergency care in an effort to reduce his liability premiums. He also writes to me:

> I see lots of patients each week from West Virginia who cannot find neurosurgical care and are coming all the way to Columbus, OH, to get care.

This is another problem, the transferring of patients. Because of the growing scarcity of oncall specialists, patients now wait longer for care in emergency departments. As I mentioned, many are being transferred to other facilities. This can be deadly for elderly patients experiencing heart attacks or strokes which require immediate medical attention.

In fact, the emergency physicians at Akron's two level I trauma centers—Akron is fortunate; they have two

trauma centers, Akron General Medical and Akron City Hospital—often treat patients from other areas of the State, including Youngstown and Cleveland. Youngstown is, I think, an hour away, and Cleveland is 45 minutes away. I do not see how my colleagues can claim we are not in the middle of a crisis.

When I have given speeches in the past, I have given testimonials from dozens upon dozens of physicians in Ohio who have been affected by this crisis. Every week I see many of them. But this time instead I would like to talk about some other States to show that this crisis does not just affect my home State of Ohio or States such as Nevada or Pennsylvania, but it is widespread throughout the country and should cause many of my colleagues from other States to support this legislation or explain why they cannot.

In Illinois, according to the American College of Emergency Physicians, fewer inpatient beds and staffing shortages are contributing to severe overcrowding and ambulance diversion. A 2003 report from the Metropolitan Chicago Health Care Council indicated the city's hospitals are unprepared to meet the future health care needs of their patients. According to the American Association of Neurological Surgeons, more than 15 percent of Illinois neurosurgeons have left the State in the past 2 years.

In addition, since January of 2003, 59 doctors have left the St. Clair-Madison County area. Just since October 2003, as premium renewals are considered at the end of the year, over 10 physicians have left, including 3 orthopedic surgeons.

Also in Illinois, according to a November 2002 survey, 63.5 percent of responding Illinois OB/GYNs have been forced to make changes in their practice, such as quitting obstetrics, retiring, relocating, decreasing gynecologic procedures, and no longer performing major surgery. Almost 50 Illinois OBs stopped practicing obstetrics recently, forcing 7,776 pregnant Illinois women to find new OB/GYNs to provide obstetrics care.

I don't know how we can take this situation. I have six grandchildren, and I cannot think of a worst situation than if one of them had a problem pregnancy and were told by their OB/GYN: I am sorry, I can't handle it because if I do, my insurance premiums are going to skyrocket. And yet in Illinois, 50 stopped practicing.

An orthopedic surgeon in Oakbrook Terrace, IL, told the story of a 5-year-old child who was struck by a car and sustained a fracture of the femur and small skull fracture with minimal underlying brain contusion. He stated:

> Such injuries would typically be treated by . . . an orthopaedic surgeon and then a neurosurgeon. . . . In this case, the neurosurgeon on call would not see any patient under 18. A pediatric orthopaedic surgeon was in attendance . . . but without a neurosurgeon . . . a transfer to Loyola had to be arranged. At Loyola, no pediatric orthopaedic surgeon was available, so the adult orthopaedic trauma surgeon had the child's leg placed in traction, inserting a pin just above the knee in order to hang the weights which pulled on the leg. The plan was to keep the child in traction for a few weeks, and then place the child in a cast. The family, after 2 days at Loyola, desired transfer of care back to their home town. The liability crisis has created a situation where this patient had to endure two useless ambulance rides with a broken femur, several extra days of hospitalization, and insertion and removal of a traction pin. This waste of resources and interference with medical care is repeated endlessly across the nation.

In New Jersey, according to the State Hospital Association, hospital liability premiums jumped 50 percent on average in 2003, and the average annual hospital premium increased to $1.4 million.

In addition, a survey of more than 1,000 obstetricians found 23 percent had left their practices last year because they could not afford liability coverage, and only one pediatric surgeon is left in each of Ocean and Monmouth Counties, according to the State medical society. Some hospitals do not even have obstetricians on call.

Also in New Jersey, in January of 2002, there were 85 practicing neurosurgeons in the State. A little more than a year later, an estimated 20 have been forced to stop practicing. Warren County residents, including its 200-bed hospital, saw its only two neurosurgeons leave in September 2002. The closest neurosurgery center is now more than 1 hour away from these residents.

In North Carolina, the average size of liability claims increased by approximately 80 percent over 10 years. Some physicians are going out of business, leaving the State or substantially increasing prices as they pass on costs to their patients. The Senator from North Carolina, who was a Presidential candidate, should be very familiar with those statistics. The problem is especially acute for obstetricians, neurosurgeons, and emergency physicians.

In fact, in nine counties in the rural southern region, there has been a 3-percent decrease in specialty physicians, despite a nearly 8-percent increase in population between 1999 and 2002. At the same time, specialty physicians in all rural counties have increased only 1 percent, while the general population in those counties grew by 7 percent.

Neurosurgeons have been particularly affected by the medical liability crisis and many are stopping or limiting their trauma and emergency care in an effort to obtain affordable liability insurance. As a result, many hospitals, including Moore Regional Hospital in Pinehurst, NC, no longer have 24-hour neurosurgery coverage. Patients who suffer injuries during the wrong time are transferred to Chapel Hill sometimes after waiting for hours.

What about Florida? In Florida, liability premiums increased 75 percent in 2002. The average premium per physician was 55 percent higher than the national average. Emergency departments across the State are transferring patients to other hospitals because of shortages of cardiologists.

Between 1998 and 2002, 30 professional liability insurers left Florida. That is, the insurance companies have just left Florida because of the multiplicity of medical lawsuits that have been filed. Thirty-four percent of Florida physicians have stopped or reduced their emergency care coverage.

At Orlando Regional Medical Center, where Disney World is located, is one of only six level I trauma centers in the State. Think about this. This is the State of Florida, one of the fastest growing States in the United States. They have six level I trauma centers in the State. For those people who travel to Florida, I am sure that one of these days they are going to start taking that into consideration about going to the State of Florida because of the fact they do not have the trauma centers they need to take care of the people who come down from all over the country.

All of the neurosurgeons on staff at the Orlando Regional Medical Center, which is one of the six level I, have what they call ''gone bare'' and no longer have any professional liability insurance. So what has the hospital done to take care of the situation? Listen to this. The hospital has resorted to paying the doctors $4,000 per day to cover the call schedule and enable them to keep their door open to traumas.

In addition, Orlando Regional Sand Lake Hospital has had to eliminate both of its on-call orthopedics and urology coverage in its emergency department due to a lack of physician availability.

The stories from Florida are particularly egregious, so much so that I cannot understand how my colleagues from that State are not supportive of this legislation. I cannot figure it out. With what is going on in Florida, I cannot understand why the two Senators from that State cannot be supportive of this legislation.

Dr. Richard Foltz from Fort Lauderdale, FL, writes:

> There are no neurosurgeons in Palm Beach to do brain surgeries or take ER call. They try to transfer patients across county lines all the time. I have no insurance and have gone bare. My last premium notice was over $400,000 a year.

According to neurosurgeon Troy Tippett, there are no longer any neurosurgeons in the Pensacola, FL, area who treat pediatric patients who are often considered high risk in liability terms. Children suffering from head and spinal injuries are airlifted more than 200 miles away. Think about that, airlifted 200 miles away to get treatment they ought to be able to get in their own community.

A Winter Park OB/GYN dropped his obstetric practice after his premiums rose from $48,000 to $100,000. At that rate, he would have to work 6 months

of the year just to pay his liability premiums. Instead he, along with four other obstetricians, gave up obstetrics altogether.

I could go on and on with one story after another about the fact we are losing surgeons and we are losing obstetricians all over this country. We are just talking about two of the specialties right now. We are concentrating on these two right now because we know they are the most in need and the shortage is most acute.

The legislation we are debating today gets us on our way to turning these statistics around. It provides a commonsense approach to our litigation problems that will keep consumers from bearing the costs of costly and unnecessary litigation while making sure those with legitimate grievances have recourse through the courts.

I would like to point out the argument that the insurance industry is ripping off doctors—and we hear that all the time on this floor—and raising rates to make up for investment losses is preposterous. I would again invite those Members who believe this to read the article I submitted for the RECORD during our last debate in February entitled ''Did Investments Affect Medical Malpractice Premiums,'' where it is concluded that asset allocation and investments returns have had little, if any, correlation to the development of the current malpractice problem.

I am not going to bore my colleagues today with statistic after statistic about what has happened to medical malpractice insurance companies in this country, but most of them are out of business. Most of them are limiting what they make available to doctors based on the type of medicine the doctor practices.

I would also like to point out testimony given to the Ohio Medical Malpractice Commission by a man by the name of James Hurley of the American Academy of Actuaries. In his testimony, Mr. Hurley tried to debunk a few misconceptions about the insurance industry and medical malpractice, one of which is the idea that insurers are increasing rates because of investment losses, particularly their losses in the stock market.

In response to this, Mr. Hurley states unequivocally, that in establishing rates insurers do not recoup investment losses.

I ask unanimous consent that a letter of March 26, 2004, from James Hurley be printed in the RECORD.

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

AMERICAN ACADEMY
OF ACTUARIES,
March 26, 2004.

Hon. BILL FRIST,
U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST: On behalf of the American Academy of Actuaries' Medical Malpractice Subcommittee, I appreciate the opportunity to provide an actuarial perspective on the issues related to patient access to health care and, in particular, the availability and pricing of medical malpractice insurance. As Congress considers medical malpractice liability reform (include S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004), the subcommittee feels it is important to highlight certain misconceptions in the current debate so Congress can more effectively address problems related to the availability and affordability of this insurance.

DETERMINING RATES.—Ratemaking is the term used to describe the process by which companies determine what premium is indicated for a coverage. In the insurance transaction, the company assumes the financial risk associated with a future, contingent event in exchange for a fixed premium before it knows what the true cost of the event is, if any. The company must estimate those costs, determine a price for it and be willing to assume the risk that the costs may differ, perhaps substantially, from those estimates. A general principle of ratemaking is that the rate charged reflects the expected costs for the coverage to be provided, not what has been paid or is going to be paid on past coverage. It does not reflect money lost on prior investments. In short, a rate is a reflection of future costs.

In general, the actuarial process used in making these estimations for medical malpractice insurance starts with historical loss experience for the specific coverage and, usually, for a specific jurisdiction. Rates are determined for this coverage, jurisdiction, and a fixed time period. To the appropriately projected loss experience, a company must incorporate consideration of all expenses, the time value of money and an appropriate provision for risk and profit associated with the insurance transaction.

Some lines of insurance coverage are more predictable than other lines. The unpredictability of coverage reflects its inherent risk characteristics. Most companies would agree that costs and, therefore, rates for automobile physical damage coverage, for example, are more predictable than for medical malpractice insurance because automobile insurance is relatively high frequency/low severity coverage compared to medical malpractice insurance. In the case of auto physical damage, one has a large number of similar claims for relatively small amounts that fall in a fairly narrow range. In medical malpractice insurance one has a small number of claims that have a much higher average value and a significantly wider range of possible outcomes. There also is significantly longer delay for medical malpractice insurance between the occurrence of an event giving rise to a claim, the reporting of the claim, and the final disposition of the claim. This longer delay adds to the uncertainty inherent in projecting the ultimate value of losses, and consequently premiums.

RATES DON'T RECOUP PAST INVESTMENT LOSSES.— The ratemaking process is forward looking. In establishing rates, both state insurance laws and actuarial standards of practice prohibit recoupment of past investment losses. Instead of trying to make up for past losses, the general ratemaking practice is to choose an expected prospective investment yield and calculate a discount factor based on historical payout patterns. For medical malpractice, the insurer often expects to have an underwriting loss that will be offset by investment income. Since interest yields drive this process, when interest yields decrease, rates will increase.

Insurers are restricted in their investment activity due to state insurance regulation and competition in the market. The majority of invested assets are fixed-income instruments. Generally, these are purchased in maturities that are reasonably consistent with the anticipated future payment of claims. Losses from this portion of the invested asset base have been minimal, although the rate of return available has declined.

TORT REFORMS.—Tort reform has been proposed as a solution to higher loss costs and surging rates. Reforms modeled after California's Medical Injury Compensation Reform Act, or MICRA, are proposed to alleviate some of the financial pressure on the medical malpractice insurance system. The Subcommittee, which takes no position for or against tort reforms, observes the following:

A coordinated package of tort reforms is more likely to achieve savings in malpractice losses and insurance premiums than an individual reform, like a cap on pain and suffering or non economic damages only.

While a cap on non economic awards could substantially reduce claim losses (on a per-event basis and at some level low enough to have an effect; such as MICRA's $250,000) other tort reform elements, such as a mandatory collateral source offset rule, are also important.

Such reforms may not assure immediate rate reductions, particularly given the size of some rate increases being implemented currently. The actual effect, including whether the reforms are applied as intended, will not be immediately known.

These reforms are unlikely to eliminate claim severity (or frequency) changes but they may mitigate them. The economic portion of claims is not affected if a non-economic cap is enacted. Thus, rate increases are still likely to be needed.

Such reforms should reduce concerns about large dollar awards containing significant subjective non-economic damage components and make the loss environment more predictable.

Thank you very much for your consideration. Please do not hesitate to contact me or Greg Vass, the Academy's Senior Casualty Policy Analyst, at 202–223–8196 if you have any questions or would like additional information.

Sincerely,
JAMES HURLEY, ACAS, MAAA,
CHAIRPERSON,
Medical Malpractice Subcommittee.

Mr. VOINOVICH. Throughout my career in public service, health care has been one of my top legislative priorities and certainly was a high priority while I was Governor of the State of Ohio and mayor of the city of Cleveland. All of us want access to quality, affordable health care. When the quality is not there, when people die or are truly sick due to negligence or other medical error, they should be compensated.

When healthy plaintiffs file meaningless lawsuits to coerce settlements or to shake the money tree to get as much as they can get, there is a snowball effect and all of us pay the price. For the system to work, we must strike a delicate balance between the rights of aggrieved parties to bring lawsuits and the rights of society to be protected against frivolous lawsuits and outrageous judgments that are disproportionate to compensating the injured and made at the expense of society as a whole.

I repeat that again. For the system to work, we must strike a delicate balance between the rights of the aggrieved parties to bring lawsuits and

the rights of society to be protected against frivolous lawsuits and outrageous judgments that are disproportionate to compensating the injured and made at the expense of society as a whole.

I have been concerned about this issue since my days as Governor, as I mentioned. In 1996, I essentially had to pull teeth in the Ohio legislature to pass my tort reform bill which would have placed caps on noneconomic and punitive damages, established proportional liability, and created a rebuttable presumption that a hospital was not negligent regarding negligent credentialing, among other provisions.

I signed the bill into law in October of 1996. Three years later, the Ohio Supreme Court ruled it unconstitutional. Had that law withstood the supreme court scrutiny—and I think today it would because we have a different supreme court—Ohioans would not be facing the medical access problems they are facing today—doctors leaving their practice, patients unable to receive the care they need, and cost of health insurance going through the roof.

Next to the economy and jobs, the most important issue facing America today is health care. In fact, it is a part of the reason why our economy is in trouble. We have too many uninsured, and those who have insurance face soaring premiums every year, making it less likely they can continue to pay for them.

In addition, employers face spiraling costs and in some cases do not even provide insurance, and those that do have been forced to increase their premiums and pass on the added costs to their employees, whose family budgets are often already stretched razor thin.

In other words, I see people in business every day who say, Senator, I want to provide health care for my employees but the cost of it has gone up to the point where I cannot afford to provide it for them. Or, in the alternative, Senator, I am going to provide it for them, but I am going to ask them to pay for more of their premiums. And, Senator, in so many instances my employees cannot pay the additional premiums, and because they cannot pay the additional premiums, they lose their health insurance.

I believe that providing the sort of commonsense approach found in the Pregnancy and Trauma Care Access Protection Act of 2004 is one way to deal with this escalating cost of health insurance in the United States. The bill will give patients greater access to care. It will provide medical liability for those physicians who provide prenatal delivery and postpartum care to mothers and babies. Patients would not have to give away large portions of their judgment to their attorneys. Truly injured parties can recover 100 percent of their economic damages. Punitive damages are reserved for those cases where they are truly justified. Doctors and hospitals would not be held liable for harm they do not cause and physicians can focus on doing what they do best, practicing medicine and providing health care.

I, again, urge my colleagues to vote for cloture so we can debate this issue and have an up-or-down vote on this legislation. We owe it to the people of this country to have a robust debate of this on the Senate floor.

I close my remarks this afternoon by reading a letter from Laurence E. Stempel, an MD from Columbus, OH. This is from the letter he sent to his patients on June 23, 2003:

> On June 17, 2003, I received my professional liability insurance rate quote for the upcoming year, and it is 64 percent higher than last year. I have seen my premiums almost triple during the past 2 years, despite never having had a single penny paid out on my behalf in 27 years as a physician. Even worse, during this time the insurance company has reduced the amount of coverage that I can purchase from $5 million to only $1 million . . .

In other words, his insurance has gone up astronomically and he is getting about 80 percent less coverage than he had before. He said:

> while jury verdicts have skyrocketed, often exceeding $3.4 million. If I were to purchase this policy, I would be putting all of my family's personal assets at risk every time that I delivered a baby, or performed surgery. I refuse to do that.
>
> I have therefore decided to retire from private practice. . . .[T]he final day of my current liability insurance policy [is when that will happen.]
>
> This is not a decision I have taken lightly, but unfortunately it has become necessary. For many of you, I have been part of your life for years. I have delivered your babies and helped you through some of life's most difficult challenges. It has truly been an honor.

We have to stop this from happening in this country. We have the power to do something about it on the floor of the Senate, and it is about time we faced up to our responsibility and did something about it.

I ask unanimous consent that the entire letter be printed in the RECORD.

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

LAURENCE E. STEMPEL, M.D.,
June 23, 2003.

DEAR FRIENDS, As you know, our country is in the midst of its worst medical liability crisis ever. Hardly a day passes without a mention of the ''malpractice crisis'' in the newspapers or on the nightly news. In fact, just a couple of weeks ago, it was Time Magazine's cover story. This is a national problem, and a truly frightening one. For example, Las Vegas had 130 obstetricians a year ago. There are now 75, and by the end of the year, there will probably only be 40 left to care for the 23,000 women who deliver there each year. Women are driving to Utah and California for prenatal care. Closer to home, there were nine obstetricians in Athens, Ohio, a year ago. There are now four, and soon there will only be the two who teach at the medical school. Some hospitals around the nation have closed their obstetric units.

On June 17, 2003, I received my professional liability insurance rate quote for the upcoming year, and it is 64% higher than last year's rate. I have seen my premiums almost triple during the past two years, despite never having had a single penny paid out on my behalf in twenty-seven years as a physician. Even worse, during this time the insurance company has reduced the amount of coverage that I can purchase from $5 million to only $1 million, while jury verdicts have skyrocketed, often exceeding $3-4 million. If I were to purchase this policy, I would be putting all of my family's personal assets at risk every time that I delivered a baby or performed surgery. I refuse to do that.

I have therefore decided to retire from private practice on July 31, 2003, the final day of may current liability insurance policy. This is not a decision that I have taken lightly, but unfortunately it has become necessary. For many of you, I have been part of your life for years. I have delivered your babies, and helped you through some of life's most difficult challenges. It has truly been an honor.

There is always a silver lining in every cloud. I am looking forward to being able to devote more time to teaching medical students and obstetric residents, a pursuit that has occupied about a third of my professional time during recent years. I will also be able to spend more time with my wife and family, whom I have often neglected during the past years due to the responsibility of my practice.

I know that these changes will be a serious inconvenience for many of you. For those of you who are currently pregnant, I will try to find each and every one you a competent and caring obstetrician to help you through the rest of your pregnancy and delivery. For those patients who have a gynecology appointment schedule after July 31, it will be necessary for you to reschedule with another physician. I would like to recommend the physicians of Associates in Central Ohio Obstetrics & Gynecology (phone 889–6117). This group has an office in Suite A of my building, as well as a couple of other offices around town. I have known all of these physicians for years, and I taught most of them when they were medical students or obstetric residents. Furthermore, I have traded call with this group for a number of years. They have agreed to be the custodian of my patients' charts, and to see my patients if they would like. If you would prefer to see another physician, they have agreed to forward the pertinent information upon receipt of a signed request.

Thank you again for the honor of being your physician. I will miss each and every one of you.

Sincerely,

LAURENCE E. STEMPEL, M.D.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

EXTENDING TRADE ADJUSTMENT ASSISTANCE

Mr. WYDEN. Mr. President, software programmers in Beaverton, OR, every day have to compete with those in Beijing. I think it is very important for the Senate to set in place bipartisan policies that are going to finally give a fair shake to our workers who are competing in tough global markets.

I come to the floor this afternoon because I have developed, with the support of Senator COLEMAN, our colleague from Minnesota, a bipartisan proposal that would give the Senate a chance to help hundreds of thousands of laid-off

high tech workers and service employees by extending trade adjustment assistance benefits to them so they can receive job training, income support, and health insurance tax credits.

So often these workers have lost their jobs through no fault of their own, and we know—especially the distinguished Presiding Officer of the Senate—these high tech workers have been the envy of our American workforce. There is extraordinary ingenuity among these hundreds of thousands of programmers and engineers and designers who have helped drive our economy in this century. Their creativity has generated an exceptional wave of economic prosperity, and trade agreements on services and intellectual property helped carry the fruits of the work of our workers around the globe.

Information technology developed by American workers transformed the world and the way business is done. Overseas cable costs have dropped by as much as 80 percent in the last 5 years which, as the distinguished Presiding Officer knows, has spread the Internet far and wide. The Internet has made it a lot cheaper to send work through a phone line than to ship a bulky package on an airplane.

Globalization of technology has globalized the technology workforce. So, in fact, the workers I am honored to represent in Beaverton, OR, do have to compete against workers in Beijing, and certainly geography is increasingly less important in determining where a job can be done.

But the transformation from an economy built on smokestacks to one built on packages of light has come at a heavy price. So often trade agreements in the past considered these high technology and service workers as an afterthought. The irony is now some of the very same workers who launched the technology revolution have actually become its victims. Hardly a day goes by without a front-page story in our country about an American programmer on his way out who is having to train a foreign worker who will replace him.

Senator COLEMAN and I have been working with a number of colleagues. Senator BAUCUS on this side of the aisle has been exceptionally helpful. We talked with a number of colleagues on the other side of the aisle. Senator COLEMAN and I have developed a bipartisan proposal to make sure these workers, who have not gotten a fair shake in the past, do have an opportunity to get back into our marketplace economy.

It is not a moment too soon. The American Electronics Association 2003 Cyberstates report found unemployment among computer programmers jumped from 4.5 percent in 2001 to 6.2 percent in 2003. High tech employment fell by 540,000 jobs to 6 million in 2002 and a further loss of 234,000 jobs was expected in 2003.

The average American may think the Federal Government is helping those technology workers and service workers whose jobs have been displaced by trade. But the reality is that assistance is not available because the trade assistance law, which was authored in 1962 for displaced manufacturing workers, did not contemplate the tremendous number of jobs we now have in the technology sector, with all of those software programmers and engineers and designers. The U.S. trade assistance laws were designed for the manufacturing era.

Since 1962, when workers lost their jobs in a manufacturing plant as a result of trade, they could get help through the Trade Adjustment Assistance Act. The Trade Adjustment Assistance Act has, in fact, helped hundreds of thousands of those displaced workers. But workers in the technology and the services sector, which now accounts for four-fifths of the U.S. workforce, have not been eligible for trade adjustment assistance. Time after time when a displaced software developer, accountant, or someone who has worked in the telemedicine field has gone knocking on the doors of the Trade Adjustment Assistance Program, they have been turned away. The bipartisan amendment I have developed with Senator COLEMAN will open the doors of the Trade Adjustment Assistance Act to the hundreds of thousands of displaced technology and service sector workers.

All of these workers who have been displaced by trade and by global marketplace forces deserve the same kinds of benefits. All of them have a chance to use these programs as a trampoline back into the private economy, so they can capture the jobs for which their skills have blessed them. Our amendment will establish equity in the program between manufacturing and service workers.

The Wyden-Coleman amendment will cover three categories of trade-impacted service workers: those who lose their jobs when their employer closes or lays off because of import competition; public and private sector service workers who lose their jobs when their facility moves overseas; and secondary service workers who provide services to a primary firm where workers are eligible for trade adjustment assistance and where a closure has caused a layoff or closure at a secondary firm.

This is an extraordinarily important statute because it provides retraining, income support, health insurance tax credits, and other benefits to workers who lose their jobs. It can also help secondary workers or individuals who supply parts or services and who may have lost their jobs because their facilities shut down due to import competition or they move overseas. This is exactly the type of trade-displaced service worker opportunity that our citizens need.

A self-described ''newly employed software engineer'' from Hillsboro, OR, wrote in December that ''my job was moved to India where the company can pay Indians a fifth of what they pay Americans.''

Another wrote:

> [A]s a 50-year-old high-tech manufacturing engineer with 26 years' experience, I was laid off in December 2002. I am sure the new factory the company is building in China will prevent my ever returning. I can't even get hired into an entry level position anywhere because I am over-qualified.

These unemployed Oregonians and the hundreds of thousands of other information technology professionals who have lost their jobs deserve an opportunity to get the training, health care, and income assistance so they can get back on their feet and use their skills in the private marketplace. The Trade Adjustment Assistance Act would target these kinds of workers who have been hurt by unfair competition.

Globalization of information technology hardware production from 1995 through 2002 cut information technology hardware costs 10 to 30 percent, translating into higher productivity growth and adding $230 billion to our gross domestic product. Information technology became affordable to business sectors that were previously bypassed by the productivity boom.

We are now talking about the small and midsized companies in health care, construction, and a host of related fields. But as information technology hardware prices declined, the importance of information technology services and software increased to almost 70 percent of information technology spending in 2001. With the growth in software and services outpacing hardware spending by almost two to one, the demand for cheaper information technology services has lent strength to this whole trend to move these jobs offshore. No one appears to have anticipated the extraordinary speed in which all of this has taken place or the scale of jobs moving offshore.

The workers who lost their jobs and their livelihoods from jobs that have gone overseas cannot afford to wait for the higher skilled jobs that economists keep telling them is right around the corner. Higher value and higher paid systems integration jobs may come along, but in this period unemployed information technology professionals seem to feel they are more likely to see Elvis than a sudden proliferation of new highly skilled information technology jobs.

At the end of the day, what I am saying, along with the distinguished Senator from Minnesota, is it should be irrelevant whether an individual works in today's economy in the services and technology sector or whether they work in the manufacturing area. Each of our workers who has been displaced by trade should be eligible for the same benefits. That is what our bipartisan proposal would do. The hundreds of thousands of workers who have been laid off in every part of our country in the technology sector and in the service sector are looking to whether the

Senate will modernize the trade adjustment laws so they finally can get a fair shake and so they can pick up the skills and the health care and the income support that is going to let them get back on their feet, use their ingenuity, and use their work ethic to have a chance for a high-skill, high-wage job once again.

I call on the Senate in a time of discussion about gridlock and the inability to move forward on important legislation. This is an example of two Senators who have worked with colleagues from both political parties to come up with a proposal that can help hundreds of thousands of workers in an economic crunch today that is sure to continue. We hope the Senate will move expeditiously on our legislation.

It seems to me, to put it in the context of my home State, that when a worker who is a software programmer in Beaverton, OR, works hard and plays by the rules, it ought to be the job of the Senate to say when that worker is up against a software programmer in Beijing and the Beijing worker works for a fraction of the wages of the worker in Beaverton we create policies which are going to make it possible for our workers to move ahead to have the kind of quality of life that will allow them to support a family and participate in the community.

I call on the Senate to pass our bipartisan proposal as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, what is the parliamentary situation? Are we back on the motion to proceed?

The PRESIDING OFFICER. We are on the motion to proceed.

Mr. HATCH. Mr. President, today I rise to speak in support of S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004.

This bill helps to remedy the exploding medical liability and litigation crisis in our country, which is preventing patients from receiving high-quality health care—or, in some cases, any care at all—because doctors are being driven out of practice. In fact, this crisis hits us on two fronts, preventing many Americans from getting the vital health care they need, and raising the overall costs of health care for nearly all Americans.

As you will recall, this legislation is not our first attempt to relieve this crisis in access to care. Most recently, we debated S. 2061, which failed to receive the 60 votes necessary to invoke cloture in February, and we debated S. 11 prior to that. We can ill afford to ignore the many Americans whose doctors are retiring early or restricting their practices because of rising malpractice costs.

This health care crisis is jeopardizing access to health care in my home State of Utah and around the country.

The medical liability crisis is also inhibiting efforts to improve patient safety and stifling medical innovation. Excessive litigation is adding billions of dollars in increased costs. The Congressional Budget Office estimates that total savings to Medicare, Medicaid and the Federal Employees Health Benefit Program would be $15 billion in direct health care costs by passing medical liability reform. A Department of Health and Human Services report estimates that we could save $70 billion to $126 billion in defensive medicine costs. And they are really on the conservative side. I said 20 years ago, as a former medical liability defense lawyer defending doctors, health care providers, nurses, and so forth, knowing that most of those suits were frivolous to begin with, that there was at least $300 billion in unnecessary defensive medicine. Now we all want defensive medicine. We want doctors to do everything they can to help. But I am talking about unnecessary defensive medicine, unnecessary tests, unnecessary costs, unnecessary x-rays, unnecessary MRIs, unnecessary CAT scans, unnecessary cardiovascular tests, unnecessary respiratory tests and other types of tests that are not needed but are insisted upon by doctors because they want to have in their history every possible protection.

Even the American Medical Association admits there are at least $65 billion in unnecessary defensive medicine costs. When you get the AMA to admit that, you know it probably is a lot higher. In fact, it is costing every American, because we will not do anything about getting these frivolous suits under control. It is wrecking our health care profession in this country.

The liability crisis is also reducing access to high-quality health care. The 2004 survey by Medical Group Management Association of almost 13,000 physicians found that 15.6 percent of responding groups reported that their physicians plan to retire, relocate or restrict their services over the next three years.

These numbers have been consistent in large studies done in New York, California, Colorado and my home state of Utah.

However, the equally troubling statistics are that only two percent of cases with actual negligent injuries result in claims and less than one-fifth—17 percent—of claims filed actually involve a negligent injury. In other words, the deserving injured are going uncompensated, while a great deal of litigants with spurious claims tie up our court system and cost all of us unnecessary billions of dollars.

This situation has been likened to a traffic cop who regularly gives out more tickets to drivers who go through green lights than to those who run red lights. That is clearly no way to ensure traffic safety, and we should not accept such an inefficient and inequitable method of ensuring patient safety.

These numbers are a searing indictment of the current medical liability system. I believe we can do better for the American people and the Pregnancy and Trauma Care Access Protection Act is an important step along that path. We must do better.

Today's proposed legislation addresses two areas in dire need of relief: trauma care and obstetrical care.

Many physician groups are no longer able to be oncall for hospital emergency departments. As medical care to trauma victims, especially children, is by its nature high risk, many doctors can no longer afford to treat pediatric trauma patients. The problem is also acute for women who need obstetrical and gynecological care because OB/GYN is among the top three specialties with the highest professional liability insurance premiums. This has led to many doctors leaving their practice and to a shortage of doctors in many States, including my own home State of Utah. For example, Utah physician Dr. Catherine Wheeler would have to deliver more than 60 babies each year just to pay for her medical liability insurance, which is over $70,000. Although she works 80 hours per week, after she pays her malpractice premiums and other costs, she takes home money for only 2½ months of the year.

Utah Medical Association data show that medical liability insurance premiums continue to increase rapidly, creating pressure on doctors to restrict service in Utah. In 2002, there was a 30-percent rise. Last year, premiums rose 20 percent. This year, they are projected to increase 15 percent in Utah.

Studies by both the Utah Medical Association and the Utah Chapter of the American College of Obstetricians and Gynecologists, ACOG, underscore the problem in my State.

Utah Medical Association data show that over half of the family practitioners in Utah have already given up obstetrical services or have never practiced obstetrics even though they were trained to do so. Of the remaining practitioners who still deliver babies, nearly one-third say they plan to stop providing OB services within the next decade—most within 5 years. A Utah ACOG survey found that 15 of the 106 members polled had already stopped practicing obstetrics, and 21 of the remaining 91 plan to stop within 5 years. These changes in practice, such as retiring, relocating, or dropping obstetrics because of the medical liability reform crisis, leaves almost 1,500 pregnant women in Utah without OB/GYN care.

The medical liability crisis, while affecting all medical specialties and practices, hits OB/GYN practices especially hard. Astonishingly, over three-fourths—76.5 percent—of obstetrician/gynecologists report being sued at least once in their individual careers. Indeed, over one-fourth of OB/GYN doctors will be sued for care given during their residency. These numbers have discouraged Americans finishing medical school from choosing this vital specialty.

Currently, one-third of OB-GYN residency slots are filled by foreign medical graduates, compared to only 14

percent one decade ago. OB/GYN doctors are particularly vulnerable to unjustified lawsuits because of the tendency to blame the doctor for brain-injured infants, although research has proven that physician error is responsible for less than 4 percent of all neurologically impaired babies.

Jury awards have been escalating at an alarming rate. Data from Jury Verdict Research show that the average liability award increased 176 percent from 1994 to 2001. The average jury award is $3.9 million. Over half of all awards are $1 million or more. This crisis is threatening Americans' confidence in our health care system to take care of their medical needs. Over three-fourths of Americans fear that skyrocketing medical liability costs could limit their access to care, and indeed that is already happening. AMA, the American Medical Association, data show that 19 States—19 States—have serious patient access problems, and 25 more, including my own home State of Utah, are nearing crisis.

An August 2003 GAO report concluded that actions taken by health providers as a result of skyrocketing malpractice premiums have contributed to health care access problems. These problems include reduced access to hospital-based services for deliveries, especially in rural areas.

In addition, the report indicated that States that have enacted tort reform laws with caps on noneconomic damages have slower growth rates in medical malpractice premiums and claims payments. From 2001 to 2002, the average premiums for medical malpractice insurance increased about 10 percent in States with caps on noneconomic damages. In comparison, States with more limited reforms experienced an increase of 29 percent in medical malpractice premiums each year.

Medical liability litigation directly and dramatically increases health care costs for all Americans. In addition, skyrocketing medical litigation costs indirectly increase health care costs by changing the way doctors practice medicine.

''Defensive medicine'' is defined as medical care that is primarily or solely motivated by fear of malpractice claims and not by the patient's medical condition. According to a survey of 1,800 doctors published in the journal entitled Medical Economics, more than three-fourths of doctors felt they must practice defensive medicine. A 1998 study of defensive medicine by Dr. Mark McClellan, using national health expenditure data, found that medical liability reform had the potential to reduce defensive medicine expenses by $69 billion to $124 billion in the year 2001. You can imagine what that number is today.

I remember, as a medical malpractice defense lawyer, I would tell doctors: You are just pigeons in a shooting gallery. The fact is, physicians have to have a history of treatments they have provided to their patients so they can prove that they did everything possible to prevent any real problems with their respective patients. Consequently, doctors have had to do that over the years because of the skyrocketing medical liability claims being made, a good 90 percent of which are, for the most part, spurious and frivolous.

The financial toll of defensive medicine is great, and especially significant for reform purposes, as it does not produce any positive health benefits. Not only does defensive medicine increase health care costs, it also puts Americans at avoidable risk. Nearly every test and every treatment has possible side effects; thus, every unnecessary test, procedure, and treatment potentially puts a patient in harm's way. Seventy-six percent of physicians are concerned that malpractice litigation has hurt their ability to provide quality care to patients.

What can we do to address this crisis? The answer is, plenty; and there are excellent examples of what works. Last March, HHS released a report describing how reasonable reforms in some States have reduced health care costs and improved access to quality health care. More specifically, over the last 2 years, in States with limits of $250,000 to $350,000 on noneconomic damages, premiums have increased at an average of just 18 percent compared to 45 percent in States without such limits.

California enacted the Medical Injury Compensation Reform Act, also known as MICRA, more than a quarter century ago. MICRA slowed the rate of increase in medical liability premiums dramatically without affecting negatively the quality of health care received by California State residents. As a result, doctors are not leaving California.

Furthermore, between 1976 and the year 2000, premiums increased by 167 percent in California, while they increased three times as much—505 percent—in the rest of the country. Now, both percentage increases are high, but 505 percent is extremely high in comparison to a very litigious State like California. Consequently, Californians were saved billions of dollars in health care costs and Federal taxpayers were saved billion of dollars in the Medicare and Medicaid Programs because of the California restraint on medical malpractice claims, especially those that are not proper claims.

No one in this body, perhaps with the exception of our colleague from Tennessee, Dr. BILL FRIST, our majority leader, is more keenly aware of the defects in this system than I am. I used to try these cases, and I can say from a practical standpoint that a lot of lawyers bring cases that really are frivolous, because the cost of defending these cases can be in the hundreds of thousands of dollars.

Many insurance companies will pay off those defense costs to get rid of the case rather than take the chance a runaway jury will cost them even more. That is what is happening. It is happening in hundreds, perhaps thousands, of cases throughout the country. Most of these cases should have never been filed, however, there are a small number of cases that are very serious and it is appropriate for our judicial system to take care of them.

Before coming to Congress, I litigated several medical liability cases. I have seen heart-wrenching cases in which mistakes were made, where there was negligence. But more often, I have seen heart-wrenching cases in which mistakes were not made. Doctors were forced to spend valuable time and resources defending themselves against these frivolous lawsuits.

A recent Institute of Medicine report, ''To Err is Human,'' concluded that:

> The majority of medical errors do not result from individual recklessness or the actions of a particular group. This is not a bad apple problem. More commonly, errors are caused by faulty systems, processes, and conditions that lead people to make mistakes or fail to prevent them.

We need reform to improve the health care system and processes that allow errors to occur and to identify better when real medical liability has occurred. The reform I envision would address litigation abuses in order to provide swift and appropriate compensation for malpractice victims, redress for serious problems, and ensure medical liability costs do not prevent patients from accessing the care they really need. So we need to move ahead with legislation to improve patient safety and reduce medical errors, and we need to urgently address the medical liability crisis so more women are not denied access to quality medical care because it has become too expensive for their OB/GYN doctors to continue their practice, and so we do not jeopardize trauma patients' access to urgently needed medical attention.

The Pregnancy and Trauma Care Access Protection Act of 2004 will allow us to begin ensuring that women, babies, and trauma patients get the medical care they need and deserve.

Without tort reform, juries are awarding astounding and unreasonable sums for pain and suffering. A sizable portion of those awards goes to the attorney rather than the patient. It is often estimated as high as 50 percent. The result is doctors cannot get insurance and patients cannot get the care they need.

All Americans deserve the access to care, the cost savings, and the legal protections States like California provide their residents. Today's bill will allow us to begin to address this crisis in our health care system. It will give trauma patients and women and their babies access to their doctors, and it will enable doctors to provide high quality, cost-effective medical care.

America's medical liability system is broken. It is not ensuring patient safety, and it is causing shortages of vital health care throughout the country. Congressional action to pass medical

liability reform legislation is imperative. I strongly support this legislation and I urge my colleagues to support cloture and end this filibuster that will now be the third time effective changes in these laws is being attempted. Our pregnant women deserve better. They deserve the best quality care the medical system can provide. Our trauma victims deserve better. We are finding all over the country trauma centers are either starting to shut down or severely cutting back because they can no longer afford to fight these frivolous cases. They can't function in a health care system that doesn't work. That is a tragedy, especially for those who suffer from trauma-related injuries.

I hope our colleagues will vote for cloture on this bill. I hope we can proceed and pass medical liability reform which is long overdue. I strongly support S. 2207 and urge my colleagues to do what is in the best interest of patients and health care providers throughout the country.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Vermont.

Mr. LEAHY. Mr. President, it is remarkable that in 29 years here in the Senate—several times the Senate under the control of Democrats, several times the Senate under the control of Republicans—I have never seen so little accomplished and I have never seen so much political posturing on the Senate floor which then gets put into fundraising letters and fundraising appeals. I have never seen so much special interest legislation. But the bottom line is I have never seen so little accomplished. Probably there is a corollary.

Instead of doing the people's business, we seem to be doing political action committee business. And that is why, of course, nothing gets done.

Let's talk about this. If there were ever a piece of legislation on which politics is being played, it is the medical malpractice bill. It is a one-size-fits-all bill for a problem that is really different from State to State. Basically we are telling the 50 State legislatures and Governors that the Members of the U.S. Senate know a lot more about their States' needs than they do and that the U.S. Senate will dictate a change. We will override their courts and their legislatures. We will override their laws and we will make life better for them. But when we do, of course, we yank away the rights of the States and the people there. Whenever we target the rights of the public and we try to figure out ways to run roughshod over a State, we ought to be pretty careful how we do it.

Normally you would think we would have committee hearings. We would try to have a bipartisan bill. We would have something that would demonstrate to the States, as we take away their rights, that such a move has been considered by all 100 Senators and there is a consensus. Instead, we have a piece of legislation written by lobbyists and special interests that is so bad nobody even dares send it to a committee—not even friendly committees. They send it right to the floor.

This is the third time the Republicans have taken this partisan approach. Last July they employed this partisan tactic and failed to pass legislation. Earlier this year, they tried to rush through the Senate a bill to limit the legal rights of the most vulnerable patients—mothers and infants—and they failed. Now they are again rushing an extreme bill overriding the laws of each of the 50 States. This time, however, the bill is not limited to obstetrical and gynecological care. Now they want to extend the restrictions on legal rights to trauma and emergency care. The third time for this partisan approach is no charm. Republicans' mad dash to push through this proposal in this election year under the guise of reducing health care costs is a blatant attempt not to reduce health care costs, which we would all support, but to exploit their own political agenda.

I remember the article last year in Washington Monthly, titled ''Malpractice Makes Perfect: How the GOP Milks a Phony Doctors' Insurance Crisis.'' This article was so good, it was nominated for a National Magazine Award. It shows how Republicans launched a sophisticated lobbying campaign with business interests to manipulate the medical malpractice debate and change it from one about medical errors and fair compensation, pitting one political constituency against another.

I commend to my colleagues the article to which I referred from the Washington Monthly of October 1, 2003, by Stephanie Mencimer.

Mr. President, the article points out clearly that even if we passed this legislation, insurance rates would not have come down. There is no one who with a straight face can say that if we pass this legislation, then insurance rates will come down. Insurance companies would not be spending so much money trying to get this passed if they thought so.

Once again, Republicans have proposed a plan that would cap non-economic damages across the Nation at $250,000—whether you live in California, Ohio, Vermont, or anywhere else; no matter what the injury, that is the cap.

The so-called medical malpractice reform debate too often ignores the men, women and children whose lives have been dramatically—and often permanently—altered by medical errors.

I will give you a real-life example in my State of Vermont. On April 7, 2000, Diana Winn Levine had a severe migraine headache. That is something that has probably happened to most of us at one time or another. She went to a health center in Plainfield, VT. She was a musician. She received a painkiller and an injection of a mild sedative, Phenergan. This combination was injected into her artery rather than her vein, and resulting circulatory problems led to this musician having to have two amputation surgeries on her right arm.

Ms. Levine sued the corporate giant, Wyeth, for improper instructions for using its drug, Phenergan. As she said:

> I never expected to sue anyone in my life; I'm not the suing type.

Sometimes it takes something like this to make it known when a drug is not being used right.

There was a full trial. I remember reading the account of the trial. When they went to swear Ms. Levine in for her testimony, the bailiff asked her to raise her right hand. Of course, she had no right hand. That jury in Vermont—and our juries are pretty careful—found that Ms. Levine deserved $2.4 million for her past and future medical expenses, and $5 million for the ''daily pain she does suffer and for the loss of enjoyment of her life.'' Of course, most of that would have been slashed by this legislation. Crowds of the children Ms. Levine had worked with on musical projects—children she'd brought joy to as a musician—sat in the courtroom of the Montpelier Superior Court. She said:

> That was the day they actually showed pictures of my dead hand . . . before amputation, with the gangrene. I worried about how the kids would react to my disfigurement. I told the mom to cover her eyes. But afterward she came up to me and said, ''We just didn't know what you have been through.''

Now, Wyeth, of course, was well represented. They had a team of six lawyers—two from Vermont and four from Washington, DC. They did, after all, have 2003 revenues of $15.8 billion and keep a $1.3 billion reserve fund because of the ongoing litigation over their diet drugs.

Again I say: This musician would have been cut out entirely if the U.S. Senate were to overwrite the laws of our State.

Mr. President, I ask unanimous consent that the article from the Burlington Free Press be printed in the RECORD.

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

[From the Burlington Free Press, Mar. 16, 2004]

VT. WOMAN WINS $7.4M LAWSUIT

(By Stephen Klernan)

A Marshfield musician who lost an arm to a medical error has won one of the largest lawsuit awards in Vermont history.

Diana Winn Levine, owner and creative director of Rebop Records, had sued the multinational health products company Wyeth for having improper guidelines for the drug that damaged her hand and forearm and led to amputation.

A Montpelier jury on Friday awarded Levine $7.4 million.

''Sometimes it takes something like this to make it known, when a drug is not being used right,'' Levine said Monday.

The weeklong trial, pitting a central Vermont bass player and guitarist against one of the world's largest health products companies, featured testimony by family

members and well-known Vermont musicians, as well as gallery crowds of children involved in Rebop recordings.

NOT THE SUING TYPE

Levine was suffering from a migraine April 7, 2000, when she went to the Health Center in Plainfield. She received a painkiller, and an injection of a mild sedative, Phenergan.

In what she called ''a medical blunder,'' the drug entered her artery rather than her vein. Resulting circulatory problems led to two amputation surgeries on her right arm.

The case against Wyeth pertained to the company's instructions for using the drug, Levine said.

''I never expected to sue anybody in my life; I'm not the suing type,'' she said. Then she learned that ''Phenergan, which is toxic, can be given in three ways. The other two are fine. What happened to me can happen, it is foreseeable.''

The trial, in which she was represented by Richard Rubin, David Kidney and Kerry DeWolfe, featured considerable drama.

IMPORTANCE OF MUSIC

''We played a lot of music for the jury,'' Rubin said, ''We showed videotapes of her performing.''

Folksinger Jonathan Gailmor testified on Levine's behalf.

''Jon expressed it so amazingly, how important music is in life, and how he couldn't even imagine losing the ability to play,'' she said.

Crowds of the children Levine has worked with on musical projects, such as Rebop's latest CD ''Even Kids Get the Blues,'' sat in the courtroom in Monptelier Superior Court.

''That was the day they actually showed pictures of my dead hand,'' before amputation, with the gangrene,'' Levine said. ''I worried about how the kids would react to my disfigurement. I told the mom to cover her eyes. But afterward she came up to me and said, 'We just didn't know what you have been through.' ''

PUBLIC AIRING

Rubin said one powerful moment in the trial came accidentally.

''We'd spent all this time establishing what it is like to lose your right hand, even if you're not a musician. When someone offers to shake your hand, what do you do? When someone is handing you change at the cash register, what do you do?''

Then Levine's turn on the witness stand arrived. The baliff came to swear her in, asking her to raise her right hand.

''We looked at each other, and it hit me first,'' Levine said. ''Then we cracked up. There's my prosthesis, so I said, ''You mean this?''

''She laughed,'' Rubin said, ''but it was a poignant moment.''

She was afraid to testify, Levine said, and publicly relive the experience of losing her arm, ''but once you get up there, it just comes out.''

Levine became comfortable enough, Rubin said, she showed the jury how her prosthesis works.

Levine said the ''ultimate'' was when her 21-year-old daughter testified. ''What mother gets a chance to have her daughter up there, basically saying all these things about how much she appreciated me, and her upbringing in a house full of music?''

DAVID VS. GOLIATH

Wyeth had a team of six lawyers, Rubin said, two from Vermont and four from Washington, D.C. The company, with 2003 revenues of $15.8 billion, makes Robitussin, Advil, Centrum and many other health products. The company also has a $1.3 billion reserve fund for ongoing litigation over its diet drugs.

Attorneys for Wyeth did not return calls seeking comment.

''But we did not make this case anti-drug company, or anti-out-of-state company,'' Rubin said. ''This case was really about Diana's loss of her ability to play and write music.''

''Music is my way of healing and processing everything that happens to me,'' Levine said. ''The right hand is just the core of your playing. And so much of writing comes not from your head but from what your hands do.''

Rubin said the suit sought $2.4 million for Levine's past and foreseeable medical expenses, plus $5 million ''for the daily pain she does suffer and for the lost employment of her life.''

The amount of money seems large, he said, but is actually based on ''an hourly rate. We asked the jury to award $25 per hour for her pain and suffering, 16 hours a day, for the next 20 years.''

The jury deliberated about four hours before awarding her the entire $7.4 million.

''The jury came in, and I'm like, 'Prop me up,' my knees were so weak,'' Levine said.

State Court Administrator Lee Suskin, said he could only recall one larger financial result from a suit. ''We don't keep track of these things, but it seems an usually large award.''

''That's just on paper,'' Levine said. ''It's almost certain that they will appeal. My bank account is no fuller than it was a month ago.''

Wyeth did make one strategic error, Rubin said.

''There was nobody here from Wyeth who knew about the drug and was prepared to defend it from the corporate perspective,'' he said. ''The jury never saw anyone from Wyeth but their lawyers.''

Even if there is an appeal, Levine said, ''There's something about retelling that helps you to finish it. And to move on.''

CRACKING EGGS

Levine said phantom pain, in which her mind thinks she still has an arm, remains a daily problem. ''You look down there and you see, there is no arm there, kiddo. But the brain thinks there is a giant Mickey Mouse hand that always feels like pins and needles, and as the day goes on it gets worse.''

Her salvation is the children she works with, she said, ''They take my mind off it; they have become my healing partners.''

Otherwise her life continues to be ''an improvisation. I rode a bike the other day. . . . It was like being six years old all over again, I've gone from feeling like I was battling one-handed, to feeling like I'm conducting one-handed. . . .

''It has become pretty easy to crack an egg one-handed even if I do wind up with little bits of shell in my eggs.''

Mr. LEAHY. We know a lot of our health care system is in crisis. We know some of the giants of our health care system would probably like this legislation to go through so they can make higher profits. Much of our health care system is in crisis. That is what we ought to attack.

Dramatically rising medical malpractice insurance rates are forcing some doctors to abandon their practices or to cross State lines to find more affordable situations. Patients who need care in high-risk specialties, such as obstetrics, and patients in areas already underserved by health care providers, such as many rural communities, are too often left without adequate care.

But this bill does nothing to actually reduce medical malpractice insurance rates. Of course, each State has a different experience. Insurance remains largely a State-regulated industry because the States found that is the way it works best. But each State ought to look at and be left to solve their own unique problems. We should not tell their Governors and legislatures we are not going to let them solve their own problems because we will take it over for them.

We don't have the kind of crisis in Vermont that others do. We have worked very well with our legislature, and we are still working hard to find answers, as other States have. You know, it is funny. We hear so many speeches that we want to get power out of Washington. We want States to be able to do what they want. We don't want Washington dictating everything. Well, not exactly. When you get some very wealthy contributors and very powerful PACs and say, Yes, but if you don't let Washington take care of our special interests, nobody will—suddenly it changes.

This is an attempt to tally points on some election year political scoreboard for powerful special interests at the public's expense. I am looking at the big picture.

Some States, such as my own, Vermont, while experiencing problems, do not face as great a crisis as others. Vermont's legislature is considering legislation to find the right answers for our State, and the same process is underway now in other States. In contrast, in States such as West Virginia, Pennsylvania, Florida, and New Jersey, doctors have walked out of work in protest over the exorbitant rates being extracted from them by their insurance carriers.

Instead of letting States find solutions that are best for their citizens, the Republicans prefer this attempt to tally points on some election year political scoreboard for powerful special interests, at the public's expense. Instead of looking at the big picture—at overly broad antitrust immunity, ways to reduce medical errors, and at other real issues that could make a real difference—the majority has chosen to coddle big insurance companies instead of to cure the problem.

Instead of letting the States continue to find solutions that are best for their citizens, they would take a chainsaw to the legal rights of the American people and to the prerogatives of each of the 50 States we represent here in the United States Senate.

Thoughful solutions to the situation will require creative thinking, a genuine effort to rectify the problem, and bipartisan consensus to achieve real reform. Unfortunately, these are not the characteristics of the bill before us. Indeed, S. 2207 is a partisan bill that was introduced only a few days ago without any committee consideration.

Ignoring the central truth of this crisis—that it is a problem in the insurance industry, not the tort system—the

majority has proposed a plan that would cap noneconomic damages across the Nation at $250,000 in medical malpractice cases.

The notion that such a one-size-fits-all scheme is the answer runs counter to the factual experience of the States. Most importantly, the majority's proposal does nothing to protect true victims of medical malpractice and nothing to prevent malpractice in the first place.

We are fortunate in this Nation to have many highly qualified medical professionals, and this is especially true in my own home State of Vermont. Unfortunately, good doctors sometimes make errors. It is also unfortunate that some not-so-good doctors manage to make their way into the health care system as well. While we must do all that we can to support the men and women who commit their professional lives to caring for others, we must also ensure that patients have access to adequate remedies should they receive inadequate care.

High malpractice insurance premiums are not the direct result of malpractice lawsuit verdicts. They are the result of investment decisions by the insurance companies and of business models geared toward ever-increasing profits as well as the cyclical hardening of the liability insurance market. In cases where an insurer has made a bad investment, or has experienced the same disappointments from Wall Street that so many Americans have, it should not be able to recoup its losses from the doctors it insures.

The insurance company should have to bear the burdens of its own business model, just as the other businesses in the economy do. And a nationwide arbitrary capping of awards available to victims—as the majority has proposed again and again—should not be the first and only solution turned to in a tough medical malpractice insurance market.

The problem at hand deserves thoughtful and collaborative consideration in committee to achieve a sensible solution that is fair to patients and that supports our medical professionals in their ability to practice quality health care. One aspect of the insurance industry's business model requires a legislative correction: Its blanket exemption from Federal antitrust laws. Insurers have for years—too many years—enjoyed a benefit that is novel in our marketplace. The McCarran-Ferguson Act permits insurance companies to operate without being subject to most of the Federal antitrust laws, and our Nation's physicians and their patients have been the worse off for it.

Using their exemption, insurers can collude to set rates, resulting in higher premiums than true competition would achieve—and because of this exemption, enforcement officials cannot investigate any such collusion. If Congress is serious about controlling rising premiums, we must objectively limit this overly broad exemption in the McCarran-Ferguson Act.

More than a year ago, I introduced the ''Medical Malpractice Insurance Antitrust Act of 2003,'' S. 352. I want to thank Senators REID, KENNEDY, DURBIN, EDWARDS, ROCKEFELLER, FEINGOLD, BOXER and CORZINE for cosponsoring this essential and straightforward legislation.

Our bill modifies the McCarran-Ferguson Act with respect to medical malpractice insurance, and only for the most pernicious antitrust offenses: price fixing, bid rigging, and market allocations. Only those anticompetitive practices that most certainly will affect premiums are addressed. I am hard-pressed to imagine that anyone could object to a prohibition on insurance carriers' fixing prices or dividing territories. After all, the rest of our Nation's industries manage either to abide by these laws or pay the consequences.

Many State insurance commissioners police the industry well within the power they are accorded in their own laws, and some States have antitrust laws of their own that could cover some anticompetitive activities in the insurance industry. Our legislation is a scalpel, not a chainsaw. It would not affect regulation of insurance by State insurance commissioners and other State regulators. But there is no reason to continue, unexamined, a system in which the Federal enforcers are precluded from prosecuting the most harmful antitrust violations just because they are committed by insurance companies.

Our legislation is a carefully tailored solution to one critical aspect of the problem of excessive medical malpractice insurance rates. I had hoped for quick action by the Judiciary Committee and then by the full Senate to ensure that this important step on the road to genuine reform is taken before too much more damage is done to the physicians of this country and to the patients they care for. But our legislation to narrow this loophole in the Nation's anti-trust laws for medical malpractice insurers has languished for more than a year in the Senate Judiciary Committee.

Instead of conducting hearings and a markup on our bill, the majority now rushes a ''tort reform'' agenda item to the floor without any committee consideration.

If Congress is serious about controlling rising medical malpractice insurance premiums, then we must limit the broad exemption to Federal antitrust law and promote real competition in the insurance industry, as well as attack this problem at its core by reducing medical errors across our health care system. Unfortunately, the partisan bill before us is not designed for creating a solution to a serious problem. Instead, it is designed purely for politics, and that is not only a waste of the Senate's time and of the public's trust; it is also a shame.

Overly broad antitrust immunity, which the insurance companies have, allows them to fix prices any way they want, whether it is justifiable or not. Antitrust immunity allows them to take their failed investments and try to make it up by charging doctors higher malpractice insurance. We ought to find ways to reduce medical errors. But the big thing is we end up coddling these insurance companies. We don't call them to task. We don't get them to say whether they are spending out this money on malpractice awards. Of course, they are not. A lot of their losses came because they speculated wrong in the stock market. Suddenly, we have to bail them out. Get rid of their antitrust immunity, something that makes no sense in today's day and age with conglomerates. Make them actually say what they base it on. You will find that they are not beginning to pay out the amounts their malpractice claims say they are.

We are fortunate in this Nation to have so many highly qualified medical professionals. This is especially true in Vermont. But you have to know sometimes good doctors make mistakes, just as sometimes a good engineer will make a mistake. But it is also unfortunate that sometimes not-so-good doctors manage to make their way into the health care system. I think we should do all we can to support the men and women who commit their professional lives to caring for others, but we also ought to have some way of responding when somebody gets highly inadequate medical attention.

When you have a case, as I said before, like the Levine case in Vermont, when you have somebody whose livelihood was playing musical instruments and they lose an arm because Wyeth Pharmaceuticals made a mistake, then there should be some way to respond. Under this legislation, they would not be able to.

The bottom line is, we have a piece of legislation that is designed to be introduced not to improve the question of medical malpractice insurance, it is designed not to make hospitals safer, it is designed not to make patients safer, it is designed not to save money. It is designed to raise money. I guarantee you after the vote on this issue, all the fundraising letters will go out: Isn't it terrible, isn't it terrible, the Senate is standing in the way of much-needed malpractice reform?

It will not say: There were some in the Senate who were willing to stand up and not let the Senate run roughshod over our State legislatures.

It will not say: There are some in the Senate who were willing to stand up and say the insurance companies are not telling the truth on this issue.

It will not say: Some in the Senate were saying the very powerful contributors to the Republican Party with their $1 million ads are wrong and somebody had to say no. It won't say that.

But what it will say is the Senate would have wasted another week and a whole lot of fundraising letters will go out.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, the thought occurred to me, even though we have not done much here in the last few days, the last few months, or so, we see a number of people come to the floor and say we have to have immediate votes on the handful of the remaining judicial nominations. They say there is a handful out there we have to have. Interestingly, they are ignoring that 173 judges have already been confirmed, ignoring the fact that when Democrats were in control of the Senate we moved President Bush's judges through a lot faster than Republicans have. But I suppose if they talk enough about it, people will not realize the Republicans have moved far slower on President Bush's nominees than the Democrats did. But there is another point.

What they are really saying is that we have to give $163,000 a year lifetime jobs to three of the most controversial judicial nominees submitted by President Bush. To hear them talk, one would think this is the number one priority on the part of the American people: is giving three judges—highly controversial, highly political, highly ideological—a lifetime job paying $150,000, $160,000, $170,000 a year.

Frankly, I think a lot more people are worried about the millions of Americans who have lost their jobs and the millions more who worry they are going to be the next victims of outsourcing. I think that is really what is on the mind of the American public, not three more highly paid lifetime judicial appointments. They are far more worried about the millions of Americans who are out of jobs, millions of Americans who are seeing their jobs go to India and everywhere else, and millions of American families where both mother and father bringing in paychecks are barely making the mortgage. They are not the ones getting the $160,000 a year lifetime jobs.

For the public and for the Democratic Members of the Senate, our higher priorities right now have to do with the millions of Americans who are trying to find or keep their jobs. Our higher priorities have to do with securing adequate health care for the members of our National Guard and Reserves. Our priorities have to do with getting decent health care for our veterans and our service men and women who have brought the injuries home from service in Afghanistan and Iraq.

To be charitable, these crocodile tears about judicial nominations are just a tad disingenuous. Let's review the record.

The earlier Democratic-led Senate confirmed more Bush judicial nominees than the Republican-led Senate has. We confirmed 100 of the 173 Bush judicial nominees. Democrats actually did better for the President than the Republicans have.

So 173 have been confirmed. Six of the most controversial have been blocked. Two of them have been unilaterally appointed by the President during Senate recesses. One has withdrawn to rejoin a lucrative job with a law firm. So three were blocked. I have never heard so many tears shed for these three. I don't see any tears shed for the millions of Americans out of work. I don't see any tears shed for the millions of Americans whose jobs are being outsourced, but one would think that, with these three, the whole Nation is collapsing.

The irony is the same people coming down here to the floor and crying about these three, sobbing about these three, did not say one word when they blocked 61 of President Clinton's nominees. They blocked 61, and you would think the sky is falling because we stopped three. Oh, give me a break.

Let's look at what they do not want to do. During the past two weeks, we have wasted so many hours in quorum calls and cloture votes to serve the Republican leadership's goal of avoiding votes on votes that will help American families. The Republican leadership is blocking a vote on raising the minimum wage. They are blocking a vote on extending unemployment benefits. They are blocking a vote on protecting people from the new overtime regulations of the Department of Labor. Why?

During these past two wasted weeks, 687,000 more Americans filed first-time claims for unemployment insurance, yet Republicans are only talking about three jobs. Give me a break. I suspect the reason they are talking about these three is because they do not want the American people to know they blocked unemployment benefits, they blocked raising minimum wage, they blocked protecting overtime compensation. These are the people who actually have to go out and pay their mortgages. These are the people who actually try to figure out how they are going to pay to send their children to school. These are the people who live from paycheck to paycheck.

I say they blocked the Senate from extending unemployment benefits. According to figures recently released by the Labor Department, the unemployment rate held steady at 5.6 percent because hundreds of thousands of people stopped looking for work. They could not find work. This has left too many unemployed Americans without benefits for months.

They call it an economic recovery. It is a jobless economic recovery if it is an economic recovery at all because millions of Americans still cannot find jobs. Our law gives them 26 weeks of unemployment benefits, and up until the last day of 2003, if you were still looking for a job, our law would offer a 13-week extension. We tried to make a 13-week extension. Can we do it? No. Do you know why? Because the Republican leadership will not even allow us to vote on it. Are they afraid that maybe some of their own Members might now be feeling more compassion for these millions of Americans who are out of work than they do for three lifetime appointments?

Which priorities are they serving? Apparently not most working Americans. They would not even allow a vote on the Cantwell amendment.

Then we tried to raise the minimum wage. Why now? The last minimum wage was signed into law by President Clinton almost eight years ago. While they are caterwauling about a $160,000 lifetime job for three nominees, do they really believe that families could meet their basic needs on a minimum wage of just $5.15 an hour? The people who are making $5.15 an hour are real Americans, and the Republicans will not even allow us to vote for the first time in eight years to raise the minimum wage. The purchasing power of today's minimum wage is already below that of the minimum wage before 1996. To save the same purchasing power as it had in 1968, the minimum wage would need to be $8. Even in Vermont, where our state leaders have helped working Vermonters earn wages that are somewhat more livable, the minimum wage is still worth less than it was 35 years ago.

More people are out of work, underemployed, and struggling to keep roofs over their family's heads and food on the table than at any time since the administration of Herbert Hoover. Today there are more economic pressures squeezing them, with health care costs becoming unaffordable and gasoline prices reaching the highest level in my age. Despite the millions of American families with children who would directly benefit from a raise in the Federal minimum wage, Senate Republicans blocked a vote on the Boxer-Kennedy amendment to the welfare bill that would raise the minimum wage to $7 an hour in three steps over a 2-year period.

The Republican leadership is also blocking the Senate from making sure hard-working Americans are fairly compensated for working overtime. The Bush administration will soon be releasing final regulations changing the Federal rules on overtime pay. They will cut eight million middle-class Americans out of the ability to earn overtime pay.

We give tens of thousands of dollars in tax breaks to the people who go to these large fundraisers, but we take away overtime for eight million Americans who are barely making it? In fact, the regulations are so slanted against American workers that they will include a list of cost-cutting suggestions for big businesses to show them precisely how they can avoid paying overtime compensation to workers not singled out in the rules.

Bipartisan majorities in both the Senate and in the other body oppose what the Bush administration wants to do in taking away overtime pay from eight million Americans, but this year

the President threatened to veto the Omnibus appropriations bill if it included provisions to overturn the overtime regulations. After all, too many people who attend these large fundraisers have been told we will find a way for them to take those eight million workers off the overtime rolls. And unfortunately the Republican leadership in this and the other body said, yes, Mr. President, if you want to take those eight million off, we will go along with you, we will take them off.

Of course, we want to have another vote, a vote on the Harkin amendment, to express our disapproval of the labor regulations, either vote it up or down. After all, the Republicans are in the majority in this body. If they want to approve of the move of the administration of President Bush to deny overtime pay to eight million Americans, then they can vote and say they agree with it. We want a vote one way or the other, but they will not allow the vote. They are blocking that vote.

So I think we ought to talk about real people, people who live from paycheck to paycheck. We ought to talk about the votes that are being blocked to extend unemployment insurance, the votes that are being blocked to raise the minimum wage, the votes that are being blocked that might allow them to collect overtime pay for overtime work. One can imagine in the corporate boardroom they suddenly say, wait a minute, we could just have somebody work another 20 hours and we do not have to pay any overtime, we do not have to hire extra people, man, this is wonderful for us. And they can talk about it when they go out to the golf club.

We ought to ask, where are the priorities of the American people? Where are the Democratic priorities in the Senate? Where are the Republican priorities in the Senate? Should our top priority be right now to find good six-figure jobs for a handful of the President's most controversial activist judicial nominees, or should we give our time and attention to the millions of Americans living paycheck to paycheck who need help, the eight million Americans who are suddenly going to find they cannot earn overtime pay, and millions of Americans who have not had a raise in the minimum wage for eight years?

I think the priorities of the Democratic Members of the Senate are the people's priorities. Unfortunately, the priorities of my friends on the other side seem to be the priorities of the very privileged few.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, we all know we are likely to pass only a few major tax bills this election year, and we know one of the most important tax bills is the jobs in manufacturing bill that comes up for a cloture vote tomorrow. We know the only way the JOBS in manufacturing bill can pass is a ''yes'' vote on the motion to stop debate or, as we call it in the Senate, cloture. That vote will be tomorrow.

Once again, we must ask, will the Democrats say no to cloture? Will they say no to stopping debate? Will they refuse to allow us to get to finality on this very important bipartisan legislation that when it comes to a final vote will overwhelmingly pass in the Senate? Will they go on record opposing the provisions that are in this bill? Democrats should not because this is a bipartisan bill. This is a bill that every Democrat member of the Senate Finance Committee voted yes on to report it from committee.

Keep in mind that the jobs in manufacturing bill could be the last train out of town this year. It has to get done if we are going to end the sanctions and tariffs that have been put on U.S. exports to Europe as a result of the United States not following our own trade agreements.

Each time a Member votes against stopping debate, it lessens the chance that this bill is going to go forward. In fact, it kills off many good measures in the jobs in manufacturing bill. From the very beginning, this bill was overwhelmingly bipartisan. In fact, there was a bipartisan agreement that we need to pass this bill because there is a bipartisan agreement of long standing that the United States agrees to international trade agreements, and we have an obligation to do our part and live up to those agreements.

A ''no'' vote on this motion tomorrow is an obstruction to the bipartisanship that is expressed in the language of this bill.

I would like to briefly go through some of the measures that are in this jobs in manufacturing bill. What I am going to refer to is what a lot of Members of both political parties have asked for the consideration of by my committee and for inclusion in the language of this bill. I will go over what is in this bill and sincerely ask why the Democrat leadership is willing to tell its members to kill the bill by voting no to stopping debate.

This bill will end $4 billion a year of sanctions against the United States and our exports. As of March 1, those sanctions are being imposed against U.S. exports of grain, timber, paper, and manufactured goods.

You will later hear my comments on the products that are being hit right now by sanctions. I think each Member ought to know how this is affecting the economy of their district.

First, manufacturing jobs are good jobs in America. They pay 15 percent above the national average. If jobs are related to exports, there is a tariff on your exports in another country and we aren't competitive, those jobs aren't going to exist very long.

Think about what that would do in Waterloo, IA, for one-fifth of the tractors that come off the assembly line being exported. We couldn't afford to lose one-fifth of the jobs at John Deere in Waterloo, IA, because of these tariffs.

We can end the sanctions that are in this bill, but will the Democrats say no to cloture so we don't end sanctions?

This bill provides $75 billion of tax relief to our U.S.-based manufacturing sector to promote factory hiring here in the United States. It is not going to benefit corporations for that portion of their manufacturing overseas.

Will the Democrats say no to $75 billion worth of help, and help create jobs in factories in America, particularly considering the fact that every day you hear comments about outsourcing, and they expect us to do something about outsourcing? This bill will do something about outsourcing.

The jobs in manufacturing bill extends the research and development tax credit through next year. This is a domestic tax benefit that generates research and development in the United States. That translates into good high-paying jobs for workers in the United States—not overseas. The amendment we had on research and development passed overwhelmingly with a bipartisan vote.

Why would Democrats say no to a bipartisan provision in this bill? Will they? I hope not.

The jobs in manufacturing bill extends for 2 years many tax provisions that expired either last year or are going to expire this year. This would include items such as a work opportunity tax credit and the welfare-to-work tax credit and make the merger of those credits permanent. Senator BAYH and Senator SANTORUM asked for these provisions, and we included them. Will these Senators vote for cloture? They should.

Senator BREAUX and Senator SNOWE asked for a provision that allows naval shipbuilders to use a method of accounting which results in more favorable income tax credit treatment. We included that provision in this bill for Senator BREAUX and Senator SNOWE. They each have reasons to vote for cloture to get these amendments to the President for his signature.

There are enhanced depreciation provisions to help the ailing airline industry. Senator LINCOLN, Senator BROWNBACK, and Senator ROBERTS asked for these provisions. I hope they will vote to stop debate tomorrow so we can get to finality on this legislation.

There are what is referred to as new homestead provisions. These were requested by Senator DORGAN, Senator BAUCUS, Senator THOMAS, Senator ENZI, and Senator CRAPO. I hope these Senators will vote to stop debate so

what they have asked me to do can get to the President for his signature.

There are rural development provisions to create businesses in counties that are losing population. For example, they provide incentives for starting or expanding rural businesses in a rural outmigration county when it hits a certain percentage of outmigration.

At the request of Senator DORGAN, we also included a new market tax credit for high outmigration counties. These credits help economic development in rural counties that have lost over 10 percent of their population.

There is only one way this homestead and the new market provisions can become law; that is, to have the Senate stop debate. That takes 60 votes.

For Senators we have tried to work with to get their provisions included, if they aren't willing to help stop debate and move this bill along, why would they even ask me to include provisions in the bill if they do not want this bill to move along?

The jobs in manufacturing bill includes brownfields revitalization which was requested by Senators LAUTENBERG, DOLE, and INHOFE. The bill helps tax-exempt investors that invest in the cleanup and remediation of qualified brownfields sites.

I hope those Senators who asked me to include their provisions in my bill will decide they should vote to stop debate. Without getting over that hurdle, you never get to final passage.

Senators BOB GRAHAM, BREAUX, and HATCH asked us to include the mortgage bonds revenue measure. It would repeal the current rule that doesn't allow revenue bond payments to be used for issuing new mortgages.

There are 70 cosponsors of this bill. The 70 Members who took time to study this provision on mortgage revenue bonds and signed it surely want this bill to become law. Otherwise, why would they put their signature on it? That means that tomorrow those 70 Senators ought to be stopping debate so we can move on to finality.

Another provision is allowing a deduction for private mortgage insurance. This was asked for by Senator LINCOLN and Senator SMITH. It benefits people struggling to afford a home. I hope no one votes against their idea. Home ownership is the dream of all Americans. It is the American dream. This provision helps that along a little bit.

Some might say we have the highest percentage of home ownership this country has ever seen at 68 percent. Yes. But what about the other 32 percent? This might help some of those people who might not otherwise be able to afford a home.

In most cases, you have to buy mortgage insurance. If you buy mortgage insurance, it costs money for lower income people who are on the edge of owning a home or not owning a home. This might just help them get their loan through. But a vote against cloture would be a vote against this deduction that might bring the American dream to a few more young people.

Our bill includes the tax credit for employers for wages paid to reservists who have been called to active duty. Senator LANDRIEU and Senator ALLEN asked for this provision. I hope we will have their vote tomorrow, if they are serious about helping our guardsmen and reservists who have been called to action because of the war on terrorism. Otherwise, what is the point of asking me to put this in the bill if they are not helping us to move it to finality?

At the request of Senator SCHUMER and Senator CLINTON, we have extended and enhanced the Liberty Zone bonds provided for the rebuilding of Lower Manhattan. We also included $200 million in new tax credits to be used for rail infrastructure projects in the New York Liberty Zone; again, responding to the needs of the people in New York because of what happened on September 11. These two Senators came to me and asked for consideration of these provisions in this bill, and in a bipartisan way, we try to do things and we have responded accordingly.

Are they serious about getting these provisions into law for their New York constituents? If so, then they ought to vote for cloture and move this bill to finality.

We even included the renewable communities provisions requested by Senators CLINTON and SCHUMER.

Will the Senate Democratic leadership ask their members to vote against Liberty Zone funding for meeting the needs of the people of New York by voting no on cloture? We should not deny funding for the Liberty Zone just to prove a political point on a proposed labor regulation that may never be finalized in the first place. Even if it is finalized, Congress can always overturn it under the Congressional Review Act.

Hundreds of regulations are proposed in Washington every week. Very few make it to the finish line. So why is the Democrat leadership holding up funding for the Liberty Zone over a proposed regulation? This is not responsible governance. This is not responsible opposition. There is a legitimacy in our form of government, one party being in the opposition and the other party being in the majority. They play a very important role in making people responsible. Do we hold up every piece of legislation because it is an election year and Members think next year they might be in a majority, so they can do what they want to do?

All of these requests that are made to me, why not hold them up until next year? Then I would not have to be considering them at this point. If they are important, we ought to move this legislation along. In other words, we should have responsible opposition in the process of everybody making their points.

The Liberty Zone needs our help, and we need to behave as adults and get this bill completed.

In the jobs in manufacturing act we increase small business industrial development bonds to spur economic development in rural areas. This was requested by Senator PRYOR and Senator THOMAS. I hope they will vote for cloture tomorrow.

We have bonds for rebuilding school infrastructure. These were requested by Senator CONRAD.

We have included tribal bonds in the jobs in manufacturing bill, requested by Senator CAMPBELL and Senator JOHNSON. I am sure this is supported by Senator DASCHLE, as well, because he has a record of supporting Native American projects. These bonds allow the same rules that apply to tax-exempt bonds for State and local governments to apply to Native American tribes issuing tax-exempt bonds to finance facilities on their reservations. That is just an explanation, not something new. In other words, if it is good for one State and local government, why shouldn't it be good for the governance of our tribes?

We have included tribal school bonds, again, as requested by Senator JOHNSON and Senator CAMPBELL. Under current law, there is no class of bonds designated for the purpose of encouraging school construction on Indian reservations. This provision fills that void. We have a tribal new markets tax credit which was added at the request of Senator DASCHLE and Senator CAMPBELL. This amendment adds $50 million a year to economic development on reservation land.

Will the Democrat leadership tell Democrats to vote against closing debate and kill these Native American measures? Again, if they do not want to get it done, why did they come to me and ask for me to include these things?

We have also included the Civil Rights Tax Fairness Act. This is at the request of Senator BINGAMAN and Senator COLLINS. This is very important.

We have Senator CONRAD and Senator SANTORUM and Senator BUNNING asking we add a change in section 815 of the Tax Code. The provision suspends applicable rules imposing income tax on certain distributions to shareholders from the policyholder's surplus account of a life insurance company. This is included in the bill.

We have a special dividend allocation rule that benefits farmers' cooperatives. Senator LINCOLN and Senator COLEMAN asked it be included.

We have other farm provisions that give cattlemen tax-free treatment if they replace livestock because of something beyond their own control, such as drought, floods, or weather-related conditions. Senator DASCHLE and Senator THOMAS asked for that.

At the request of Senator CANTWELL and Senator THOMAS, we included a provision that allows payments under the National Health Service Corps loan repayment program to be exempt from tax. This is an important measure to enhance the delivery of medical services in rural America.

We included the passenger rail infrastructure tax credits at the request of

Senator CARPER. It provides $500 million for intercity passenger rail capital projects. We also included the shortline credits requested by Senator SMITH and Senator BROWNBACK.

At the request of Senator ROCKEFELLER and Senator HATCH, we added a provision to allow taxpayers to apply their bonus depreciation against the alternative minimum tax credits. This measure is very important to the steel mills of West Virginia; hence, Senator ROCKEFELLER.

A provision benefiting Oldsmobile dealers was included at the request of Senator BAUCUS and Senator BINGAMAN. The proposal provides tax-free treatment for Oldsmobile dealers because their franchise is being terminated.

How many times have we heard Members talk about the need to make broadband available in rural communities? We know it is essential to the economic competitiveness of rural America, particularly since we see so many Asian companies, so far in advance of the United States in broadband. To keep our economy competitive, it ought to be here. But we also know many Democratic Senators support this. It is, likewise, in the bill.

Senator MURRAY and Senator SMITH asked for the forest industry bond provisions in this bill. That allows nonprofits to use tax-exempt bond financing to acquire forest land, to achieve better balance between the goals of conservationists and the timber industry. Up to $1.5 billion in bonds may be issued under this program. That, sir, is a lot of conservation money.

At the request of Senator BOXER, we have included a proposal that would allow employers to take a 50-percent tax credit against the FICA taxes for wages paid to the first responders who are called to active duty. We added a second measure at Senator BOXER's request. This proposal would allow farmers and ranchers to take a 30-percent credit for the installation of irrigation equipment which reduces water use. The credit would be limited to land that has received drought assistance during the past 3 years.

Anyone who votes against cloture is voting to kill all the items I just listed. Why would people come to me as chairman of the Senate Finance Committee and ask me to include provisions in the bill if they do not want to get this bill to the President for signature? Tomorrow, they have their chance.

We had debate extended on this bill 2 weeks ago, and we had a vote to stop debate. Debate was not stopped. So tomorrow we vote again. We have to get over this hurdle to get all these provisions that have been requested in this bill and to get it to the President for his signature.

I hope Members are sincere about all this legislation that is introduced. I hope Members are sincere in telling me how important their amendments are to this bill. I hope Members will show that sincerity tomorrow when we have a chance to stop debate and complete this bill.

All the beneficial provisions I have just discussed are being held hostage this minute because the Democratic leadership is pushing for a vote on an issue that is not even in this bill. The vote is an attempt to embarrass the administration in an election year about a proposed labor regulation on overtime. The Democrats said the regulation was going final, and they had to add it to the jobs in manufacturing bill; otherwise, they would block this bill. That was 2 weeks ago. The regulation is still not final. And who knows, the way bureaucracy moves, it may never be final but continue to tilt at windmills, and what will come.

But it seems to me that it is politics all the time. It is politics from the Democrat leadership, and it is obstructing an important piece of legislation. More importantly, right now, it is obstructing legislation that most of the members of the other party have asked me to include in this bill. Now, why do you ask me to include it in the bill if you are not going to vote to get the bill to the President? This sort of obstructionism is inexcusable because we have worked hard throughout this process to make sure that everyone's concerns—both Republican and Democrat—were incorporated into this bill. Why? Because I know you do not get anything done in this body that is not bipartisan.

People who want to be partisan can be partisan, but they are not going to get done what they want done either. So you bring the Senate to a standstill. We have tried, in the spirit of bipartisanship, to respond. This legislation and all these amendments included are responding to that bipartisanship. You see that effort in the amendments I just listed.

But if it were not overtime, it would be something else to obstruct this bill. It could be the minimum wage; it could be trade adjustment assistance for services; it could be some kind of health care issue—anything to block the jobs in manufacturing bill at the very same time people on the other side of the aisle are complaining because we are not doing enough to stop outsourcing. This bill will help do that.

It is all about the Democratic leadership keeping the European Union sanctions in place to drive down the economy, because if the economy is not very good this fall, they think they have a better chance of electing their people. This is outrageous when you consider the bipartisan history of this jobs in manufacturing bill.

The JOBS bill is a completely bipartisan bill. Construction of the bill began when Senator BAUCUS was chairman of the Finance Committee in 2002. Senator BAUCUS and I have always worked with our Finance Committee colleagues on the bipartisan development of this Foreign Sales Corporation/Extraterritorial Income Act repeal and also the international tax reform provisions of this bill.

Let me emphasize, there is not one provision in this JOBS bill that was not agreed to by both Republicans and Democrats. I have already said, every Democrat in the committee—all 10 of them—voted for this bill to be reported out of committee. We have acted in good faith to produce a bill that protects American manufacturing jobs and to make our companies globally competitive—the same thing you hear Senator KERRY speaking about on the campaign trail, about making our corporations competitive. In fact, he even has a proposal that would reduce corporate taxes the same way we do.

Let's get on with the business at hand and finish this bill; vote for cloture tomorrow, stop debate, put this bipartisan jobs in manufacturing bill ahead of partisan politics. Then we can show the people of this country that the adults are in charge of the Senate, and we can get the JOBS bill—creating jobs in manufacturing—out of the Senate and eventually to the President.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Mississippi.

Mr. LOTT. Mr. President, I appreciate the chairman's comments on the need to move this legislation forward.

Mr. President, let me just inquire in terms of parliamentary procedure, are we open for general debate?

The PRESIDING OFFICER. We are on the motion to proceed. There are no limits on debate.

Mr. LOTT. Thank you, Mr. President.

I did come to the floor last week and speak to the need to move this very important jobs growth, FSC/ETI issue and not have a filibuster and complete our work. If we do not, we are going to see that we are going to be hit by a continuing increase in fines by the European Union because we are not complying with the World Trade Organization ruling of over a year ago.

I also said we stand to benefit from the tax proposals in this legislation, and I urged that we complete this work. In fact, I said we have no alternative but to complete this work. I am glad the leadership is going to continue to push this issue because we must get it done.

I do want to say now that I understand that perhaps a decision was made to attach tax provisions from the Energy bill to this bill, and I think that was a mistake. I am going to have to review what that means in terms of my own vote. Instead of helping move this legislation, and other legislation, it may have complicated both of them. But I hope we can find a way to get this done.

Mr. President, the reason I came to the floor this afternoon, though, was to speak in support of S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004. We have a health care crisis in America. Health care is becoming more and more difficult to obtain, to afford, and to be assured that it is the quality that you might need. In rural States such as mine and Senator GRASSLEY's State of Iowa, the

issues of access and distance, or being able to get trauma care or care from obstetricians and gynecologists, present real problems.

I also think we have to acknowledge that the cost is becoming more and more difficult and more and more prohibitive. The cost of health care insurance continues to go up. The cost of medical liability insurance continues to go up. When you talk to trauma emergency care doctors, when you talk to OB/GYNs, they are paying $85,000, $100,000, $125,000 for medical liability coverage. How much will it be? There is no limit?

There is no question, in my mind, many of these doctors are now practicing what we would describe as defensive medicine. They are prescribing additional procedures. They are taking extra precautions to make sure they do not get sued. That, by the way, continues to drive up the cost of health care. So it has become a big problem in this country.

Escalating jury awards and the high cost of defending lawsuits, even the frivolous ones, are increasing medical liability premiums nationwide, and they are having devastating effects on the health care of millions of Americans. Medical specialists, including neurosurgeons, obstetricians, and emergency physicians, are being forced to cut services, retire early, or move their practices to other States.

This past Saturday night, I was in Augusta, GA, for an event for Congressman NORWOOD, a Congressman who has been very much involved in patients' rights and health care issues. I was informed that one of the neurosurgeons in Augusta recently moved from my State of Mississippi. It is not an isolated incident. It is a pattern. Augusta has several neurosurgeons. Mississippi has a declining number, even in places where they are needed to provide trauma care services in larger metropolitan areas.

Nineteen States are in full-blown medical liability crisis now, and 25 States are showing signs of crisis. Only 6 States are considered stable, each of which has instituted reforms.

Ninety-eight percent of osteopathic students acknowledged in a recent survey that medical liability issues will influence their future career decisions. Seventy-three percent say medical liability issues will ''significantly'' influence their decisions—in other words, where they practice, whether they practice, and what kind of medicine they practice.

Medical liability costs the Federal Government well over $50 billion per year. The source of that information is the Department of Health and Human Services. I have heard the discussions over the years: Well, you guys from Mississippi, and other similar States, have always talked about the States should deal with these issues. This is a States rights issue. It is a State problem.

Let me tell you what: When it costs the Federal Treasury $50 billion, this is a national problem. This is not just a problem in Mississippi, Alabama, Arkansas, or Iowa; it is a nationwide problem. Very few States—even those that have passed medical liability reforms—have been able to stem this tide of abuse and costs that are really causing difficulties in a number of States and in the health care of this country. So we have to do something.

Here we are in the Senate with this crisis looming out there that affects children, babies, mothers, elderly, emergency care needs; all of them have been held up while the Senate cannot even proceed to debate the legislation. That is what we have here, the motion to proceed. That is indefensible. How could we not at least take this issue up and have a full discussion about its dire consequences?

Let's talk a little bit about what the bill does. This is not something that just popped out of a committee or hasn't been thought through clearly. This issue has been pending for a long time. Some of the legitimate concerns have been addressed.

The bill provides reasonable guidelines to govern liability claims related to the provision of obstetrical, gynecological, emergency and trauma care goods and services. I want to emphasize, this is a limited bill. This is not all medical professions. This is targeted to those people who treat us when we are in the greatest need of health care, when we are going into an emergency room or a trauma facility as a result of an automobile accident, or doctors who deliver and look after our children and the mothers of those children. Can we not at least provide some medical liability reform and protection there so we can keep these doctors in the practice?

More and more in my State and all across the country doctors who have in the past practiced obstetrical and gynecological work are dropping the obstetrician part because they are being sued. The insurance is becoming prohibitively expensive in terms of the cost it is putting on these doctors.

The bill sets a statute of limitation of 3 years after the date of manifestation of an injury or 1 year after the claimant discovers or should have discovered the injury. That is reasonable. You can't say 5 years later: I had a problem back there. It says you have to exercise your right within 3 years or 1 year after you discovered it.

It allows recovery of unlimited economic damages, but it limits noneconomic pain and suffering damages to $250,000. This is obviously a place where some restraint needs to be employed. This is where certain juries in certain counties in certain States, mine included, have been rendering multimillion dollar decisions for pain and suffering. I think some reasonable limits there clearly would be appropriate.

This bill allows the court to restrict the payment of attorney contingency fees by applying a percentage scale based on the amount of the judgment. These lawsuits should not be about attorneys' fees. The lawsuits should be about medical costs and medical liability. What is a reasonable recovery when you do in fact have some legitimate claims?

Don't get me wrong. I do think in the American system of jurisprudence, you have a right to take your grievance to court. I would defend that. I am an attorney. But I do think the system is being abused, and it has become more about attorneys' fees than it has the injuries that were incurred.

The bill sets out qualifications for expert witnesses. Again, that is an area where there have been some abuses I am personally familiar with. It permits courts to reduce damages received by the amount of collateral source benefits to which a claimant is entitled; in other words, money paid by another entity such as a health insurance provider.

It authorizes the award of punitive damages only where a high standard is met of clear and convincing evidence that a defendant acted with malicious intent to injure or deliberately failed to prevent injury that was certain to occur.

This is very good legislation. It is targeted. It is limited in the impact it would have on restricting the coverage, but also it is limited to these particular areas of specialty I have noted.

Let me go to my own State of Mississippi, since our State is really being adversely affected by these medical liability cases. It is one of those States which has been described as a judicial hellhole. I don't like to hear that. When various entities identify my State in that sort of way, I resent it. Even if they are right, I don't like to hear it. But there is no question we have had lots of problems in my State of Mississippi. We have had a tremendous explosion of lawsuits in this health care area, very large verdicts. Physicians who are practicing in Louisiana, Mississippi, Texas, and West Virginia can clearly demonstrate how medical lawsuits have hurt our health care system. The doctors will tell you about that.

A recent survey that was done by the American Tort Reform Association, in cooperation with other groups such as the Mississippi State Medical Association, points out 84 percent of the physicians surveyed report they are very concerned about the effect of medical litigation on the practice of medicine. Eighty-one percent report they have changed the way they practice medicine because of litigation concerns. That means more cost. That is what I was referring to at the beginning. They have been requiring and prescribing more and more procedures to protect themselves against these lawsuits. And by the way, in many instances, the procedures are not necessary and not required medically. They are required to defend yourself against a frivolous lawsuit.

Eighty-six percent of the physicians believe states with a liability crisis like Mississippi increase medical malpractice insurance costs. And the list goes on. There is no question it is creating a real problem.

Again, specifics: Half of my State's 82 counties now have fewer physicians to treat patients than were available in 2001. Mississippi has fewer physicians per capita than 48 other States. So when we lose a physician, it really hurts because we already are in dire straits. In 16 Mississippi counties, the numbers of physicians remained unchanged from 2000 to 2002, but the population in those counties increased during the same period. The population growth in 62 percent of Mississippi counties outpaced a stagnant or decreasing base of physicians to treat those patients. The source of this information is the Mississippi State Medical Association.

Approximately 100 doctors have left or plan to leave the State of Mississippi. The source of that information is a Time magazine article of June 9, 2003.

Mississippi had a net loss of 73 physicians in 2002. The number of physicians licensed in the State in 2001 was 5,710. But in 2002, this number had dropped to 5,637. Since the population is increasing, since we have certain areas of the State that have experienced tremendous growth, you would think we would be increasing the number of physicians per capita. The numbers are going in the wrong direction.

I ask unanimous consent that other statistics I have about what is happening in my own State be printed in the RECORD.

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

This net loss of 73 physicians is all the more disturbing because the total number of physicians licensed in 2002 actually includes 414 newly licensed doctors—meaning that there were approximately 500 doctors practicing in the state in 2001 who were not practicing in the state by 2002. The source of my information is a Mississippi State Medical Association news release of August 14, 2002.

Furthermore, another disturbing trend is the decrease in the number of medical licenses that are being issued each year. In 2000, the medical board issued 470 new licenses; in 2001 the number was 456; and in 2002 the number was 414. The number of new licenses dropped steadily by 39 percent from 1997–2002. The source of my information is a Mississippi State Medical Association news release of August 14, 2002.

Mississippi can't afford to lose doctors when the state's population increased by 271,442—or 10.5 percent—between 1990 and 2000. The State population of 2,573,216 in 1990 grew to 2,844,658 in 2000. The source of this information is the U.S. Census Bureau.

Only two neurosurgeons remain in practice on the Mississippi Gulf Coast, and general surgeons are in short supply because of the state's medical liability crisis. ''Everybody is reduced to the same low level of trauma care that we had 20 years ago,'' said Steve Delahousey, vice president of operations at American Medical Response ambulance service. My source is the Biloxi Sun Herald, Jan. 29, 2003.

Increasing costs of medical liability insurance has reduced the number of neurosurgeons in the State by one-third, creating holes in the State's trauma system. My source is the Greenwood Commonwealth, April 25, 2003.

One major medical liability insurer, St. Paul Cos., has withdrawn from the Mississippi market, forcing as many as 1,000 physicians to find other insurers. My source is the New Orleans Times Picayune, February 2, 2003.

In Cleveland, MS, three of the town's six OB–GYNs have stopped delivering babies. Yazoo City's 14,500 residents have no OB–GYNs. According to the Mississippi State Medical Association, insurance rates for OB–GYNs have increased from 20–400 percent in the previous year. My source is the Mississippi State Medical Society.

Loss of doctors at Gulfport-Memorial: As of summer 2003, Gulfport-Memorial had 24 hour neurosurgery coverage, and now they have no neurosurgery coverage at all; had 6 neurologists, and now have 1; had 6 orthopaedic surgeons, and now have 3; had 3 vascular surgeons, and now have 2; had 9 OB–GYNs, but 2 retired due to malpractice insurance crisis, and now have 7. The source of my information is Dr. Arthur Matthews.

''Nursing homes in Mississippi have been faced with increases in total premiums as great as 900 percent in the past two years. Since Medicare and Medicaid pay most of the costs of nursing home care, these increased costs are borne by taxpayers, and consumer resources that could otherwise be used to expand health (or other) programs.'' The source of this information is a HHS medical litigation report, March 3, 2003.

Mr. LOTT. I want to make this point. We used to have several, then we had three, now we have one insurance company that is providing medical liability insurance in my State of Mississippi. This is a problem that is of great concern to leaders in the State of both parties, in the medical profession, in the business world, and those of us who are trying desperately to advance the State economically and have had some success bringing major industries into the State. While a major industry may want to know, do you have a good interstate system, do you have international airports, good schools, can you provide affordable housing, they don't always immediately ask about the accessibility of hospitals and do you have the doctors who are needed, but that is a question that eventually they come to. It is one that will affect us in the future if we don't do something about it.

Let me tell you what it means when you don't have the doctors you need. I want to give some specific examples.

Tony Dyess of Vicksburg, MS, received serious head injuries in a car accident on July 5, 2002. Since a specialist in brain injuries, or neurosurgery services, was not available in Gulfport, MS, he had to be airlifted to another hospital which led to Tony having permanent brain damage and no longer having the ability to care for himself or to have a job. The source of that is the American Medical News, May 26, 2003.

Fortunately for Elmoe Kee III of Woodville, the withdrawal of insurance coverage by St. Paul malpractice insurance provider from the State of Mississippi did not occur before he was attacked by a bank robber in a small rural county at Wilkinson County Savings Bank where he served as president. He would have most certainly died if he had not been able to get doctors to treat him almost immediately at Catchings Clinic in Woodville, MS. With the withdrawal of St. Paul as a malpractice provider, seven of the eight doctors in the area, including those at Catchings Clinic, Field Clinic in Centreville, and Gloster Clinic were left without a malpractice insurance provider beginning on June 30, 2002. The source of this information is the Jackson Clarion-Ledger of June 27, 2002.

On April 18, 2003, John Fair Lucas IV of Greenwood received a severe head injury due to a one-person car accident. Since the Delta Regional Medical Center no longer has around-the-clock neurosurgery services because of the impact of the medical malpractice insurance crisis and the loss of that coverage, John had to be airlifted to Jackson, losing valuable time because the distance from that area of Greenwood, MS, down to Jackson is about a 2-hour drive, or certainly a 30-minute helicopter ride, and he lost valuable time for the surgical procedure needed to reduce pressure on the brain. Sadly, John passed away on May 28, 2003. The source for that is the Greenwood Commonwealth newspaper, April 25, 2003.

''Jill Mahaffey says she got lucky. She and her husband are here, they live in the Delta, too. She got lucky. She heard she's pregnant. She's getting there, getting ready. She goes to the doctor, he says, I've got to leave—OB/GYN getting ready to leave because of lawsuits, because of the threats. Because even if you're a doctor who practices good medicine, you're going to get sued in this State and in other States. Believe this or not, fortunately, she was getting toxic and the doc induced labor before he quit his practice. She says she was lucky. And she was.'' This is a quote from President Bush's address to Madison High School in Madison, MS August 7, 2002.

Amber Peterson's obstetrician in Cleveland, Mississippi stopped practicing 3 weeks before her due date, and she had to drive out of State, over a hundred miles, to Memphis, Tennessee, to get the care she needed. The source of this information is the U.S. Department of Health and Human Services, from a report dated July 24, 2002.

Marine Hawkins, 20, of Boyle, Mississippi, was shocked to hear from her obstetrician that he was closing his practice—just 2 weeks before her due date of July 21. The nearest doctor is 30 minutes away. She doesn't have a car and will have to rely on relatives to get there. ''This isn't what I needed now,'' she said. The source of this information is the Houston Chronicle, July 20, 2002.

In February 2003, Sharkey-Issaquena Community Hospital in Rolling Fork,

MS saw its insurance premiums rise from $163,000 to $223,000. Because of this rise, the hospital was forced to close its doors for 3 weeks while the hospital looked for an alternative insurance policy after being discontinued by its previous insurer. During these 3 weeks, Sharkey-Issaquena had to contract paramedics to treat patients while they were being transported by ambulance to the closest hospital. The source of this information is the American Medical News May 26, 2003.

In 2002, 10 physicians left Greenwood Leflore Hospital because of the State's problems with medical liability insurance. Also during 2002, the hospital's liability insurance premium increased from $150,000 per year to $1.3 million. The source of this information is The Greenwood Commonwealth, June 26, 2003.

On Sept. 30, 2002, officials at Forest General Hospital announced they are eliminating nearly 300 positions—200 of which were already vacant—to save an estimated $7.6 million in the new fiscal budget. Citing causative factors that prompted the cuts, hospital president Bill Oliver stated that Forrest General was hit last year with a dramatic increase—about $4 million—in medical malpractice insurance. The source of this information is the Hattiesburg American Oct. 2, 2002.

Mr. President, let me talk a little about exactly what is happening with the doctors in my State.

In February 2003, 14 doctors in the Oxford area in various medical fields were left without malpractice insurance and were forced to close their doors because their insurer, Doctors Insurance Reciprocal, went into receivership on February 13. Doctors are slowly, surely leaving the area to go to bigger areas, or even to other States.

I was in my hometown area, Pascagoula and Moss Point, MS, on the Gulf Coast, and met a new impressive doctor in the community. He was also involved in the trauma unit because he was an orthopedic surgeon. He moved to Mississippi from the State of Missouri. He is an African-American doctor. He was doing a great job. He told me because of the insurance coverage situation, even though his family wanted to stay on the Mississippi Gulf Coast, it looked as if they might have to return to Missouri. Other doctors have been either leaving the State or getting out of the practice of obstetrics.

In the case of Dr. Don Gaddy, as well as four other obstetricians and three nurse-midwives, they filed notice to take a 1-year leave of absence from Memorial Hospital at Gulfport, MS, because of extreme increases in medical malpractice insurance coverage. The source of this information is the Biloxi Sun-Herald, April 18, 2003.

Dr. Gregory Patton, an OB–GYN with the Oxford Obstetrics and Gynecology Associates PA in Oxford MS, reports that his malpractice insurance premiums have gone up 60 percent—with each doctor paying $67,000. The source of this information is The Daily Mississippian June 10, 2003.

Drs. Blackwood and Baugh's temporary departure left no OBs in Cleveland for about 10 days. Only one family physician continues to deliver babies at the local hospital. But the malpractice insurance providers that are protecting them are only ''Band-Aid insurance.'' The source of this information is American Medical News Sept. 9, 2002.

Dr. Kurt Kooyer left the small town of Rolling Fork after getting fed up with lawyers filing suit against him without even the patients' knowledge that they were filing suit against their physician. Dr. Kooyer was the only pediatrician among three physicians in town who lowered the infant mortality rate from an average of 10 deaths per 1,000 live births to 3.34 deaths per 1,000. Dr. Kooyer now lives in North Dakota. The source of this information is The Clarion-Ledger Aug. 23, 2002.

''Dr. Frothingham, you talk about a man with heart. You think Kooyer has a heart? Wait until you hear Frothingham. He's a great Mississippian; grew up here; thought he might try to live in South Carolina, realized what he was missing, came back to Mississippi. He's a neurosurgeon. He talked with deep compassion about a man who suffered a trauma, a fellow he was with—Johnny was with us today. He's a guy who understands that practicing medicine is more than just technology. It's concern and care. They're running him out of business. There's too many frivolous lawsuits. And that hurts the state and it hurts the country. It hurts the people.'' This quote is from President Bush's address to Madison High School in Madison, MS, August 7, 2002.

On July 15, 2003, Drs. Derveloy and Gilmore, the only two heart surgeons in Oxford, are closing their practice. They contribute their relocation to a shortage of key elements: facilities, cardiologists, affordable medical malpractice insurance and regional referrals. Dr. Derverloy is joining an existing group off heart surgeons who are practicing in Tupelo, and Dr. Gilmore recently accepted an offer to set up a heart surgery program in Decatur, Ala. The source of this information is The Oxford Eagle June 8, 2003.

Also in Oxford, the two cardiologists with the Oxford Heart Clinic, Dr. Nelson Little and Dr. Timothy Wright, are merging their practices with a Tupelo office, but will keep their local office open, which followed the loss of Oxford's only two heart surgeons, Drs. Derveloy and Gilmore. The source of my information is The Oxford Eagle, June 8, 2003.

Five doctors at the Family Practice/After Hours Clinic on U.S. 98 West have posted a sign on their doors informing patients that no appointments are being scheduled for 2003. The physicians are also filling out applications for licensing in Alabama and Louisiana. The doctors explain the possible departure from Mississippi by the clinic's malpractice insurer informing them recently that their premiums will increase 45 percent on Jan. 1, 2003. The source of my information is the Hattiesburg American, Oct. 2, 2003.

OB/GYN Mark Blackwood of Cleveland has seen his practice load nearly double since three physicians quit delivering babies in the area. His insurance lapsed in July, forcing him to close his clinic for ten days leaving dozens of patients without a physician to deliver their babies. He and his partner have seen an increase in the number of suits filed against them since the new legislation passed. The source of this information is the Mississippi State Medical Association Dec. 1, 2002.

Radiologist Ken Duff was able to get coverage less than twenty-four hours before his old policy expired. He and his eleven partners cover two hospitals in Hattiesburg, facilities ion Columbia, Collins and Tylertown, as well as two large outpatient facilities. Without diagnostic radiology services patients have to wait longer to get test results, and other physicians will have to find new specialists to consult. The group desperately needs new recruits to cover demand. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

General Surgeon Brian Anthony of Bay St. Louis practices more defensive medicine and no longer does vascular work. He plans to retire 10 years early because of the litigious environment. He says other physicians often consult him in order to document their cases and to reduce their exposure. He and the remaining surgeon in the area are considering whether they will continue to provide trauma services. The source of this information is the Mississippi State Medical Association Dec. 1, 2002.

Neurosurgeon Terry Smith has not had a vacation in five years because there is not enough neurosurgery coverage to take care of his patients. He is one of only three neurosurgeons covering trauma cases for seven hospitals on the Gulf Coast. When he lost his insurance in August 2002 he had to go on staff with a hospital in order to continue to practice in the area. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

Otolaryngologist Gene Hesdorffer of Hinds County had to close his practice on December 31 and was forced into full-retirement because he could no longer afford insurance. His insurance carrier informed him they were doubling his rates despite the fact that he has never been sued. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

OB/GYN Al Diaz of Ocean Springs has insurance until December 2002. He has lived on the Coast for 20 years but is now looking at practice in Mobile, Alabama, and Slidell, Louisiana. Both his son and daughter-in-law are training in Louisiana but will not return to practice in Mississippi. The entire group of

four OB/GYNs just renovated their clinic in Ocean Springs and opened an office in Biloxi when they were told their insurance carrier would no longer be doing business in the State. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

Surgeon Cecil Johnson of Lauderdale County plans to retire soon. Until then he will continue to order more tests, x-rays and consultations in order to back up diagnoses. He also plans to drop vascular surgery in hopes that he will be able to find more affordable insurance. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

Internist Bob Lewis of Wilkinson County spent a week treating patients at the local emergency room while his clinic was closed. The group could not find coverage and the only quote they could get was $355,000. The four-man group paid $67,000 last year. Family Practice physician Jennings Owens and his group serve nearly 40,000 patients. He is upset that the hospital had to hire physicians in order to insure them. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

ER physician Bob Corken had to find insurance from Lloyd's of London for this ER group which services a hospital in Washington County and three others in the Delta and Central Mississippi. Corken found insurance at the eleventh hour in order to avoid work stoppages and temporary closure of at least one emergency room. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

Orthopaedic Surgeon Alan Swayze, MD of McComb took on more patients last year than ever before—partly because there are few orthopaedic surgeons in the area. Now he is leaving Mississippi and opening a practice in Georgia because his liability insurance to practice in Mississippi skyrocketed to $125,000 per year. His premium in Georgia will be $14,000 annually. The hospital administrator in McComb said the prospects of recruiting replacement physicians to McComb is ''bleak.'' The source of this information is the Enterprise Journal, June 12, 2003.

In April 2002, State Commissioner George Dale said, ''It's just a matter of time until insurance companies will say they're not going to cover medical providers in Mississippi.'' That time has arrived. Dozens of insurers have either discontinued writing medical malpractice in Mississippi or raised their premiums to such a level that doctors—like those at the Family Practice/After Hour Clinic—are being forced to consider relocating out of state. According to a survey conducted recently by the Rating Division at the Mississippi Insurance Department, 36 companies offered medical malpractice insurance in all categories in 2000. As of Sept. 10, there are only two licensed regulated, companies still providing medical malpractice insurance to physicians and surgeons in Mississippi. The main reason insurance companies give for hiking premiums and/or leaving the state is their concern about Mississippi's civil justice system, which has generated over 100 verdicts of $1 million in the last 6 years. The source of this information is the Hattiesburg American, Oct. 2, 2002.

Fifteen medical malpractice insurers have withdrawn from offering coverage in Mississippi in the past five years. The source of this information is an HHS medical litigation report, March 3, 2003.

''We've had trouble recruiting and had physicians say they are not interested in coming to Mississippi because of the malpractice insurance rates,'' according to Dean Griffin, executive officer of Baptist Memorial-Golden Triangle Hospital. The source of this information is The Associated Press, March 20, 2003.

A poster on the large wooden doors leading into Delta OB/GYN explains it all: ''It is with much regret that we must inform you that our office will be closed effective 7/14/02 until further notice. Due to the current malpractice crisis in the State of Mississippi, our liability insurance has been canceled.'' The source of this information is the American Medical News, Sept. 9, 2002.

Mr. President, I ask unanimous consent that the entire list of physicians who are no longer delivering babies in Mississippi be printed in the RECORD.

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

PHYSICIANS NO LONGER DELIVERING BABIES WITHIN MISSISSIPPI

Total: 54.

ADAMS COUNTY (3):

Ob-Gyn T.L Purvis of Natchez.
Family Practice physician Dr. Ana Leurinda of Natchez.
Family Practice physician Jody Nance of Natchez.

ALCORN COUNTY (1):

Family Physician Dr. Erica Noyes of Corinth.

AMITE COUNTY (1):

Family Practice physician Mutahhar Ahmed of Liberty.

ATTALA COUNTY (4):

Family Practice physician Tim Alford of Kosciusko.
Family Practice physician Anson Thaggard of Kosciusko.
Family Practice physician Richard Carter of Kosciusko.
Family Practice physician Stanley Hartness of Kosciusko.

BOLIVAR COUNTY (3):

Family Practice physician Don Blackwood of Cleveland.
Family Practice physician Bill McArthur of Cleveland.
Family Practice physician Scott Nelson of Cleveland.

COAHOMA COUNTY (1):

Ob-Gyn Dr. Joseph O. Sims of Clarksdale.

COPIAH COUNTY (1):

Family Practice physician Fred McDonnell of Hazlehurst.

COVINGTON COUNTY (2):

Family Practice physician Word Johnston of Mt. Olive.
Family Practice physician David Wheeler of Mt. Olive.

DESOTO COUNTY (1):

Family Practice physician Dr. Pravin Patel of Coldwater.

FORREST COUNTY (1):

Ob-Gyn Hilda McGee of Hattiesburg.

FRANKLIN COUNTY (1):

Family Practice physician Bo Gabbert.

GRENADA COUNTY (1):

Ob-Gyn Sidney Bondurant of Grenada.

HARRISON COUNTY (3):

Family Practice physician Karen Mullen of Biloxi.
Ob-Gyn Maria Moman of Gulfport.
Ob-Gyn Oney Raines of Gulport.

HINDS COUNTY (3):

Family Practice physician Charles Guess of Jackson.
Family Practice physician Wayne Johnson.
Ob-Gyn Beverly McMillan of Jackson.

HOLMES COUNTY (1):

Family Practice physician Charles Campbell.

JACKSON COUNTY (2):

Ob-Gyn Tom Singley of Pascagoula.
Ob-Gyn Jack Hoover of Pascagoula.

JEFFERSON COUNTY (1):

Family Practice physician Shanti Pansey of Fayette.

LAMAR COUNTY (1):

Family Practice physician Stephen Harless.

LEAKE COUNTY (1):

Family Practice physician David Moody of Carthage.

LEE COUNTY (1):

Ob-Gyn Jack Kahlstorf of Tupelo.

LEFLORE COUNTY (3):

Ob-Gyn S. R. Evans of Greenwood.
Ob-Gyn Ed Meeks of Greenwood.
Ob-Gyn Terry McMillin of Greenwood.

OKTIBBEHA COUNTY (2):

Family Practice physician L. H. Brandon of Starkville.
Family Practice physician John Hollister.

PANOLA COUNTY (1):

Ob-Gyn Purnima Purohit.

PEARL RIVER COUNTY (2):

Ob-Gyn Anthony Grieco of Picayune.
Ob-Gyn James Blount of Picayune.

RANKIN COUNTY (1):

Family Practice physician John Boone of Brandon.

SIMPSON COUNTY (2):

Family Physician Dr. Sherry Meadows of Mendenhall.
Family Physician Dr. Terry Meadows of Mendenhall.

SUNFLOWER COUNTY (1):

Family Practice physician W. L. Prichard of Indianola.

WARREN COUNTY (2):

Family Practice physician John Ford.
Family Practice physician Lamar McMillim.

WASHINGTON COUNTY (3):

Ob-Gyn Dr. Elmertha Burton of Greenville.
Family Practice physician James Adams.
Family Practice physician Hernando Payne.

WILKINSON COUNTY (1):

Family Practice physician James Leake of Centreville.

WINSTON COUNTY (2):

Ob-Gyn Glen Peters of Louisville.

Family Physician Dr. DeWitt Crawford of Louisville.

Mr. LOTT. Mr. President, this is not a short list. This is a lengthy list, with probably as many as 40 counties listed. In Adams County, they lost three physicians who had been delivering babies. Attala County, in the center of the State, lost four family practice physicians who had been doing deliveries; they got out of the practice. In Harrison County, one of our more metropolitan areas on the Gulf Coast, three doctors got out of delivering babies. The list goes on and on.

Pretty soon it is going to be hard to have a baby delivered in my State. That causes me a great deal of concern.

Mr. President, I hope we can get the votes tomorrow to proceed on this issue and have a full debate and a vote. This is not some massive tort reform, although I think we need it. I hope we will later visit the issue of class action reform.

This is very targeted legislation that will address a serious problem in many States—the majority of States across this country, where we are losing the services of these physicians in these critical areas. I would hate to have to explain to my State how I would not even vote to proceed, let alone not vote to have some limits on medical liability for doctors who deliver babies and treat their mothers and who care for us when we have accidents and go to the emergency room.

I think this is very carefully drafted legislation, very thoughtful. I certainly hope the Senate will see fit to proceed to a full debate and vote on this critical legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

PENSION FUNDING EQUITY ACT

Mr. MCCONNELL. Mr. President, I want to briefly address a conference report that we will hopefully be voting on in the Senate this week; that is, the conference report called the Pension Funding Equity Act.

The House of Representatives passed this bill overwhelmingly last week. This is a bill that addresses the urgent need to establish an appropriate interest rate for determining pension plan liabilities. The conference agreement provides for a temporary replacement only for the 30-year Treasury bond in determining the pension plan's liabilities.

The Government stopped issuing this bond in 2001, and continuing to use this outdated interest rate would require companies to make unnecessarily large contributions to the pension plans.

If this change is not made, the administration estimates it will cost American companies $80 billion over the next 2 years. This is $80 billion over the next 2 years, not the standard 10 years by which we usually measure legislation.

This is $80 billion that companies could put to better use creating jobs, purchasing equipment, providing raises to workers, or pursuing any number of worthwhile business activities.

This is legislation that cannot wait. It needs to be passed this week. A previous temporary replacement rate expired January 1 of this year, 2004. Unless the Senate acts prior to the recess, by the end of this week, companies will be required to make the first of their inflated contributions based on the flawed interest rate on April 15, while we are not here. So this is it; the last opportunity to address this great inequity is this week. Again, these are funds that companies could otherwise use to create jobs, invest in new equipment, and provide raises to workers.

I believe I am safe in saying that every Member of the body has heard from his or her constituents about the need to solve this problem before April 15. The House recognized the urgency of this matter and passed this conference agreement on a bipartisan vote of 336 to 69 last Friday. That was an overwhelming bipartisan recognition that this conference report needs to become law and needs to become law now. It is critically important that the Senate do the same and send this to the President for his signature before April 15.

We spend a lot of time talking about jobs and job security on the Senate floor, and we should be talking about jobs and job security. This pensions conference report is an opportunity to stop talking and start acting. We ought to seize this opportunity and pass this very much needed legislation this week.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

UNIVERSITY OF TENNESSEE LADY VOLS

Mr. FRIST. Mr. President, I see my colleague from Tennessee in the Chamber. I know shortly he will be addressing the issue under consideration, that of medical liability. In seeing him, I did want to, for a couple of minutes, talk about a very important event that will occur later this evening.

The State of Tennessee, which both he and I represent, is once again at the height of March Madness. Congratulations to the University of Tennessee Lady Vols, who will play for their seventh NCAA title tonight against a familiar foe, the University of Connecticut Huskies.

Coach Pat Summitt has maintained a championship basketball program at the University of Tennessee for three decades. This upcoming matchup, to be played in a few hours, will be the Tennessee native's 102nd NCAA tournament game. Coach Pat Summitt has led the team to an overall record of 851 wins and 166 losses in 30 seasons.

Under the watchful eye of the winningest coach in women's basketball history, the Lady Vols have advanced to the NCAA Sweet 16 and the Elite Eight in 19 of the last 23 years. Tennessee is making its third straight Final Four appearance, setting a new NCAA record with 15 such appearances. The win over Stanford in the 2004 Midwest Regional final gave the Lady Vols their 14th 30-win season in Coach Pat Summitt's 30-year career at Tennessee.

This is an especially big game for the Lady Vols seniors. During their 4-year stint at Tennessee, they have yet to clinch a national championship. They did garner a No. 1 seed for a nation leading 16th time in 2004.

It is the seniors' outstanding play that has blazed the trail to the 2004 NCAA championship game. Senior Tasha Butts scored the winning basket at the buzzer in both games of the Midwest regional. Senior LaToya Davis scored with 1.6 seconds left in Sunday night's Final 4 matchup to keep Tennessee's national championship hopes alive.

Butts, Davis, and fellow senior Ashley Robinson accounted for one-third of the team's total production in the 2004 NCAA Tournament. They have attributed 47 percent of Tennessee's points, 77 percent of its assists, and 39 percent of its three-pointers. Together these exceptional student athletes have produced 30 points, 21 rebounds, 10 assists, 4 steals, and 3 blocked shots per game.

Tennessee, although a perennial powerhouse, has not won a national title since 1998. Under the tutelage of a basketball living legend, combined with the heart of the Lady Vols' seniors, Tennessee hopes to bring the glory of women's basketball back to Rocky Top.

I wish both teams good luck tonight, and I hope to join the Tennessee Lady Vols at a White House victory celebration later this year. Go Vols.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are not. The Senate is considering a motion to proceed.

Mr. ALEXANDER. Mr. President, I wish to respond to the majority leader's comments, if I may. I, as a great many Americans, am going to be watching the Connecticut-Tennessee basketball game tonight at 8:30 eastern time.

Connecticut has a wonderful tradition, a terrific coach, and great players. They have won the last couple of years. But the Naismith Coach of the Year this year is Pat Summitt. For those of us in Tennessee, she is the coach of the year every year.

Senator FRIST has mentioned her achievements as a coach, which I think we must take for granted in Tennessee. We expect Pat Summitt to be in the Final Four. We expect her team to be in the finals. We expect her often to win, and we sometimes forget how hard that is.

Twenty-five years ago, it might have been easy when women's basketball

was starting. Today, there is a lot of parity. There are a good many great coaches. There are many teams inspired by Pat Summitt. It is an enormous accomplishment for Coach Summitt to have this team in the finals once again. One day, when she is finished—and I hope that is no time soon—I will look back and say how could that have happened, and how much could one woman build this game and make such a difference?

She does one other thing that I think is important to hear. This is a time when we hear about athletes, which we wish we hadn't heard, young men and women suddenly exposed to fame, money, and television with bad results. You do not hear about many of Pat Summit's young women. It was true a few years ago when I was president of the University of Tennessee that every single young woman who completed her eligibility at Tennessee on a Pat Summitt team has received her degree or is in the process of completing her degree requirements—every single one. That was true 10 years ago. I suspect it is still true today.

If you watch those young women when they are interviewed, before, after the game, or any other time, they look like future coaches. They speak well. They conduct themselves well. They are graceful toward their opponents. They make us proud to be Tennesseans when we see them. So this team not only wins, its coach and players conduct themselves brilliantly as scholars and as competitors, and they bring out the best in our country.

Pat Summitt, I suppose, is not for every young woman who wants to play college basketball. She is a tough competitor. I think that is one reason why she is such a good coach and why she gets many of the greatest players. She and her staff bring out the best in players, and they want to play for Pat Summitt. There are little girls around this country who play basketball in sixth, seventh, and eighth grade who dream of growing up to play for Pat Summitt.

One other thing I would add. Pat Summitt has kept her coaching team together for a long time. Mickie DeMoss, her assistant, left for the University of Kentucky to take a well-deserved head coaching position there. Mickie DeMoss is a great recruiter and will be a great head coach, I believe. Many people thought when Mickey went to Kentucky, Pat would not be able to recruit as well. I am sure the competitive urge in Pat Summitt caused her to go out and recruit what is already being called the ''Fabulous 6,'' the All America player of the year for the last 2 years and five other young women who are coming to the University of Tennessee next year on scholarships. Many basketball analysts say it is the best women's recruiting class ever.

Senator FRIST and I salute Coach Pat Summitt, not just for being Coach of the Year this year, but, in our book, for being coach every year and for effort in the incredible graduation rate of the young women who have played for her and helping them grow into womanhood and to represent our State and our country in that sport very well.

Mr. President, if I may speak on another subject, I come to the floor today to express my concern, once again, with the rising cost of medical liability insurance and what this means for patient access to medical care in Tennessee. This is a subject we have talked about many times on this floor, and it is a subject I hear about often when I am in Tennessee.

Last February, we debated this issue right here and, unfortunately, we were not even able to get to a vote on it. We were not able to invoke cloture, we were not able to vote on the issue of medical liability insurance.

Today we are limiting our debate to just this issue: the care for mothers and babies and for anyone with an emergency medical condition. That is all we are talking about in this legislation—mothers and babies and anyone of any age with an emergency medical condition.

These are the individuals who have the highest need for medical care in our country, and the lack of access to that care can prove deadly.

The increasing cost of medical liability insurance is creating a patient access crisis because doctors are leaving the practice of medicine rather than pay the high cost of medical malpractice insurance.

For example, in the Hardin County General Hospital in Savannah, in west Tennessee, the only OB/GYN doctor left the hospital to practice in another State because Tennessee's insurance premiums were too high. High medical liability insurance is one more reason it is difficult to recruit specialists to rural areas.

We need to make certain we ensure access to good care in emergency rooms for all Americans, all Tennesseans. Yet neurosurgeon Rick Boop of Memphis, TN, wrote me to say:

> I have seen three children die recently of shunt malfunctions in emergency rooms which did not have a neurosurgeon who could perform procedures on children. All neurosurgeons can provide a simple shunt revision, but many are being forced to stop caring for children in order to retain or reduce their liability premiums.

All three of these children died awaiting helicopter transport to a children's hospital—

Where there was a specialist who could perform that type of procedure.

More and more Americans are seeking emergency room care. In Tennessee, for example, the number of emergency room visits increased by almost one-third, 31 percent, over a 3-year period. The largest increase in usage was among individuals in our TennCare program, our Medicaid program. These are the people who need the most help, our poorest people in Tennessee. We need to make sure specialists are available in the emergency rooms of this country and Tennessee to care for these patients.

In 2002, the average net medical liability premium for an OB/GYN in Tennessee was $33,600. In 2003, the premium was up to $41,980. In 2004, it increased again to $49,408. This is a 47-percent increase in medical malpractice insurance premiums over the past 3 years. This is not sustainable over time if we expect to have doctors, specialists in the hospitals, in the emergency rooms, to care for mothers and babies and the most vulnerable in our society.

Two years ago, I met a young woman who had just graduated from the University of Tennessee Medical School. She was looking forward to going into her OB/GYN practice in a rural area of Tennessee. She told me her medical malpractice insurance premium 2 years ago was $70,000 a year and she had never delivered a baby in her practice.

I believe S. 2207, the Pregnancy and Trauma Care Access Protection Act, will help protect access to care for mothers and babies and Tennesseans in emergency medical conditions. This bill will still allow unlimited economic damages, but it places a sensible cap on non-economic damages. I hope we can agree to have a vote to reach cloture on this important legislation.

I often express my concern for federalism, for the importance of allowing States and local governments to exercise their rights and responsibilities and not be overridden by the Federal Government except when it is absolutely necessary. In this case, this legislation allows States to set their own caps if they prefer a lower cap or if they prefer a higher cap. In this case, we ought to act because Americans should have an equal opportunity to health care, particularly if they are mothers, children and the most vulnerable and poor in our society.

I ask that the full Senate agree that we vote—be it up, or down, and I will vote yes—on this important legislation to help those who need help the most.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I rise to continue to speak about the Foreign Sales Corporation Extraterritorial Income Act that is before Congress that we call the JOBS and manufacturing act. I wish to bring the Senate up to date on the status of this not just as a jobs bill but as a major economic policy legislation.

This, of course, is bipartisan legislation. This is legislation that was designed to respond to the World Trade Organization's adverse ruling on a benefit under the old law for U.S. exporters and to bring our law into conformity with that World Trade Organization ruling, but to do it in a way that

actually creates jobs in America and emphasizes domestic manufacturing so American manufacturers are going to benefit from this legislation on what they do in the United States, not what they do overseas.

Foreign corporations that come into the United States are going to benefit under this legislation as long as they set up plants and manufacture in the United States. This bill has an acronym, J-O-B-S, and it is truly jobs-creating legislation.

We have problems with this now because some people who even support this legislation want to stall it so they can use it as a vehicle for getting some of their pet projects through the Senate. When everybody is saying, and rightly so, that we have not created enough jobs in manufacturing and we have a bill before the Senate that will do it, I do not know why anybody would want to hold this bill up, but there is a playing of politics and, in my view, then when one plays politics, the people's business is neglected.

First, there is a lot in this bill on which we all agree: The tax benefit I refer to is the foreign sales corporation extraterritorial income benefit. That benefit provides a roughly 5-percent corporate rate tax cut for U.S. exporters of manufactured products.

As everyone knows, there is a disturbing economic statistic about U.S. manufacturing and that was that there was a downturn in the manufacturing index starting March of 2000. I emphasize that because everybody thinks this recession started under President Bush, but if one looks at the manufacturing index, they would find the manufacturing index started to turn down March of 2000. It just now has bottomed out and it is just now that it looks as if there is going to be an increase in hiring in manufacturing.

Fortunately, with the tax relief in place in this bill and with other stimulative measures that have been passed last year, manufacturing has come back. Unfortunately, manufacturing employment has not come back to previous levels, and that is what this bill deals with. Both sides, meaning both Democrat and Republican, agree there is a problem with the loss of manufacturing jobs. Both sides also agree that the loss of this previous benefit will result in a tax increase on U.S. manufacturers. Following the simple rules of Economics 101, if something is taxed higher, there is less of it.

There is some dissent on my side of the aisle, the Republican side, which I want to mention so that I am candid in not everybody who opposes this bill is on the Democrat side.

We have Senator KYL and Senator NICKLES, as an example. They are Republicans. They question the wisdom of the current law benefit.

I was also surprised to hear last week that one Member from the other side—quite a liberal Member, as a matter of fact—in effect agreed with Senator KYL and Senator NICKLES. That Member questioned the wisdom of the foundation of this bill—the tax deduction for domestic manufacturers. That Member took to task, as he said, the authors of the legislation.

I wonder if that Member bothered to check to see the authors were also Republicans and Democrats on the Senate Finance Committee. In fact, every member of the Senate Finance Committee who is a Democrat voted for this bill to come out of committee.

In any event, with the exceptions noted—meaning one Democrat plus Senator KYL and Senator NICKLES, also—there is general agreement on both sides that we need to replace current law with a manufacturing benefit which will agree with the General Agreement on Tariffs and Trade, the international agreement that decides the rules of trade.

Conversely, I have not heard anyone say it is wise to sit idly by while our exports get hit with tariffs put on our products in a legal way by Europe, causing our products to be uncompetitive.

In general, both sides agree we need to deal with this tariff problem. We need to deal with this adverse World Trade Organization ruling. Both sides agree we have a responsibility to remove the tariffs against our exports. But yet there doesn't seem to be agreement it should have been done yesterday. It is OK if it is done down the road in another 6 months when we have another 6 percent tariff put on. At least that appears to me to be the way some people are acting.

If we agree on the problem and on the substance of this bill, why can't the job be done? Why can't this bill get to the President? It appears to me the two sides disagree on the outcome for this bill.

I think dealing with this bill goes to the heart of our responsibility as a Senate. We take an oath to uphold the Constitution. The Constitution provides Senators with a unique power somewhat different than in the House of Representatives. That unique power also carries unique responsibilities. Where there is a compelling public policy problem and there is a consensus around the legislation that solves that problem, it is our responsibility as Senators to do everything in our power to make it happen.

Said another way: If we have a bill before the Senate that is going to pass the Senate 90–10, or by a wider margin than that, and there is an agreement it ought to be done, why doesn't it get done?

We all know the Senate is an institution that renders easily to gridlock and to delay. I suppose we would have to blame our Founding Fathers because they contemplated a Senate where the majority would set the agenda and the minority defines its agenda with amendments and debate. Those powers of delay and obstruction are properly resorted to when the majority is ramming something through on a partisan agenda. There is, however, a reflective responsibility on the part of the minority leadership and its members where the legislative item is a bipartisan product. That seems to me to be a responsibility to be constructive. It is irresponsible then for minority leadership and members of the minority to obstruct a consensus item.

It is the height of irresponsibility to obstruct and delay when the item is a bipartisan compelling matter such as this bill is. It is simple. Is the United States going to abide by international agreements we have already approved in this Senate?

It is our responsibility to set an example for the rest of the world because we are outstanding in exemplifying the rule of law and the protection of individual freedoms. Some people might say we ought to give that notoriety to England because our law comes from England. But I think you would all agree when it comes to individual freedom we have even advanced beyond England.

Are we going to have a constructive approach to this legislation? I have to say to my fellow Senators: It is in our hands. Either we can continue to play these political games or we can do the job we were elected to do.

Some have said something such as we will take a limited time on amendments. That misses the point. The point is the majority is led by Senator FRIST. We have all played this game straight. The majority amendments to this bill have improved the bill in ways that will get even more votes for it. All those amendments we have offered have been bipartisan.

For example, the Hatch-Murray amendment on research and development credit and the Bunning-Stabenow amendment on accelerating the manufacturing deduction—you recognize those Senators' names immediately and know there is one Democrat and one Republican. That is the way things get done in the Senate.

The Democratic leadership has taken this bipartisan bill and turned it into a political football.

We have an amendment on overtime that was previously voted on and that is a sticking point.

There are other showstoppers planned by the Democratic leadership. In this case, you have one side—the majority—using the power of setting the agenda in a constructive way. I define that constructive way as bipartisan because nothing gets done in the Senate that is not bipartisan.

Then you have the other side—the Democratic side—using its power of amendments and the power of delay solely for politically destructive purposes.

That imbalance can't last for long. If it does last for long, the Senate is brought to a halt. It is kind of like the law of physics. For every action there is a reaction.

There shouldn't be this kind of tension on a must-do—in other words, a

must-pass—bipartisan bill. When it is this way on a must-pass bipartisan bill, something is out of whack. Republicans will eventually be fed up with the gamesmanship on the other side. It will mean the Republican political amendments—those which the Democrats do not like—are going to be brought up because for every action there is a reaction. That is going to lead to a vicious circle and this bipartisan bill will be more bogged down than it is presently.

Another route Republicans could take is to switch to an agenda item that is not like this one. It would be a bill that has heavy political overtones. It would not be as compelling as this bill. It probably wouldn't necessarily be a must-pass bill.

Again, if we were to do that, the victim would be this very good must-pass bipartisan bill.

From the Republican side, let me say to every Democrat, we don't want to go that way. We will do everything we can to avoid going that way.

Maybe the Democratic leadership thinks a designed plan to deter us from taking care of the people's business is good politics. Blame the Republicans, they may be thinking. They may be thinking: We have a liberal press, we can get away with it. They will protect us. They do all the time, anyway. It is kind of an encouragement. Maybe they think it is more important than actually helping the workers which this bill will help; and the U.S. businesses that are at risk because of this Euro tax; in other words, the European tariff on our products going from the United States to Europe.

It isn't that simple. There will be accountability. There has always been in the case of cloture votes. We don't want to go the route of a cloture vote. None of us want to go there again. But we could go there again. There is a petition on file. The American people expect us to do our jobs and not play politics.

I have talked about our responsibility as Senators. Let me put it in the context in my role as chairman of the Senate Finance Committee. Thanks to the good people of Iowa, I have seniority to chair the oldest standing committee in the Senate, the Finance Committee. I am pleased to work with my friend, our ranking Democratic member, Senator BAUCUS. Not to toot our horns too much, but I am proud of our committee. We respond to big, tough issues in a businesslike, professional manner. We do not always agree, but most of the time we do agree.

From my view, this foreign sales corporation replacement bill has been handled in the best bipartisan tradition of our Finance Committee. Senator BAUCUS and I developed this bill as partners. All Democrats, even Senators Daschle and Kerry, participated in and supported this bill out of the Finance Committee. They are Members of this committee. All of the amendments I put up for this bill have been bipartisan amendments. They are amendments that have improved the bill.

Who can argue with the domestic job benefit extended by the research and development credit? That was a bipartisan bill. Who can argue with enhancing the manufacturing deduction? That was a bipartisan amendment. Democratic Members were accommodated in the committee and on the floor with a managers' package. Senator BAUCUS and I developed that package shoulder to shoulder.

The latest version includes the bipartisan package of energy tax incentives approved by the Senate Finance Committee last year for farmers in the Midwest, the South, timber harvesters in the Northwest, or wind farms across the country. This package is going to produce and create jobs. This package has twice passed the Senate without dissent.

For all the Senators from my region and other places who said they could not support cloture on the Energy bill last winter because of the MTBE issue, here is your chance to vote for an energy bill that does not have anything to do with MTBE. Members do not have to worry about your personal injury lawyer friends calling upon you to fight the MTBE thing because they want to protect their own income. Members do not have to worry about offending them. That is not in this bill. Members got a chance to vote an energy bill they wanted.

This maneuvering bothers me. So I brought along a chart that draws from a favorite activity in the Midwest. I am talking about a game of football. The gridiron does not necessarily have anything to do with the gridlock that is occurring on this bill, but it illustrates the problems we have.

This JOBS bill is very near the Senate goalline. Unfortunately, politics is driving the Democratic leadership to move the goalposts. When we came into session in January, Senator FRIST was criticized by the Democratic leadership for not moving to the JOBS bill right away. At that time, the goalpost was very clear, very close, right there where it always is on the football field. That was in January.

After we finished the highway bill and a couple of other things, Senator FRIST attempted to move the jobs in manufacturing bill. Much to my surprise, we were ambushed by the Democratic leadership with unrelated amendments. I thought I had an understanding as floor manager. That understanding was we were going to do amendments first that were related to the bill and then move to other amendments. That agreement was not carried out.

From my standpoint, this was an unfortunate event. In budget discussions, I made clear I opposed putting this JOBS bill in the reconciliation package because I had assurances that the Democratic leadership wanted the bill passed. In fact, my ranking Member, Senator BAUCUS, 2 days before Republicans went to Philadelphia for our retreat in January to make our plans for this year, told me. I want to move this JOBS bill; do not let the Republicans include this JOBS bill in the reconciliation because reconciliation is obnoxious to the bipartisanship of the Senate. It is obnoxious to the minority.

When we were making our plans in Philadelphia, my colleagues responded to that request from my Democrat ranking Member and we did not include this bill in the process of reconciliation. It happens that my view was not shared by the House leadership or even by the Senate leadership or by the White House. I took the position in leadership meetings and in the Senate Budget Committee Republican caucus deliberations that the Democratic leadership would not politicize this bill; we would get it passed.

I was ambushed on March 3rd. In fact, it looks like I was wrong and others were right.

So we have a second goalpost here. It was the amendment of my colleague from Iowa on overtime. It did not matter that we had voted on that amendment previously. It did not matter that the amendment dealt with proposed—not final, proposed—Department of Labor regulations. No, none of that mattered. That amendment was and still is a showstopper to this bipartisan bill that everyone agrees ought to pass the Senate. When it comes to a final vote, it will pass overwhelmingly.

We are now at that second goalpost. The demands of the Democratic leadership still change. We were talking about a single-digit list of amendments. Not anymore. Now that it looks like an overtime vote may be in the picture, there is a goalpost yet farther away. For the first time, we are hearing of other amendments not even in the jurisdiction of the Finance Committee, such as an increase in the minimum wage, another showstopper. We cannot finish the bill, we are told, even though we are told the substance is great. This is the greatest bill since sliced bread is the opinion of people all over the Senate. But we cannot finish the bill because of this new goalpost.

Heaven help us how that might turn out.

There is a final goalpost out there. It is way, way out there, as you can see. It is getting to conference. We may move through all of these goalposts but then be blocked from going to conference because the Democrats have decided they should never agree to go to conference on a bill unless they can dictate the outcome. Effectively, that does not just shut down the Senate; that shuts down the whole Congress.

Now, let me ask you: Is this any way to legislate? Is this a proper exercise of leadership? Is this right when jobs are on the line and people back home expect us to move consensus legislation? You have to wonder: Is all this obstruction really worth it?

Now, my sense is, the political imperative of stopping this bipartisan bill is

very strong. It seems the Democratic leadership is so fearful or resistant to getting a bipartisan JOBS bill to the President's desk that they are going to do anything to block it. Just keep moving the goalposts; pretty soon you will not see them. I think the record reflects this view I have that somehow there can be no JOBS bill that gets to the President of the United States.

Now, do you know what I would be willing to do? If there is something with the title of this bill, called a JOBS bill, that is obnoxious to the minority, because it might make a Republican President look good, well, I will change the name of it. You guys name this bill. It is OK with me. The title has nothing to do with the substance of it in the sense of legislative dominance, but we try to say, in the title of a bill, what we are intending to accomplish. What we are intending to accomplish in this jobs in manufacturing bill is to stop this outsourcing that you hear so much about, to create jobs in manufacturing in America, and not just jobs but good jobs, because manufacturing jobs that are related to exports pay 15 percent above the national average. They are good jobs.

I have predicted they cannot let this bill get to the President of the United States for political reasons. I hope I am proven wrong in the next few days. But I can say this: It is time to get the job done. In a few days, I hope we can move back and pass this jobs in manufacturing legislation. It is, in fact, a bipartisan piece of legislation. It is, in fact, a piece of legislation that deserves better treatment than it has received so far.

So tomorrow I hope, for all these reasons, particularly the reasons I gave earlier this afternoon—that there are so many amendments that have been added to this bill at the request of Democrats and Republicans alike, but I emphasize the Democrats—they have something in this bill they have asked for. They have asked for me to consider it. If they do not vote to stop debate tomorrow, to move on this legislation, get it to the President, why did they come to me in the first place and ask me to put their favorite piece of legislation in this bill?

It is all good legislation. I do not find fault with the people who have asked me to do it. It is all good public policy. But, also, it was not something real pertinent to the primary purpose of this legislation. But we are helping them get their bill passed by cooperating with them. I would like a little cooperation in return. I would like to have all the Members who we have tried to accommodate—both Republican and Democrat—vote to stop debate and move on to final passage of this bill, so we can create jobs in manufacturing.

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.

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

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

Ms. COLLINS. Madam President, I ask unanimous consent to proceed as in morning business for not to exceed 12 minutes.

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

(The remarks of Ms. COLLINS pertaining to the introduction of S. 2288 are printed in today's RECORD under ''Statements on introduced bills and joint resolutions.'')

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from New Hampshire.

Mr. SUNUNU. I ask unanimous consent that I be allowed to speak for 5 minutes as in morning business, and I further ask consent that immediately after my remarks Senator HARKIN be recognized.

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

VOICE OVER INTERNET PROTOCOL REGULATORY RELIEF ACT

Mr. SUNUNU. Madam President, I rise to speak today on legislation I introduced this week called the VOIP Regulatory Freedom Act of 2004. This is legislation that deals with the issue of voice communications sent using Internet protocol that many Members of this body may not be familiar with or may not have heard a great deal about; but it is a new technology that takes advantage of the growing broadband networks that are in place in this country to send voice messages, much the same as one might send an e-mail or an instant message. It is a growing area of technology and innovation, but it is one where there is not a very clear path regarding regulatory and taxing jurisdiction, and there are not a lot of laws on the books that clearly address this new technology.

In order to encourage continued investment in and continued use of this application and this system for sending voice traffic and in order to make sure consumers continue to have the benefits of lower costs, new features, and better service that is the potential of this technology, I have introduced legislation this week.

First and foremost, S. 2281 declares this is a technology that uses national and global broadband data networks, the Internet, that we have all read and heard so much about by this point in time. It recognizes these are international networks, global networks, and therefore we should have Federal jurisdiction in this area.

Second, it takes the step of preempting States from regulating in this area, the area related to voice-over-Internet-protocol applications, because what we do not need is a patchwork of 50 different sets of regulations that would stifle the innovation, the investment, and the productivity we all hope will come from this technology.

Even worse, the regulations some States have already begun to try to apply are not regulations developed for the Internet, broadband, or a voice-over-Internet-protocol application. They are really designed for a copper wire circuit switch telephone network that was invented 100 years ago and for which most of these State regulations were developed in the 1930s, 1940s, and 1950s. It is an outdated system and we should not be trying to force old regulatory structures on this new technology.

Third, the VOIP Regulatory Freedom Act of 2004 that I have introduced will clarify the definition for information services, for VOIP applications, in a way that can be easily understood given new and emerging technologies.

I was not in Congress at the time, but Congress wrote the 1996 Telecommunications Act that talked about information services and telecommunications. Quite frankly, it did not envision these kinds of voice applications being offered over the public Internet or over private networks. So as a result, we have had lawsuits, not surprisingly. In America, if one is unsure of what is happening, if one does not like the law, get a lawyer and sue, but we have had lawsuits because of the lack of clarity in some of these definitions. My bill would clarify the definition of voice-over-Internet-protocol. It states clearly what it is and what it is not from a regulatory perspective, and then treats it much like we would any other information service that uses Internet protocol, whether it is an e-mail, an instant message, or sending other data over the Internet.

This bill does address a lot of key concerns regarding telecommunications and the old telephone circuit switch telephone network. The bill makes sure that voice-over-Internet-protocol providers participate in existing Federal universal service programs. In other areas, such as E–911 emergency calling, and disability access, the bill calls for an industry group to work out the implementation of these important features for the new technology. S. 2281 will make sure we do not apply the old access charges to this new technology. We put forward a requirement for the FCC to work out a new system for intercarrier compensation and, of course, we recognize law enforcement will need access to these new voice-over-Internet-protocol applications and state it has to be the same or better access but no less than the access available for information services that currently exist today.

Finally, the bill protects consumers by ensuring that this new service won't be taxed at the State level. Everyone knows the more you tax something the less you get. If you want to discourage investment, innovation, and capital from moving into important new services like this, then raise the taxes and discourage that investment. From my perspective, this would be the wrong direction.

I think this bill provides for enormous opportunity for consumers, including robust features and functions, more options, and lower prices.

It is important to note that we have narrowly tailored this bill to deal with the voice-over-Internet-protocol applications. It should be clear that is not an effort to rewrite the 1996 Telecommunications Act.

I urge my colleagues to take a look at the legislation and step forward. Let me know your views and thoughts. We are likely to have hearings on this bill in the Commerce Committee in the coming months. I look forward to a vigorous and substantive debate.

ECONOMIC MALPRACTICE

Mr. HARKIN. Mr. President, before us right now is a motion to proceed to what is called the medical malpractice bill, for short. In fact, that is what it is—to change the tort system in America to take away the right of any person who has been injured to seek redress in court for noneconomic damages and also for punitive damages. It is called the medical malpractice bill. We have had it here a number of times before. It is not going anywhere because it is not a true compromise. There may be a compromise that could be worked out on this issue, but this bill represents a one-sided view. It is not going anywhere. The Republicans know this. They know it is not going anywhere, but they brought it up.

I thought the FSC bill—the JOBS bill—which they brought up earlier was a must-do bill. There was a jobs bill. They are going to put people to work. Yet it languishes somewhere.

In the meantime, we brought up the TANF bill. Now we brought up the medical malpractice bill.

It makes you wonder what the priorities are of the majority party in the Senate. There is a lot of talk about who is obstructing what around here. But I think it is clear to any casual observer that the majority is basically kind of filibustering their own bills, obstructing their own bills. And sometimes, as in the case of the gun bill that was up before us a few weeks ago, the Republican majority even voted against its own bill. But it chews up a lot of time. It takes up a lot of time on the Senate floor, but nothing goes anywhere.

That is what we are facing again with this so-called medical malpractice bill, or the motion to proceed to it. The majority party knows it is not going anywhere. So they want to talk about medical malpractice. There has been a few speakers on the floor today on the Republican side talking about medical malpractice.

I think what the country wants us to focus on and wants to hear us debate and discuss and vote on is the economic malpractice of the Bush administration. That is right, the economic malpractice of the Bush administration.

I mean by that the fact we have had a loss in jobs in this country over the last 3 years unlike anything we have seen in 70 years.

This chart shows that not since the Great Depression have we had a loss of jobs for any President during his first term—some more than others, but we have always had a positive indication of job creation.

It is interesting to note that most of these took place under Democratic administrations—Roosevelt, Truman, and Eisenhower had a little bit but still had some; Kennedy, we had good job creation; Johnson, very healthy job creation; even under Nixon, pretty good; Ford, back down; Carter; even under Reagan; Bush, it is down; Clinton, up a little bit more. All positive, Republicans and Democrats, until this President, the only President in 70 years to have negative job growth.

That is why I call it the economic malpractice of the Bush administration—the only President in all of those years to preside over negative job growth in our country.

Not only are we not discussing on the Senate floor these issues pertaining to workers, but we are precluded by the majority from even offering amendments and getting a vote on them.

I tried earlier on the so-called FSC bill that everyone talks about, the so-called JOBS bill they had here, to offer my amendment to disallow the promulgation of proposed rules that would change the overtime laws in our country.

Last year, to refresh everyone's memory, about this time—a year and a month ago, as a matter of fact—the Department of Labor came out with a proposed change in overtime rules.

The Fair Labor Standards Act has been in existence since 1938. We have had changes in basic overtime laws. But in every single case, when it has been done, it has always been done with consultation with Congress after open hearings with the public having input.

These proposed rules came like a bolt of lightning in the midnight hour. No public hearings were held. Not one public hearing was held on these proposed changes in overtime rules. No hearings were held by Congress. No witnesses were called to talk about what these proposed changes might mean in the workplace. They just put the rules out there.

Now the Department of Labor is about to issue its permanent change in regulations.

That is why last summer this Senator offered an amendment on the Senate floor to disallow these rules from going into effect. The Senate adopted my amendment on a bipartisan vote. We had quite a few Republicans vote for it. The House of Representatives then voted to instruct its conferees to go along with the Senate on that provision. That was on the appropriations bill. The White House came in and got it knocked out. Then we were forced to vote on the appropriations bill without that provision in it.

I said at that time in January I was going to find any vehicle I could to try to revisit this issue because the Congress had spoken; that we did not want these rules to go into effect which would take away the rights of up to 8 million American workers to get paid time-and-a-half overtime if they worked over 40 hours a week.

The first bill I could do this on was the FSC bill, which was brought out by the Finance Committee to the floor. They termed it a jobs bill.

I pointed out then, and I point out again today: How can you have a meaningful jobs bill on the floor of the Senate if we are not going to speak about it, debate it, and vote on whether we are going to take away the rights of people in this country to get paid time and a half for over 40 hours a week? Yet that is what happened. I offered the amendment. The majority will not permit a vote on it. They tried all kinds of parliamentary maneuvers, tactics, recommits, all kinds of funny parliamentary games just to keep us from voting on it.

I don't know what they are so afraid of. Are they afraid members of the President's own party might vote to say those rules shouldn't go into effect? They did last summer. I compliment them for it. That is courage. I know the President and his Department of Labor want to drastically change our overtime laws. They want to do it through the regulatory process—not through the legislative process.

Quite frankly, the Bush administration thought they could put these new rules into effect quietly with no hearings before anyone knew what was going on. But they were wrong. They got caught with their hand in the cookie jar.

The fact is, public outrage over the proposed new overtime rules has gotten stronger and stronger as Americans learn more about the details. At this point, the administration has about as much credibility on the issue of overtime as they do on the weapons of mass destruction in Iraq. In other words, the administration has zero credibility on this issue.

The Department of Labor claims it simply wants to give employers clearer guidance as to who is eligible for overtime pay. But ordinary Americans are not buying this happy talk. They know the administration is proposing a radical rewrite of the Nation's overtime rules. American workers know these new rules will strip them of their right to fair compensation. So we will continue to press for a vote on this and on a couple of other issues.

Last week on the TANF bill, the temporary assistance to needy families, Senator BOXER of California offered the amendment to raise the minimum wage, now at $5.15 an hour, to $7 an hour over 2 years. The majority will not vote on that, either. So that bill has gone by the wayside, too, because they do not want to face the music and

vote on whether we increase the minimum wage. Mr. President, $5.15 is the minimum wage now—mostly women, heads of households with children.

I point out again, since 1967, if the minimum wage had just kept pace with inflation, the minimum wage would be over $8 an hour right now. Yet we are only asking for $7 an hour.

I wonder what the hue and cry would be in this country if we had indexed CEO compensation the way we indexed the minimum wage increases since 1968. We would probably be better off in this country, to tell you the truth.

So we tried to bring up a minimum wage increase. We tried to stop these rules on overtime from going into effect to strip people of their overtime. We have tried to increase unemployment compensation, to get more unemployment compensation to workers whose unemployment benefits had run out. There are 1.1 million workers this last week who lost their unemployment benefits because of time running out. We want to extend that. The majority will not let us.

The administration is all for an economic stimulus when it involves tax breaks for people making more than $200,000 a year. When it comes to economic stimulus involving raising the income of people at the bottom of the economic ladder, whether by increasing the minimum wage or creating jobs directly, which is what the highway bill will do, the President is even threatening to veto the highway bill.

We passed a bipartisan highway bill in the Senate. The House passed something substantially less. The President has threatened to veto that. Actually, the House bill for my own State of Iowa would mean 12,000 jobs less than that passed by the Senate. Yet the President has threatened to veto even the House version.

There is a frustration among American workers right now. They know they are working harder. They know they are working longer. But something is wrong. They are not getting adequate compensation. As this chart indicates American workers are working longer hours per year than workers in any other industrialized country. In fact, since 1979, every single industrial country has reduced its work hours except one, the United States. In Japan, since 1979, they have gone down 286 hours a year. Germany has gone down 489 hours per year. Even Canada went down 31 hours a year. Australia went down 44 hours per year. But the United States went up an average of 32 hours per year. We are the only country increasing the number of hours worked per year.

Not only that, as we found out earlier—I quoted the New York Times Sunday article by Steven Greenhouse—unscrupulous businesses in America are cheating people out of their overtime. I may not have mentioned a guy by the name of Drew Pooters, retired member of the Air Force military police. He went to work in a Toys ''R'' Us store in Albuquerque. He was stunned by what he found his manager doing.

> . . . his manager was sitting at a computer and altering workers' time records, secretly deleting hours to cut their paychecks and fatten his store's bottom line.
>
> ''I told him, 'That's not exactly legal,' '' said Mr. Pooters, who ran the electronics department. Then he out-and-out threatened me to not talk about what I saw.

Mr. Pooters quit. Then he got a job managing a Family Dollar store, one of 5,100 in that discount chain. Top managers there ordered him not to let employee total hours exceed a certain amount each week. One day he said the district manager told him to use a trick to cut payroll, delete some hours electronically.

Experts on compensation say the illegal doctoring of hourly employees' time records is far more prevalent than most Americans believe. The practice, called ''shaving time,'' is easily done and hard to detect with the simple matter of computer keystrokes.

I earlier had this article printed in the RECORD.

The article revealed in Toys ''R'' Us, in Dollar Stores, Taco Bell, Pep Boys, Wal-Mart employees, et cetera, workers are basically being cheated out of their fair compensation. Many are being cheated out of overtime.

Here is what the Wall Street Journal article said about this:

> While employees like overtime pay, a lot of employers don't. Violations are so common that the Employer Policy Foundation, an employer-supported think tank in Washington, estimates that workers would get an additional $199 billion a year if the rules were observed. That estimate is considered conservative by many researchers.

American workers are being cheated out of over $199 billion a year by unscrupulous employers.

Here we have the Department of Labor legally—trying to do it legally—taking away workers' rights to overtime pay. The Steven Greenhouse article in the New York Times showed on Sunday there is a rampage in this country of illegal activities taking away workers' rights to their adequate pay. Why isn't the Department of Labor focusing its time and energy in going after these unscrupulous employers, making an example of them so others will not be encouraged to do the same thing rather than trying to legally take away workers' rights to overtime?

That is why I say this Bush administration is committing economic malpractice.

You do not have to be from Iowa to know that you do not fertilize a tree from the top down. You fertilize the roots. That is how we need to stimulate the American economy, by applying stimulus directly to the roots. There are obvious ways to do this. One, instead of tax cuts for the wealthy, you focus tax cuts on working people. Secondly, you increase the minimum wage. You put more money in the pockets of hard-working people who, by necessity, have to spend every penny. Three, you extend benefits for the long-term unemployed, again, who, by necessity, are spending every dollar they receive. Four, you pass a highway bill that is as generous as possible.

We need to rebuild our Interstate Highway System in this country. Take a drive on any one of them. They are beat up. They are disintegrating. They are a patchwork here and there. They are causing delays in trucking. They are beating up our cars and taking away from the productivity of America. Our bridges need to be replaced. Sewer and water systems need to be upgraded.

These are good jobs. These are jobs that employ Americans. When you think about construction jobs in this country, that is what I call insourcing jobs rather than outsourcing jobs because, you see, if you are building a bridge or a highway, a sewer and water system, or maybe a new school, when you think about it, most of the products are made in America. Think about it. The cement is made here. The rebars, the rerods, and all that for construction are made here. When you put up a building, you put up wallboard. That is made here—and electrical wiring, electrical conduits, electrical switches, electrical lights, plumbing. When you think about all that goes into construction, most—the vast majority—of the products are made in this country.

Guess what else. All of the labor done is here in America. You do not outsource those jobs. Those are American jobs. What do you get out of it? You put a lot of people to work. You improve the productivity of America. You get a lasting benefit of things that last for a long time, and that helps us be a more productive and vibrant Nation.

It seems we can spend billions of dollars in Iraq and Afghanistan to rebuild those countries. We need to invest money like that here in America. For every $1 billion spent on these projects, we sustain or create more than 47,000 jobs for American workers. That is the direction we ought to be going, rather than more tax cuts for those who make over $200,000 a year.

I do not have it with me, but I saw a cartoon in the paper today that I thought said it all. There was a gasoline pump, with gas that cost about $1.90 a gallon. This American worker had obviously just filled his tank, and he was up at the window paying. In back of the window sat what looked like one of the Saudi Arabian princes saying, ''Thank you,'' and taking our American worker's money. The caption below it was: There goes the tax cut.

How many American workers, who are told by this President they got a tax cut for this or that, are now seeing it go to pay for imported oil, to pay for the increased price of gasoline because this administration will not take their friends in Saudi Arabia to task to keep these prices low, will not let some of the oil out of our Strategic Oil Reserve

right now to counter these increased prices? So we find whatever little money the worker may have gotten in a tax cut going to pay for the increased price of gasoline. Again, economic malpractice, economic malpractice by this administration.

So we can go to the medical malpractice bill. Quite frankly, again, we are focusing on medical malpractice and whether someone can sue for damages, and this and that. While there may be a reasonable compromise on this issue at some point, this bill is not it. But I wonder—I truly wonder—how many of the 43 million Americans who have no health insurance coverage whatsoever would think this is the major health care issue that we ought to be debating and voting on in the Senate Chamber. They are not interested in medical malpractice or suing. They just need health insurance. They need coverage for themselves and their families. Here we are talking about lawsuits, when what we ought to be talking about is how we are going to get health care coverage to people in America.

The other side can talk all they want about obstructionism and who is holding up what. We have said, time and time again, as I said on my overtime amendment—I am not obstructing anything. I will take a time agreement. We have already had enough discussion. In 15 minutes we can have a vote. In 15 minutes we can have a vote on the minimum wage. In 15 minutes we can have a vote on extending unemployment compensation.

Who is obstructing what around here? It is simply that the majority side does not want to have these votes under the time-honored tradition of the Senate to debate, discuss, and vote. It seems as if the majority side now wants to turn the Senate into just another House of Representatives—come out with a closed rule. I know that sounds kind of funny. What does that mean? What it means is the majority party brings out a bill. You cannot amend it. You cannot change it. You either have to vote for it the way it is or not vote. If they have the majority votes, they want to pass it.

That is not the way to run the Senate. It is not the way to debate and vote in the Senate. The way to do it is to have our debates, have our votes, and move on. Sometimes you win; sometimes you do not. But, to me, that is what the American people want us to do.

We are doing nothing in the Senate right now—nothing. The reason we are doing nothing is because the other side will not let us vote. So here we sit with bill after bill that is brought out, trying to game the system so we cannot have votes on these meaningful issues.

They say: Well, these are just political games. No, they are not political. When you are talking about taking away a worker's right to overtime pay; when you are talking about increasing the minimum wage for a single mother with kids to feed, who is being cheated out of her overtime pay; when you are talking about a family whose unemployment benefits have run out, and they do not know where to turn, it is not political. It is just focusing on the real needs of America—our working families—and not focusing on giving yet more tax breaks to those who already have too much in our society.

Mr. President, I will close my remarks—I see others want the floor—to say we will be back. I do not like to quote too much the present Governor of California but: I'll be back.

Time and time again, I will be back to offer this overtime amendment, until we have a vote on it, and until we can express ourselves on these onerous rules that the Department of Labor wants to foist on the American worker.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, tomorrow we will cast an important vote for our constituents. Once again we have come back to the Senate floor to press for legislative change on an issue that is critical to health care for all Americans. Time and again we have attempted to stop skyrocketing health care costs due to the runaway tort system under which trial lawyers abuse the court system with spurious claims that drive up insurance premiums for physicians and hospitals and drive them to practice expensive defensive medicine; in other words, performing costly and unnecessary procedures to be sure they won't be sued.

Last year I was a cosponsor of S. 11, the Patients First Act of 2003. The Democratic minority precluded us from completing work on that legislation. In February, we targeted a very narrow range of the medical profession to try to see if our colleagues would help us out in one area, the OB/GYN specialty, with S. 2061, called the Healthy Mothers and Healthy Babies Access to Care Act. Again the Democratic minority denied us cloture so we could not consider the bill.

It is time to stop this obstructionism. Here we are again. This time I hope my colleagues will join in voting for cloture so we may enact the needed reforms to the medical liability system.

This legislation addresses lawsuits for health care liability claims related to the provision of obstetrical, gynecological, emergency, or trauma care. With good reason, we again include the OB/GYN specialty. The dramatic increase in OB/GYN premiums—more than 160 percent over the last 16 years—has greatly outpaced the rate of inflation, and many physicians and hospitals have been unable to keep up with these escalating costs. In my State of Arizona, OB/GYN practices face premiums averaging $67,000, up 16 percent in just 1 year's time. Think of this for a moment. I am not sure what the average salary or wage of an American earner is today, but it is nowhere close to $67,000. That is what your OB/GYN doctor has to pay before he or she can even think about delivering your baby. That is the cost we have driven up.

My colleague from Iowa talked about the large number of people who can't afford health insurance. This is one of the reasons they can't afford health insurance. We have so driven up the cost of practicing medicine and the cost of health care by virtue of this broken tort system that a lot of people can't afford insurance and, in fact, employers can't afford to provide insurance for them. Let's do something about it. This legislation does something about it.

I would like to share the account of a physician in Paradise Valley, AZ, a woman with whom I spoke about 3 or 4 weeks ago who told me the story of her desire from the time she was a preteen to deliver babies and how she worked hard all through school to get good grades so she could go to medical school and eventually complete her residency. She did that. She had started out as a little girl volunteering in the hospital. She always wanted to deliver babies. After hard work and her degree, she ultimately delivered more than 5,000 babies over the course of 17 years. By the way, the vast majority were without any complications, and she has one of the best reputations as a physician in our community.

On one occasion, much to the surprise and dismay of the labor and delivery team, a baby was delivered with complications and cerebral palsy. While a group of doctors conducted a peer review of the case and determined there was no fault on the part of any of the physicians, the doctor who delivered the baby—this woman of whom I speak—3 years after the incident got sued.

Initially the plaintiff requested $2 million which was her insurance policy limit. Deciding it was better to settle and avoid long, costly litigation, the insurance company persuaded her to offer to settle the case, which she did. But then the plaintiff asked for $10 million from the physician and another $5 million from the hospital. This highly competent, highly dedicated, and motivated physician found herself consciously practicing medicine differently. For instance, performing a lot more cesarean deliveries in order to lessen the risk of complications to the baby, just in case. She was filled with a new anxiety that had never been present before. Frankly, she said it took a lot of joy out of the work she had enjoyed so much for the previous 17 years.

Eventually she stopped delivering babies because of the skyrocketing insurance premiums due to the claim that had been filed against her and, candidly, because of the trepidation she felt now she had been sued and the fact she might be sued again. Incidentally, her case was ultimately settled for less than the policy limits. But here is a

physician who was a tremendous contributor to the profession, to our community, to the health of mothers, and the health and viability of a lot of new babies. She is no longer practicing her profession because of the tort system. This physician's story is far too common. It needs to be addressed, and we can address it through the legislation before us.

In addition to the reforms for obstetricians and gynecologists, S. 2207 will cover physicians who treat patients in emergency circumstances—not just in the emergency room but in any emergency circumstance—from frivolous lawsuits. Many physicians find themselves distanced from what led them into the profession in the first place—their desire to help people, just as the physician I talked about. Emergency rooms and trauma centers are flooded with patients who need help from accidents and disasters, all very unfavorable situations. These professionals give their very best to try to address the patient regardless of the circumstance, without even asking whether they have the ability to pay, focused on stabilizing the patients and providing excellent care.

Imagine the effect on the physician and the hospital when after treating a patient in an emergency situation, they are faced with a lawsuit, particularly a lawsuit that does not have merit or seeks an excessive award. The result is frequently the emergency rooms are understaffed, sometimes even have to close. The trauma centers are losing specialists and, in some cases, closing. The physicians are not there to provide this kind of emergency care.

Since no one knows exactly whether and where an emergency will take place, this legislation covers emergency services anywhere, not just those that occur in the emergency room. For example, if a family practitioner assists a person in an emergency at a mall where somebody had a heart attack, the doctor would be subject to the protection of this bill. If an internist helps a person in an automobile accident at the side of the highway and assists that individual, that care would also be protected by this legislation.

The benefit of this legislation is while it makes specific reference to the OB/GYN doctors, it also addresses any emergency services, not just those performed by emergency room physicians or in a trauma center.

As with previous bills, this legislation will hold physicians and insurers accountable for medical expenses in instances when they are clearly wrong. S. 2207 will maximize returns to the patients instead of the trial lawyers by setting percentage caps on contingency fees. These are the fees the lawyers receive. The bill would allow lawyers to be well compensated for their work but not at the unfair expense of the plaintiffs. Patients would have 3 years from the date of injury to bring forth a claim. In the case of minors, that statute of limitations would be extended.

The bill will allow for unlimited awards of economic damages but place reasonable caps on the so-called noneconomic damages or pain and suffering damages. If we can pass S. 2207, we should therefore see tremendous benefits: a reduction in the backlog of these cases in our courts; a reduction and perhaps elimination of these excessive jury awards; a reduction in the amount of money paid by the insurance companies to settle the cases. They incur great expenses in defending the cases in court and even processing the claims for settlement. Even those that are dismissed cost money. Physicians spend a large amount of money to defend themselves even in those cases they win. A large number of these cases are settled out of court to prevent the so-called mega award, the big award that can bankrupt a practice.

But something else will happen if we pass this bill. As I said, my colleague from Iowa complained about too many people not having insurance and one of the reasons why is because it has been expensed beyond their ability to pay or their employer's ability to pay. Why? Because the insurance company has to take into account these malpractice awards, even the possibility a physician will be sued. Imagine this: When a physician has to pay $67,000 in premiums for the ability to deliver babies, think about how that additional cost has to be shifted to the beneficiaries, the patients, the people who receive the care, because the insurance companies have to make sure whatever happens, their costs are covered.

So if we are going to talk about making it easier for people to get insurance, making it easier for physicians to be able to continue their practices, for hospital emergency rooms to continue to stay open, and all of the other kinds of care to be provided, even that situation where you have a wreck on the side of the road and a doctor stops and renders emergency care to you—any one of those situations—then we need to deal with this bill tomorrow.

This has been around far too long, and tomorrow is our opportunity to right this wrong, vote for cloture, and enable us to take a final vote on the bill. We should not condone a system that literally forces physicians to retire early, as the physician from Paradise Valley I spoke of had to do. Sometimes they relocate to a different State with friendlier laws. We should not force that either. Sometimes they drop high-risk services or they go into teaching or hospital administration. We lose a lot of very competent physicians that way. This leads not just to improper staffing among physicians, obviously; more important, it compromises patient care.

We have heard the patient and physician stories and we have seen the charts about the skyrocketing costs. We know of the facilities that have had to close, emergency rooms and labor and delivery sections—all as a result of the high cost of a broken tort system. I ask my Senate colleagues to join me in support of S. 2207 so we can provide quality health care to citizens across this Nation.

Mr. President, our constituents deserve nothing less, and that is all we are asking for tomorrow—to give our constituents a chance to receive the best health care they can receive, the best health care our system can provide. That is not occurring today and, far worse, it is going to continue to deteriorate in the future if we allow the trial lawyers and those who serve the trial lawyers to continue to obstruct this commonsense legislation.

I urge my colleagues to end the obstructionism, end the partisan bickering. Our constituents sent us here to accomplish and work together for sound results. Everyone knows we need this kind of reform. The vote tomorrow is a vote to determine whether there will be a final vote on the bill. It only takes 40 Senators on the other side to say, no, we won't allow a vote to occur. That is a filibuster. That is obstructionism. That is a negative, partisan unwillingness to allow the will of the majority to work on behalf of the people of this country.

I urge my colleagues tomorrow to please support the cloture vote, which will enable us to get to a final vote on this important bill. If we do that, I think we can go home this fall and all be very proud, whether we are Democrats or Republicans, or others, tell our constituents we accomplished something for them in the area that perhaps, other than freedom, is most important for every one of us, and that is quality health care. We owe our constituents nothing less.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, the Pregnancy and Trauma Care Access Protection Act of 2004 that is now before the Senate is a matter of very real importance to real Americans. I have a good friend, an obstetrician, in Mobile, AL. We go to church together. He teaches Sunday school class. He is a former president of the State association, as I recall. He was talking to me at church a few months ago about a doctor who left the practice. His malpractice insurance was around $80,000, and he delivered around 80 children a year. That is $1,000 per delivery that doctor paid for malpractice insurance.

This is a reality. I was with a doctor I know from the group that treats my mother in Mobile, AL, just a week ago, and he told me people in the profession are retiring earlier and earlier because they are getting tired of the stress and

strain of being micro-managed through litigation; that people do not have to do that after a number of years and good people are leaving the practice over this issue.

Everybody in this body will say we need to do something about it; it is time for us to fix it; there is a problem; and we need to do this and that. But there is a strong influence, I have to say, from the trial bar in the Senate. They are very active politically, everybody knows it. They are aggressive, and they contribute large sums of money. Just a very few lawyers contribute large sums of money to political campaigns, and so far they have been able to block reforms.

The Senator from Kentucky, the assistant majority leader, Mr. MCCONNELL, proposed legislation that would eliminate lawsuits against restaurants and food companies if somebody gets fat. You go to the store and you ask for Little Debbie's. They sell them to you. That is what you want, isn't it, for Heaven's sake? They want to sue the company that gave the customer what they wanted. It is legal, so there should not be a cause of action under any definition of law.

At that hearing, the premier witness, without a doubt, was Professor Schwartz, who is the editor of the most widely used textbook on torts in America. We got into a little bit of a philosophical discussion because some people suggest that it somehow is not legitimate that we in Congress should pass a law involving lawsuits; that it ought to be left to the sanctified courts; that they are somehow better than the political branch, and that we ought to never pass a law that affects the courts. Of course, that is hogwash. I asked him about that, and he said it plainly and we discussed it at some length.

Congress says what the statute of limitations is. If you file a lawsuit within 2 years, 5 years, 6 years, but 1 day late, you have no lawsuit; it is out; the statute of limitations runs. Congress sets that limitation. Every State has limitations on damages. We create causes of actions that have never existed before by explicit statutory action.

There is a law in the code that if somebody rolls back your odometer and you sue them, you get an automatic $1,500 if you can prove they rolled back your odometer. In Kentucky, I am sure they roll back some odometers. Most cars we get in Alabama are rolled back in Tennessee, Mr. President, and are shipped to the State. We created that cause of action—it never existed before—for actual damages, whatever would be sufficient. I filed a lawsuit under it one time.

I say all that to say Professor Schwartz is correct. We have every right to look at what is happening in America. I am not going to talk at length tonight, but I say we have a serious problem in this country that is impacting health care in America. It is reducing the number of physicians who are willing to practice, particularly to deliver babies.

I was in Ashland, AL, the hometown of Gov. Bob Riley of Alabama, in Clay County. I visited their hospital because our prescription drug bill did a lot for rural hospitals. We had a big meeting and everybody was there. They talked about how the year before they had given up the delivery of babies in Ashland, AL, at that hospital. They no longer deliver babies in the State. I have some numbers that were pretty dramatic to me that indicated how many of these hospitals had quit delivering children. Why? Because they get sued. The amount of malpractice it takes to do that is rather dramatic.

According to the Alabama Department of Public Health, only 58 hospitals in Alabama have labor and delivery services. That is down from 70 in 1999. Twelve hospitals since 1999 have quit delivering children. Only 14 of the hospitals that are left have full-time neonatologists and neonatal intensive care units. Those 14 are located in the five biggest cities: Birmingham, Montgomery, Mobile, Huntsville, and Tuscaloosa.

Those are big issues. Thirty-four of the 67 counties in the State do not have OB delivery services. That was not true 30 years ago. This is a recent trend. Sometimes it is better, I will admit, that a person go to a hospital, but we have a lot of people who believe in midwives because of the bonding and the personal attention a mother gets. They believe in that. I am not a believer in that. But a good doctor who knows the family, who knows the mother, maybe they go to church together, who cares about the family, used to deliver babies in a large way in Alabama. That kind of practice is going away today. We are creating a circumstance in which fewer and fewer people are willing to undergo that type of practice.

Health insurance is way up. The delivery of health care has been constricted as a result of unnecessary, oftentimes illegitimate lawsuits. In fact, it has almost gotten to the point where a physician who delivers a child is held to be a guarantor of the healthiness of that child.

If something is wrong, too often somebody looks around to find somebody to sue; the doctor who did it or the hospital in which it was delivered is the one who is sued.

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

Mr. SESSIONS. I would be delighted to.

Mr. MCCONNELL. It occurs to the Senator from Kentucky, in listening to observations of the Senator from Alabama, what has evolved in America is that we believe we are a society of victims, everybody is a victim? If somebody is wrong in my life, if I have a bad outcome in my life, it must be somebody else's fault. So beyond the obvious abuse of the legal system, it encourages the notion that personal responsibility is no longer a factor in American life.

I ask my friend from Alabama if he is also disturbed about this growing notion that I have no responsibility for the outcomes in my life, if anything goes wrong it must be somebody else's fault and obviously the solution to that is to sue.

Mr. SESSIONS. I think the Senator from Kentucky is exactly correct. We do have far too much of that. We have a lawsuit lottery mentality, jackpot justice. People file suits and they seek huge amounts of money in hopes they will recover.

My daughter does some defense work in a law firm. She is a lawyer. She was telling me about a nursing home case, and a person had bed sores, and there was a big lawsuit. She said, you know what they discovered? They had learned in some way that Ronald Reagan had bed sores.

These kind of things can happen, but they were having to pay a large amount of money. Maybe they were negligent, maybe they deserved to pay, but I just say there is this mentality that if something goes wrong somebody has to pay. As the Senator from Kentucky knows, the one who pays is the one who has insurance. That means the hospital or the doctor normally. They are the ones who are getting whacked. It may be that nobody investigated to see if maybe the mother drank alcohol too much during the pregnancy or something. Any number of things could have occurred that would have caused that.

I conclude by saying I am pleased to see this legislation move forward. It is not insignificant. I am hearing from my physicians that they feel strongly that the quality of their lives, as well as the excellence of their practice, have been adversely impacted by litigation.

A doctor was in my office recently who is a leader in the medical association. He said, Jeff, I am telling you maybe as much as 50 percent of the medicine we practice is driven out of fear of lawsuits. We could reduce the cost of medicine by a tremendous degree if we could contain the threat of lawsuits.

There is no doubt that lawsuits have recompensed people who needed it for a wrong. When a person commits a wrong, they should pay. There is no doubt about it. I know the Presiding Officer and the Senator from Kentucky, in their law school there was a community standard of excellence.

Everybody is not expected to be the best surgeon in America. Everyone is not expected to be the best lawyer in America. Take somebody who is a professional and they were expected to give the best skilled work they could give under the circumstances. They should not be found negligent. They should not ignore a patient. They should not fail to give the kind of care

that everybody knows ought to be given. But just because one person has a steadier hand or has more experience maybe and can do a surgery slightly better than another one does not mean, and never has meant under American law, that there is a liability question.

I think the Senator from Kentucky is correct. What has concerned me is the erosion of the standard of negligence and error. A physician or a hospital should commit an error, negligence, before they should be required to compensate someone who has had an unfortunate result in that hospital. We have gotten away from that.

This bill, of course, allows for full recompense for damages and injury for any cost for medical care; any cost for future treatment or hospitalization, which in a lifetime could be millions of dollars; $250,000 in pain and suffering, in addition to the compensatory costs; and $250,000 or twice the compensatory damages for punitive damages. Those things are allowed for in the bill; it just simply says there is a limit.

When a person can sue somebody for $50 million and get a jury—juries really have a difficult time deciding between $2 million and $30 million, and they come up with $15 million. How did they come up with that number? This says that one gets fully compensated for however much it costs, for any damages that are sustained as a result of the negligence of a physician. In addition to that, one can get punitive damages and pain and suffering, but it is limited. I think that would go a long way to making lawsuits settleable so both sides know the framework they are operating under. Then a lawsuit can be settled. Without a limit on the top, it is very difficult to settle that lawsuit.

I believe this is good legislation. I hope it can move forward. I hope we do not see it obstructed and blocked as we have others. I hope we can get an up-or-down vote.

I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. MCCONNELL. Mr. President, before the Senator from Alabama leaves, I want to thank him again for the hearings he held on the Commonsense Consumption Act, not the bill before us today but another measure that makes, as the title implies, common sense. The common sense embedded in that bill is that it is improper to sue a food manufacturer or a distributor for damages claiming that the seller made you overweight. It is simple justice. It would not deny any of the traditional claims against a distributor or manufacturer of food, but it would prevent such a ridiculous lawsuit.

The American people overwhelmingly support this legislation by well up into the 80 percent. The legislation passed the House of Representatives by an overwhelming bipartisan vote and is at the desk in the Senate. Hopefully sometime this year we will get an opportunity to call that up and see if maybe the Senate will let us at least pass a very modest legal reform bill that deals with a problem that is beginning to evolve in our society of victimhood.

Mr. SESSIONS. If the Senator will yield, I would note that Professor Schwartz, as I said, the editor of the most utilized textbook on lawsuits and torts in America, strongly supports the legislation. He feels it is appropriate. I will ask the Senator, does he not agree, based on his experience as an attorney, that we have muddled over and glossed over the question of fault?

In the Senator's bill, if they sell food that is contaminated and a person gets sick, if they sell food that has a bug in it or something, somebody can still sue. If the food is unhealthy a person can sue, but if it is perfectly healthy food and it is the food one ordered they ought not to be able to bring a lawsuit. Is that not the intent of the Senator's legislation?

Mr. MCCONNELL. The Senator from Alabama is correct. That is, of course, the underlying principle of this legislation. I thank him for having the hearing and for giving people an opportunity to come forward and have their say on this important legislation.

As I said, it is at the desk and we hope sometime during the course of the second session of this Congress we will have a chance to address it.

Mr. SESSIONS. One more question. Has not the question of fault always been the cornerstone of American law with regard to lawsuits and negligence and liability, that somebody has to be at fault, have done something beyond the standard of care to cause a damage? That is when there is a lawsuit. Is not getting away from that one of the reasons that we are having so much abuse in the legal system?

Mr. MCCONNELL. That is what we always were taught. As the Senator indicated, in school that is what tort law was about. If one was not negligent, if they did not cause the harm, they should not be held liable. We have gotten away from that in this country. It is a very dangerous trend. It is time for the Congress of the United States to begin to redress this imbalance. I thank my friend from Alabama.

Mr. President, on the matter before us upon which we will be voting cloture on the motion to proceed tomorrow, the Pregnancy and Trauma Care Protection Act introduced by Senator GREGG and Senator ENSIGN, this is our third attempt this Congress and our second attempt in 6 weeks to try to do something about the medical liability crisis that is forcing patients all across the country to go without critically important medical services. On both previous occasions, a majority of the Senate has voted to try to solve this problem.

Unfortunately, though, only one brave soul on the other side of the aisle voted to support even taking up such a measure.

But hope springs eternal and maybe the third time is a charm. So we come back to the Senate to try once again to give our colleagues on the other side of the aisle a chance to join us in implementing real reforms for a problem that is all too real for many of our fellow citizens.

As we did the last two times, we brought reform legislation to the floor. We are offering the American people a proven remedy—not a placebo. The bill we hope our colleagues will let us consider, like its two predecessors, is based upon California's successful MICRA reforms. The Pregnancy and Trauma Care Access Protection Act would allow plaintiffs to recover unlimited economic damages—up to a quarter of a million dollars in noneconomic damages and punitive damages up to the greater of a quarter million dollars or twice the economic damages.

We recognize the reluctance of some of our colleagues to implement MICRA's reform on a nationwide scale, proven though these reforms are. So rather than propose the comprehensive reform we tried to advance last year for all medical practitioners, we are attempting a modest first step. The provisions in S. 2207 would apply only to two of the medical specialties that are suffering the most in this crisis: OB/GYNs and emergency care services. That is all this bill would touch.

Though extremely modest in scope, this bill is crucial to protecting the doctors who practice in these two areas and the millions of American patients who rely on them. For example, OB/GYNs provide some of the most critical medical services. Sadly, they also bear the highest premiums. As a result, women and children across our country are placed in danger as they struggle oftentimes unsuccessfully to find even basic obstetrics care.

In addition, emergency room doctors are the primary care physicians for many Americans. According to the Alliance of Specialty Medicine, each year there are 110 million visits to emergency departments. More than 90 percent of these visits are patients who need to be seen in 2 hours or less. And approximately 28.3 million Americans visit the emergency room each year due to an accident or unintentional injury. Ninety-nine percent of those patients will recover after receiving lifesaving care from an ER or trauma center.

Thus, when ER doctors and trauma care physicians curtail their practices or go out of business altogether because of the medical liability crisis, the people who suffer the most obviously are the American families.

Let us turn to the crisis in Kentucky. This chart illustrates Kentucky's crisis in obstetric services.

Sixty percent of Kentucky's counties are without OB/GYNs.

This chart takes a look at the counties. The red counties, which the occupant of the Chair and our colleagues can see, are many counties. Sixty-nine of one hundred twenty counties in Kentucky have no OB/GYN.

In addition to that, the next chart illustrates the availability of emergency services in Kentucky. 43 percent of Kentucky's counties are without emergency room physicians. That is 52 of the 120 counties.

All of the red counties all across the Commonwealth of Kentucky have no ER doctor at all—none.

Another 21 percent of Kentucky counties have only one specialist in emergency medicine for the entire county.

So you can see in our State, the Commonwealth of Kentucky, there is a serious crisis—an absence of OB/GYN care and an absence of emergency room doctors. A principal reason for that, not surprisingly, is the medical malpractice crisis that we have in the Commonwealth of Kentucky.

This is a serious problem. We have county after county in crisis. Just to give you an example, Perry County in southeastern Kentucky technically has a practicing OB/GYN. But that one doctor stopped delivering babies during the last year. If you are in Perry County, it doesn't do you much good. They have an OB/GYN but she does not deliver babies.

Eighty-two of Kentucky's one hundred twenty counties don't have either an obstetrician or have one obstetrician.

This is a serious problem in the Commonwealth of Kentucky.

Six weeks ago, when we were asking our colleagues to consider the Healthy Mothers and Healthy Babies Access to Care Act—S. 2061— I discussed the crisis in obstetric and gynecological services in my home State of Kentucky.

Kentucky does not have liability reform. Not surprisingly, liability insurance rates for OB's in Kentucky, for example, increased 64 percent in just 1 year, from 2002 to 2003. Also not surprisingly, in just the last 3 years, Kentucky has lost one-fourth of its obstetricians. Moreover, Kentucky has lost nearly half its potential obstetric services during this time, when one factors in doctors who have limited their practices.

According to the Kentucky Medical Association, 60 percent of the counties in Kentucky do not have any OB-GYNs.

Other counties, such as Perry County in southeastern Kentucky, technically have a practicing OB-GYN, but that one doctor has stopped delivering babies within the last year. So if you are in Perry County, that doesn't do you much good.

Another 8 counties—like Greenup, Lawrence, and Johnson Counties in northeast Kentucky—have just one OB-GYN in each county.

So if you are a woman in these counties, you had better hope that there isn't another woman having a baby at the same time you are, or that the doctor is not out of town or busy with another patient. If that happens, then you are going to have to drive through the hills on the back roads of eastern Kentucky to try to find a doctor to deliver your baby.

All told, 82 of Kentucky's 120 counties have no OB's or have just one OB.

Now, you may be thinking that, although this is far from ideal, couldn't the women in these situations simply go to the emergency room and have an ER doctor deliver their baby? Maybe in the old days women could do this, but they can't do this anymore.

Another casualty in the medical liability crisis has been in the provision of emergency medical services. According to the Kentucky Medical Association, medical liability premiums for ER physicians increased, on average, an astounding 204% from 2001 to 2002!

The situation of Dr. David Stanforth is illustrative. He is a partner in an emergency medicine group serving three hospitals in Northern Kentucky. Dr. Stanforth had his malpractice insurance cancelled 3 years ago and then switched insurance policies to obtain coverage. His premiums have since tripled to $800,000 per year, even though there wasn't a malpractice award against his ER group during that period.

The result of situations like Dr. Stanforth's are all-too-predictable.

According to the Kentucky Department of Public Health, 43% of Kentucky counties do not have any doctors specializing in emergency medicine. Another 21% of Kentucky counties have only one emergency room physician. All told, then, 64% of Kentucky counties do not have any ER doctors or have only one ER doctor for the entire county.

To come back to the crisis in obstetric services that I was discussing, if you are a woman in eastern Kentucky who is delivering a baby, not only are you not going to be able to find an O.B. to delivery your baby. You are not going to be able to find an ER doctor to help you either. Instead, you are going to have to drive until you find some doctor—any doctor—if you're lucky, to help with your delivery.

Unfortunately, too many women are not so lucky. They end up delivering their babies in the backseat of a car or on the side of the road.

This situation cannot continue. I applaud Senators GREGG and ENSIGN for their determination to do something about this crisis. I hope my colleagues on the other side will let us try to solve this problem with meaningful reform and will vote to invoke cloture on the motion to proceed.

I thank the Chair.

I will conclude by saying the principal reason for the crisis is the rising cost of medical malpractice insurance, and the inability of these physicians, dedicated though they may be to public health and serving people in the Commonwealth of Kentucky, who simply can't afford to stay in business. They cannot make a living doing what they went to medical school to do and what they want to do with their lives, which is to take care of women and babies and to save people in the emergency rooms of the Commonwealth.

We will have an opportunity tomorrow, once again—as I said earlier, hopefully a third time will be a charm—to take the simple step of going to the bill and giving us an opportunity in the Senate of addressing what is indeed a national medical crisis.

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.

LOCAL LAW ENFORCEMENT ACT OF 2001

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

On February 29, 2004, a transsexual man who was planning to undergo an operation to make him a woman, was found shot to death in his car parked outside his apartment in Georgia. The Atlanta Police are canvassing local bars seeking information from anyone who knew the victim.

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

NATIONAL PUBLIC HEALTH WEEK

Mr. SARBANES. Mr. President, I recognize the American Public Health Association's 14th annual National Public Health Week. I specifically want to acknowledge and commend the Association on its theme this year: ''Eliminating Health Disparities: Communities Moving from Statistics to Solutions.''

Our public health practitioners affect all areas of life as they fulfill their mission of promoting health and preventing disease at the broader ''population'' level. The American Public Health Association is the oldest and largest organization of public health professionals and has had an enormous influence on public health priorities and policies for over 100 years.

As we begin National Public Health Week, it is clear how the Association's selection of a particular theme can make a significant difference in how we develop our health agenda as a nation. I think this year's choice will be no exception and that it will be an impetus for frank and thoughtful discussion about what should be one of the

Nation's most critical priorities, the need to address health disparities.

The first NIH Working Group on Health Disparities defined health and health care disparities as ''differences in the incidence, prevalence, mortality, and burden of diseases and other adverse health conditions that exist among specific population groups in the United States.'' I take a moment to highlight just a few of these differences.

Statistics from the Department of Health and Human Services Report entitled ''National Health Care Disparities'' bear out that minorities are less likely to be given appropriate cardiac medications or to undergo bypass surgery, and are less likely to receive kidney dialysis or transplants. The same study has shown that minorities are less likely to receive the most sophisticated treatments for HIV infection, which could forestall the onset of AIDS. Our minority communities are instead more likely to receive less desirable, non state-of-the-art procedures, such as lower limb amputations for diabetes and other conditions.

These disparities also put our children at significant risk. In my own State of Maryland, the Infant Mortality rate for African Americans is two times higher than for Caucasian Americans.

And these disparities do not only occur along racial lines. Healthy People 2010 and the National Health Care Disparities Report show that those who live in our more rural communities face similar inequitable treatment. Rural community residents have less contact and fewer visits with physicians, even though these residents tend to have a heightened need for health care. Indeed, injury rates in rural communities are 40 percent higher than in urban areas.

Women are 20 times more likely than men to die from a heart attack. Statistics from the Agency for Health Care Research and Quality reflect that women receive less aggressive treatment for heart related ailments than men, and are less likely to receive life saving drugs such as lidocaine, beta-blockers and aspirin for heart attacks.

Persons with disabilities face significant disparities in the care they are afforded as do the indigent; the list goes on and on. These are just a few examples of how this inequity affects our population.

The State of Maryland has engaged in a number of statewide and local initiatives to address health care disparities in our communities. At the Federal level, I have cosponsored S. 1833, the Healthcare Equality and Accountability Act, which seeks to eliminate racial and ethnic health disparities in health care. I hope we can use the momentum created by this week and redouble our efforts to ensure comprehensive quality health care for all of America's citizen's regardless of their race, ethnicity, socioeconomic status, gender, education level, geographic location, disability or sexual orientation.

Again, I commend the American Public Health Association for focusing the Nation's attention on this important issue and for serving to increase the dialogue to rid the country of these inequities. I hope my colleagues offer their support to this important effort as well.

OPERATION ENDURING LOVE

Ms. LANDRIEU. Mr. President, we all know that the war in Iraq is not without its controversies or detractors. But it is also important to note that the spirit of the American people is transcendent. Whether you supported the war in Iraq, as I did, or whether you opposed it, the people of this Nation are very conscious of the sacrifice that our military men and women are making for us all are grateful. I rise today to give one small example of the American people's spirit from Lafayette, LA.

The soldiers of the 256th Army National Guard Infantry Brigade were recently put on alert and notified that they could be heading to Iraq soon. As for any Guard unit, such deployments mean a tremendous disruption in the lives of the citizen soldiers who make up this brigade. They miss work, they miss graduations, they miss birthdays, they miss reunions, and sadly, for some, they miss weddings.

When the announcement went out that the 256th could be deploying, Spec. Jeremy Meyers and his fiancee, Amy Glorioso, decided that they needed to move up their wedding date. But as everyone knows, weddings are expensive, and food, flowers, and venues have to be reserved and paid for months in advance. Changes to wedding dates can mean thousands of dollars in additional costs.

But thanks to the organization and drive of Merilyn Crain, the owner of L'Eglise in Vermilion Parish, and the patriotism and dedication of businesses throughout the Lafayette region, seven couples will enjoy their dream weddings—earlier than planned—and for free.

This act of generosity is the perfect symbol of the deep appreciation and love that all Americans feel for their soldiers, sailors, airmen, and marines. The people of the Lafeyette region, and all of Louisiana should be proud of the example they have set in rallying around the men and women of the 256th. As the Bible teaches us, ''No greater love hath any man than this, that he should lay his life down for another.'' It is therefore appropriate that we should repay the debt we owe our military, by assisting them with ceremonies that celebrate the love between two people.

Mr. President, I congratulate the businesses and individuals whose generosity made these efforts possible. I will have the privilege of meeting the members of the 256th and their families this coming Monday. I will also get a chance to thank some of the members of Operation Enduring Love personally. However, I wanted to take this opportunity to tell this inspiring story here on the Senate floor, and record for posterity the names of those businesses and performers who have participated. They are:

L'Eglise, Inc. of Abbeville, Let's Talk Dinner Personal Chef Service of Lafayette, Crystal Weddings of Lafayette, Occasions Cake Boutique of New Iberia, Sugar Art Wedding Cake, American Legion Post 69 988–0799 of Lafayette, Viet Nam Veterans of America, Acadiana Chapter No. 141 of Fontenot, Mary Ellen's Tux Shop of Lafayette, Antoinette's Bridals & Formals of Lafayette, Chef Bobby & Dot's Le Bon Manger Catering of Kaplan, Sugar Art, A La Carte of Lafayette, Tsunami of Lafayette, Schilling Distributing Co Inc. of Lafayette, Glazer's Companies of Lafayette, Quality Brands Inc. of Lafayette, Interior Plant Services of New Iberia, Paul's Jewelry of Lafayette, Spedale Spedale's of Lafayette, Beyond Flowers of Lafayette.

Cajun Cottage Gifts of Erath, Flowerland of Lafayette, The Gardenaire at River Ranch of Lafayette, Steve's Flowers of Lafayette, Floral Design Classes of ULL of Lafayette, Flower's Etc. of Lafayette, Sam's Club—Floral Dept. of Lafayette, Louisiana Wholesale Florists, Aveda Institute of Lafayette, JM French Skin Care Line of Rayne, Studio One 2 One of Lafayette, Royal Day Spa & Salon of Lafayette, The Client Salon & Day Spa of Abbeville, Creative Memories Photography, Robin May Photography of Lafayette, Ken Romero Photographer, Shane Falgout, Photographer, Dominick Cross Photography, Fast Forward Multi-Media of Lafayette, Regent Broadcasting of Lafayette.

Dr. Paul Baker, Beth Fontenot, Mike Vidallier, Lynn Broussard and Company, Kurt Boudreaux, Tommy Benoit String Quartet, Limousines Limited of Lafayette, Diamond Limousine Inc. of Lafayette, Gabriel's Jewelers, WHC, Inc., Shady Acres of Abbeville, Crystal Cottage of Lafayette, Armentor Jewelers of Abbeville, Jean's Bridal Accessories of Patterson, Jolie Mariee ''Weddings By Anne,'' Best Western Hotel Acadiana of Lafayette, Right Angle of Lafayette, Special T Ice Company of Abbeville, and Pictage, Inc. of Torrance, CA.

ADDITIONAL STATEMENTS

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

TEMPORARY EXTENSION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT

• Mr. KERRY. Mr. President, I want to make a statement about a small business bill that the Senate passed last week. I am referring to H.R. 4062, which, among other things, provides a temporary solution to the administration's self-created funding crisis for the SBA's largest small-business lending program, commonly referred to as the 7(a) Loan program. In many ways, the bill is similar to legislation I introduced four weeks ago, S. 2186. For example, it adopts my provision to keep the 504 program operating through the rest of this fiscal year instead of subjecting the 504 borrowers and lenders to

another series of disruptive temporary extensions. Similar to my bill, it also lifts the $750,000 cap on loans, lifts the restriction on combination or piggyback loans, gets loans to those small businesses denied 7(a) loans since the program shutdown in January, and extends the operation of the SBA overall, including the Small Disadvantaged Business Program and the Surety Bond program.

In general, H.R. 4062 is a step in the right direction and I commend Congressman MANZULLO and Congresswoman VELÁZQUEZ for their work. I do, however, have some concerns about the bill, concerns shared by many in the small business community, and I regret that the Senate Republicans blocked a bi-partisan Snowe-Kerry amendment to address those concerns.

For example, H.R. 4062 did not address the pressing need to correct the outdated funding formula for the SBA's Women's Business Centers program. The law needed to be changed before the Agency awards this year's grants because more than 50 Centers around the country are at risk of losing their matching federal money. I had been advocating for this change since I introduced S. 2186 on March 9, and the Snowe-Kerry amendment included my provision. Unfortunately, one or two Senate Republicans objected to the provision and blocked its passage.

As for the 7(a) Loan Program, I am concerned about the extent of the fee increases, the lack of data justifying the increases, the rapid expansion of the SBAExpress pilot program, and the precedent that these changes will have on developing a workable approach to next year's 7(a) funding problem created by the President's request for zero funding for fiscal year 2005. The Snowe-Kerry amendment took a much more measured approach to the fee increases, adopting the levels supported in S. 2186 and S. 2193, with flexibility for the SBA to increase the fees up to the levels in the House bill should the need arise to keep the program running for the remainder of the year without restrictions. For example, instead of temporarily charging a lender fee on the commercial portion of a combination or piggyback loan of .5 percent, H.R. 4062 charges 40 percent more, imposing a fee of .7 percent. Senator SNOWE devised the discretionary stair-step compromise in our amendment and it was preferred by the lending community. It is unfortunate that the lenders may be required to pay higher fees than necessary to reach the goal: Congress seeks to keep access to 7(a) loans available to small businesses for the rest of this year, fiscal year 2004.

The Snowe-Kerry amendment also took a more measured approach in expanding the SBAExpress program. H.R. 4062 includes a controversial provision proposed by the administration that would expand the current SBAExpress reduced guarantee pilot program from loans of $150,000 to $2 million. An increase of 700 percent.

The administration contends that the pilot expansion would only be voluntary and therefore harmless if not used. While SBAExpress has worked well for relatively small loans, those averaging around $150,000, lenders have testified before our Committee that SBA Express is not workable for all sizes of loans and that the volume of SBAExpress loans is not likely to increase. In fact, the smallest SBA lenders, community banks, have testified that to mandate SBAExpress would drive virtually all community banks from the program. Yet the administration argues this voluntary authority is necessary because, when combined with other program changes, it would reduce the subsidy rate, thereby stretching the 7(a) loan funding, getting the program closer to their latest program volume projections.

This can only be true, however, if the volume of SBAExpress loans increase. To date, the administration has not produced any documentation supporting that contention, and the small business lenders fear that the administration will circumvent the requirement that this be strictly voluntary by showing preferential treatment to lenders who use the SBAExpress program. They believe this will occur in order to steer loans away from the regular program, which has a higher guarantee of 75 percent to 85 percent. Congresswoman VELÁZQUEZ held strong to including very good provisions aimed at protecting the loan program from such tinkering, and she is to be commended for her effective advocacy. Unfortunately, even with these safeguards, I believe it was premature to enact the administration's SBAExpress proposal until better data could be obtained and analyzed. Further, since H.R. 4062 is a temporary extension of SBA's authority until June 4th, 2004, there would have been time for this and other proposals to be properly vetted and, if appropriate, adopted.

Extreme changes like expanding the SBAExpress program 700 percent were driven by the administration. The groups agreed to live with them only because it was better than the alternatives—further reducing the loan cap from $750,000 to $500,000, another shutdown, or the administration's proposal to mandate all loans be made through the 50 percent guarantee SBAExpress program. Let me read to you a few quotes by the small business community that reflect the feelings of many expressed to this Committee:

The Independent Community Bankers of America: ''The ICBA did not oppose a short-term fix bill that would open up much needed lending to small businesses, but only because the alternative pushed by the SBA was far worse and would have choked off lenders' ability to continue making SBA loans. We didn't want to punish small business because of the unwillingness of the SBA to ask for the funds they knew were needed to keep the 7(a) program viable. This bill is only a short term Band-Aid. The ICBA continues to oppose the SBA's efforts to squeeze the 7(a) program out of existence and hopes a genuine good faith resolution can be part of the FY 2005 budget.''

The American Bankers Association as quoted in the ''American Banker'' on April 1, 2004: ''The need to avoid an even lower loan-size cap is why the ABA supported the compromise, despite having serious reservations about the expansion of the SBAExpress and the additional fees on lenders. 'We are not totally pleased with it, but we're not going to write a letter opposing it', said Mr. [James] Ballentine [Director of Community Development]. 'We believe the lenders bent over backwards to restart this program, and we've seen very little movement on the part of the Agency.'''

Mr. President, we are all glad that the program is back in business for the rest of the year, particularly for the small businesses that have been hung out to dry since the January shutdown of the program. The delays imposed on the FY2004 fix for the 7(a) loan program were unnecessary. There were several opportunities—bills or amendments—since March 10th to mitigate the funding shortfall or all together fix it, but they've been blocked or stalled.

Mr. President, waiting has a price. Not only to the qualified small businesses waiting for needed loans and for those who had been promised loans in January only to have the administration abruptly impose a crippling loan cap, but also to the taxpayer. If either of the changes Senator SNOWE and I had proposed in our bills, S. 2186 and S. 2193, had been enacted as part of H.R. 3195 in mid-March, we could have saved more than $100,000 a day, leveraging at least another $150 million in small business loans in this fiscal year. These delays are fiscally irresponsible.

The Republican obstructionists will justify their delay tactics by arguing that the earlier bills did not solve the entire funding problem for the rest of the year. However, there are numerous problems with such a claim. One, time was of the essence for the small businesses that had been shutout since January. Two, no one knows if the administration's estimates are accurate and the confidence in the econometric model that predicts future program costs has gone down as a result of the SBA's latest estimates. For example, how could imposing a fee on piggyback loans of .5 percent, a fee that will generate new income for the program, not offset the costs at all? And, if that is true, how could additional savings from increasing that fee by 40 percent, to .7 percent be only one one-hundredth of one percent? I don't know of one lender who believes that claim. Three, it would have been better to take a step in the right direction and immediately reduce the cost of the program to the extent possible in order to stretch the lending dollars. This option would have allowed for future refinements while saving precious appropriated dollars in the process. Four,

there would have been (and still are) several other opportunities to make adjustments later in the fiscal year.

With respect to the other important provisions of H.R. 4062, I am glad that the bill includes my measure from S. 2186 that allows the 504 Loan Guarantee Program to operate through the rest of the fiscal year; however, I am very disappointed that, despite bipartisan support, the Republican leadership refused to include a Snowe-Kerry amendment to promote women in business and safeguard one of their only dedicated resources of support: the nationwide network of women's business centers. The Republicans that blocked our amendment—in support of the administration's policy to eliminate experienced, efficient and effective women's business centers in favor of new and untested centers—are potentially depriving thousands of women in business access to much-needed assistance. The Snowe-Kerry amendment, like S. 2267, would have made a small adjustment to the Women's Business Center program that corrects an outdated funding formula, without added cost to the Treasury. The adjustment would have changed the portion of funding allowed for women's business centers in the sustainability part of the program to keep up with the increasing number of centers that will need funding this fiscal year. Without it, all grants to sustainability centers in 39 States could be cut in half—or worse, 23 experienced centers could lose funding completely. Our amendment was a bipartisan compromise intended to maintain an effective women's business center network; a compromise that was agreed to by Chair SNOWE, myself, and the bipartisan leadership of the House Small Business Committee. It was supported by women's groups across the country, and it is my sincere hope that my colleagues in Congress will support this change in the very near future.

I thank the broad coalition of small business trade associations that have worked on the various bills and supported the provisions in my bill, S. 2186: The trade association of Women Impacting Public Policy (WIPP) and the National Association of Women's Business Owners (NAWBO), the National Association of Government Guaranteed Lenders (NAGGL), the American Bankers Association, the Independent Community Bankers Association and the U.S. Chamber of Commerce for endorsing the provisions relating to the 7(a) Loan Guarantee Program; WIPP, NAWBO, and the Association of Women's Business Centers for fully supporting the provisions relating to the Women's Business Centers program, as well as the cosponsors of S. 2186. I think anyone who knows of these groups, their members and their leadership, knows that they work very well with both sides of the aisle and with the leadership of our Committee and also the House Committee on Small Business. Working cooperatively in a bipartisan fashion makes good sense and has long been their practice. We all appreciate their work to fix these problems, and for the contribution they make to cultivating small startup and growing small businesses in our communities.

Mr. President, I ask that several letters addressing the issue at hand be printed in the RECORD. I thank my colleagues for their support of small businesses and for considering immediate passage of this bill.

The letters follow.

MARCH 10, 2004.

DEAR REPRESENTATIVE: Today, as the House prepares to vote on H.R. 3915, we are writing to express our concerns with this legislation. We are very disappointed that it does not include a SBA 7(a) program solution. Without a solution the 7(a) program will not be allowed to create much needed jobs to help our economy.

The SBA's flagship 7(a) loan program, the single largest provider of long-term start-up and expansion loans to America's small businesses, has been crippled since the beginning of this fiscal year, when the SBA temporarily shut it down due to a funding shortfall. When the Agency reopened the program a week later, it implemented an artificial loan cap of $70,000—a reduction of more than 50% of the program's statutory loan limit of $2 million—and a prohibition on piggyback loans, which would have allowed lenders to make loans in excess of a loan cap.

Businesses who had already submitted applications for loans in excess of the new cap were then told their deals would not qualify for the program. These applicants had gone through months of financial planning and had been promised their loans would be approved. Many had already begun purchasing equipment and hiring employees. If their deals do not get done, many will lose earnest money they had taken from personal savings and retirement plans to inject into these loans.

Other potential applicants who would ordinarily qualify for the 7(a) program have since been told there is no alternative to finance their start-up or expansion. The net result to these small businesses is a loss of faith in the U.S. government. The net result to the economy is a loss of jobs.

A solution to this lingering problem does exist and it has been communicated to the House Small Business Committee. This proposal has bipartisan support on the Small Business Committee, as well as the support of banking and small business trade groups. The proposed solution would increase fees for lenders to ensure that there is no budget impact. It would maintain the 7(a) program. However, H.R. 3915 ignores this solution.

Without a 7(a) solution, approximately $3 billion in loans will remain unavailable to small businesses for the remainder of FY 2004—a net loss of approximately 90,000 jobs. We also fear that if a swift and equitable solution is not enacted, many 7(a) lenders will flee the program, leaving a void in availability of the long-term financing that is so crucial to small businesses' success.

We request that Congress bolster economic recovery and the small businesses that drive it by enacting a 7(a) program solution that has the full support of Congress and the industry.

Sincerely,

American Bankers Association.
America's Community Bankers.
Independent Community Bankers of America.
National Association of Government Guaranteed Lenders.
The Financial Services Roundtable.

NATIONAL ASSOCIATION OF GOVERNMENT GUARANTEED LENDERS,
Stillwater, OK, March 10, 2004.

Re SBA 7(a) funding crisis and S. 2186.

Hon. JOHN F. KERRY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KERRY: As Congress considers how to solve the ongoing SBA 7(a) program funding crisis, we are writing to express our support for S. 2186, which includes provisions that both Small Business Committees and the 7(a) industry have already agreed are equitable.

While NAGGL is generally opposed to programmatic fee increases, the 2004 budget for the 7(a) program has made his concession necessary. NAGGL testified in 2003 that 2004 program demand would be nearly $12 billion, but the Administration adamantly disagreed with our estimate, providing program level of only $9.5 billion. The Administration has also failed to reprogram any additional money to the 7(a) program or offer a supplemental appropriations request.

As a result, the SBA's flagship 7(a) loan program, the single largest provider of long-term start-up and expansion loans to American's small businesses, has been crippled since the beginning of this fiscal year, when the SBA temporarily shut it down due to a funding shortfall. When the Agency reopened the program a week later, it implemented an artificial loan cap of $750,000—a reduction of more than 50% of the program's statutory loan limit of $2 million—and a prohibition on piggyback loans, which would have allowed lenders to make loans in excess of a loan cap.

Businesses who had already submitted applications for loans in excess of the new cap were then told their deals would not qualify for the program. These applicants had gone through months of financial planning and had been promised their loans would be approved. Many had already begun purchasing equipment and hiring employees. And if their deals don't get done, many will lose earnest money they had taken from personal savings and retirement plans to inject into these loans.

Other potential applicants who would ordinarily qualify for the 7(a) program have since been told there is no alternative to finance their start-up or expansion. The net result to these small businesses is a loss of faith in the U.S. government. The net result to the economy is a loss of jobs.

The provisions of S. 2186 fix this problem, and the bill has NAGGL's full support. As the trade association representing lenders who make over 80% of loans in the 7(a) program every year, we can attest to the fact that the minimal fee increases in S. 2186 are ones that lenders will pay and will not be passed along to borrowers. We also continue to oppose the SBA's legislative proposal to reduce the guarantee on all 7(a) loans to 50% and allow the legislation that provided for lender and borrower fee decreases through the end of this fiscal year to simply sunset.

Without the provisions of S. 2186, $3 billion in loans will remain unavailable to small businesses for the remainder of FY 2004—a net loss of approximately 90,000 jobs. We also fear that if a swift and equitable solution is not enacted, many 7(a) lenders will flee the program, leaving a void in availability of the long-term financing that is so crucial to small businesses' success. This will be occurring at a time when our economy is in desperate need of a shot in the arm.

We request that you press for swift passage of S. 2186 to bolster economic recovery and the small businesses that can drive it. Thank you in advance for your consideration.

Sincerely,

TONY WILKINSON,
President and CEO.

CRYSTAL COLLECTION,
Suwanee, GA, April 5, 2004.

Hon. JOHN KERRY,
Ranking Member, Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: Please support the 7a loan so more small business can succeed. The following suggestions from the National Association of Women Business Owners (NAWBO):

Allow piggyback loans, but charge 0.50 percent lender fee for each;

Raise Lender Fees by 0.10 percent; and

For loans that are under $150,000, have lenders pass the SBA the 0.25 percent fee that lenders currently keep for themselves. This only applies to these small loans.

Thank you for your support.

Sincerely,

SHELLY BLOOM,
President.

LINDEN INTERNATIONAL,
Wayne, PA.

Hon. JOHN KERRY,
Ranking Member, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: I would greatly appreciate your support for the 7a program ''rescue''. I favor the following to help me and many other small businesses rebound and re-grow:

1. Allow piggyback loans, and charge a 0.50 percent lender fee;
2. Raise lender fees by 0.10 percent; and
3. For loans under $150,000, have lenders pay the SBA the 0.25 percent fee that the lender now keeps for themselves.

We are all keening for help to re-establish ourselves and assure a firm foundation for the future of small businesses in the US.

Sincere thanks.

Very truly yours,

MARY KAY HAMM,
President and CEO.

PROACTIVE SOLUTIONS INC.,
Plantation, FL, March 24, 2004.

Hon. JOHN KERRY,
Ranking Member, Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: My name is Sheila Tobier and I am the president elect of NAWBO (National Association of Women Business Owners). We ask the following from the committee.

Absent the SBA asking Congress for additional funding, NAWBO supports increasing fees on lenders as an approach to adequately funding the SBA 7(a) program and lifting restrictions.

Specifically, NAWBO would like the program to:

Allow piggyback loans, but charge a 0.50 percent lender fee for each;

Raise lender fees by 0.10 percent; and

For loans that are under $150,000, have lenders pay the SBA the 0.25 percent fee that lenders currently keep for themselves. This only applies to these small loans.

Thank you for assisting us in this endeavor.

Sincerely,

SHEILA TOBIER,
President.

BUSINESS LOAN EXPRESS,
Wichita, KS, March 5, 2004.

Hon. JOHN F. KERRY,
Ranking Minority Member, Committee on Small Business, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. KERRY: Please be advised that Business Loan Center, LLC, aka Business Loan Express, LLC, the nation's third largest SBA 7(a) lender, is a strong supporter of the Senate and House bill that is also supported by the ''Access to Capital Coalition Organization,'' which will permit the reopening of a viable 7(a) loan program in America. This means once law, SBA would be required to drop the prohibition against ''piggyback loans'' and eliminate the current loan cap. As most every 7(a) lending organization has indicated since early January 2004, it is absolutely critical that these 7(a) program impediments be dropped at the earliest possible date. As you are aware, no knowledgeable trade organization or 7(a) lending entity supports a mandatory 50% maximum loan guaranty, as it would represent a slow death of the 7(a) loan program. Most every community in America utilizes the 7(a) loan program as a major part of their economic development/job creating/job retention program. If one removed from our economy all businesses and the jobs they create directly and indirectly, who at one time or another received 7(a) loan assistance, this would be a totally different country. To assist the recovery of our economy and the retention and creation of jobs, it is absolutely essential that the 7(a) loan program be returned to its prior dynamic status. Thank you for your leadership in this matter. Please encourage the Administration and your colleagues to support the House and the Senate bill that would solve this current dilemma!

Respectfully submitted,

DERYL K. SCHUSTER,
Executive Vice President,
Director, Governmental Affairs.

ASSOCIATION OF SMALL BUSINESS DEVELOPMENT CENTERS,
Burke, VA, January 9, 2004.

Hon. JOHN KERRY,
U.S. Senate.

DEAR SENATOR KERRY: I am writing about the recent decision by the U.S. Small Business Administration (SBA) to suspend making loan guarantees for small businesses under the 7(a) loan program.

As you know, the SBA announced on December 23rd that it would begin imposing a $750,000 cap on 7(a) loan guarantees effective January 8th, even though Congress has authorized loan guarantees up to $2 million. The SBA's announcement led small businesses with loan applications for more than $750,000 to submit their applications before the announcement deadline. As a result, the SBA experienced a significant increase in 7(a) loan applications and suspended the program until further announcement, on the grounds that the increase in loan applications had led to a shortfall in funding.

Small businesses throughout the country have seen their loans put in jeopardy as a consequence of this decision, and applicants for loans above $750,000 may be unable to obtain loan guarantees—or be forced to reapply—even if the 7(a) loan program is reopened. The ASBDC is hearing from Small Business Development Center (SBDC) counselors in the field that the decision to suspend the 7(a) loan program could pose a severe hardship for many SBDC clients.

In the past three years, the 7(a) loan guarantee program has helped make financing available to more than 40,000 start-up small businesses and 99,000 existing small businesses—leading to the creation of more than one million new jobs. Suspending this vital small business lending program at this critical stage of the economy's recovery from the recession will prevent the start-up and the expansion of small businesses throughout the country, and stymie the economy's creation of new jobs.

I appreciate all that you do to support small business. I urge you to continue to work with the SBA and the Office of Management and Budget to reopen the 7(a) loan guarantee program and remove the $750,000 loan cap as soon as possible.

Sincerely,

DONALD WILSON,
President.

COMPASS BANK,
Houston, TX, January 12, 2004.

Senator JOHN KERRY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KERRY: I am writing to alert you to an economic crisis that should have been avoided but can still be remedied.

The U.S. Small Business Administration (SBA) claims it has run out of money for its flagship 7(a) loan program. This is because the Administration did not request adequate funds for the program for fiscal year 2004.

The Administration only requested a program level of $9.3 billion, even though the program did $11.3 billion last year, even with a $500,000 loan cap in place for nearly half of the fiscal year. NAGGL estimated that demand would be $12.5 billion beginning with our budget testimonies in February 2003.

Loan volume for the first three months of fiscal year 2004 was $3.137 billion, a level of demand that clearly supports NAGGL's estimates of demand.

Because the Administration did not seek sufficient program level, the SBA has now shut down the 7(a) program until further notice, depriving small businesses of the capital they need in order to expand their businesses, hire new people, and aid the American economic recovery. The shutdown occurred just a few weeks after SBA Administrator Barreto told the NAGGL Annual Conferees that the ''program would not be shutdown, and that the $9.3 billion program request would be sufficient.''

In unprecedented fashion, the SBA is now rejecting and returning all loan applications. During previous funding shortages, the SBA continued to accept and process loan applications. The loans would then be funded when loan funds became available. The SBA's action, to make small businesses pay for its own mismanagement, is unconscionable.

Because small businesses are the chief engine of economic recovery, America can ill afford a halt in funding to small businesses in this time when the economy is just regaining steam.

Though the SBA has been implored by members of both major political parties to immediately seek an equitable solution, the Administration has thus far not come forward with any positive solutions. The Administration has thus far responded only with loan caps, program shutdowns, and excuses why this is Congress' fault.

One conclusion could be that the Administration desires to either dismantle or significantly change the SBA and the 7(a) program. I'm asking you not to let this happen.

The Administration should either request a reprogramming of funds or submit a supplemental appropriation request sufficient to fund the 7(a) program to $12.5 billion this year. The SBA should be required to lift both the current program freeze and the artificial $750,000 cap it has put in place to restrict small business access to capital. The SBA should be required to stop the budget gimmicks and put forward a credible budget request that ensures this program is funded properly in fiscal year 2005 and beyond without fee increases to borrowers and lenders. Don't let this Administration dismantle a program that has served small businesses so well for so long.

Sincerely,

HARRIET BOSHAW,
SBA Lending Department.●

COMMEMORATING HENRY MANCINI

• Mrs. FEINSTEIN. Mr. President, it is my pleasure to honor Henry Mancini, a fine composer, conductor, and arranger. Mr. Mancini was one of the most versatile musical talents and one of America's most celebrated musicians of the twentieth century. He lent his talents to many films and television series, the themes and melodies of which are recognizable to listeners the world over, even if they are unfamiliar with the name of the composer.

April 16 would have been Henry Mancini's 80th birthday. Even though Mr. Mancini passed away in 1994 after a long battle with cancer, his contribution to music and the arts has not been forgotten.

The United States Postal Service will unveil the Henry Mancini commemorative stamp next week. The unveiling ceremony on April 13 will take place at the Music Center Plaza in Los Angeles and will be hosted by our distinguished former colleague, John Glenn, a longtime friend of Mancini. Senator Glenn, it might be added, took a recording of Mancini's timeless classic, ''Moon River,'' on his return to space in October 1998.

In his lifetime, Henry Mancini's masterful talents were recognized with 72 Grammy Award nominations and 20 Grammy wins, eighteen Academy Award nominations and four Oscar wins, and a Golden Globe.

While awards are a notable measure of talent, the scope of Mr. Mancini's work is more impressive than the nominations he received for that work. During the 1950s, Mr. Mancini had a hand in the scores of over 100 films produced by Universal-International Studios. It was also at Universal that Mr. Mancini met Blake Edwards, and together they worked on 26 films over 30 years. These collaborations produced some of Mancini's most popular and award-winning compositions, including the ''Peter Gunn'' television series, ''Breakfast at Tiffany's,'' ''The Pink Panther'' films, and ''Victor/Victoria.''

In all, over 500 of Mr. Mancini's works were published. Mr. Mancini recorded over 90 albums with styles from jazz to classical, including eight albums certified gold by the Recording Industry Association of America. As an in-demand concert performer, he logged over 600 symphony performances, and conducted such symphony orchestras as the London Symphony Orchestra, the Israel Philharmonic, the Los Angeles Philharmonic, and the Royal Philharmonic Orchestra.

Andy Williams said at Mancini's 70th birthday celebration: ''The wonders of Henry Mancini will be heard in every corner of the world right up to the minute this planet cools and shrinks to the size of an eighth note.'' But it is more than the music he composed that will be Henry Mancini's legacy.

In honor of Mancini's dedication to educating young musicians, the Henry Mancini Institute was founded in Los Angeles in 1997 by his longtime friend and fellow composer, Jack Elliott. The Henry Mancini Institute's mission is to nurture the future of music by providing comprehensive professional training and multilevel outreach programs that make a direct impact in people's lives. Mr. Mancini himself established scholarships and fellowships at the Nation's top music schools. Many of tomorrow's composers, conductors, and arrangers have benefited from Mancini programs at New York's Julliard School of Music his alma mater, and in Los Angeles at USC and UCLA.

I would also like to recognize the Mancini family, who has gracefully embraced Henry's legacy and allowed for future generations of musicians to celebrate his accomplishments and contributions. My good friend Ginny Mancini, whom he married in 1947, has relentlessly worked to bring about the creation of this stamp, as have their children: Christopher, Monica, and Felice.

Honoring Henry Mancini with this commemorative stamp will serve as a lasting tribute, just as his music is a lasting gift to the world.•

COMMITTEE ON VETERANS' AFFAIRS

• Mr. BUNNING. Mr. President, it is a pleasure to be here today with our colleagues from the House Veterans Affairs Committee and the members of the Veterans of Foreign Wars. The VFW has a rich tradition in enhancing the lives of millions through its community service programs and special projects, and I am proud to have their services in the Commonwealth of Kentucky.

The work of our committees is as important as ever because of the thousands of new wartime veterans leaving the service and the increasing needs of our aging veterans. We owe all our veterans a debt of gratitude and I am committed to making sure we provide them with ample benefits and quality medical care.

President Bush has proposed significant increases in spending for our veterans, but it is important to keep in mind that his budget is only a starting point. Each year he has requested increases in funding for the VA and Congress has provided even more beyond those requests.

The last 2 years Congress has provided unprecedented increases in funding for VA health care. I support another substantial increase for VA health care this year and I am confident we will deliver. In fact, the budget resolution currently before the Senate provides for an extra $1.3 billion for the VA and rejects the proposed co-pay increases and enrollment fees.

VA conducts some of the most specialized medical research in our Nation. That research is especially important to disabled veterans. I oppose the proposed cut in VA research. The Budget Committee rejected that cut and I added an additional $101 million for research, a 25 percent increase.

Now that the CARES process is wrapping up, VA can begin new construction projects. We will be watching to make sure the Secretary carefully considers all proposed closings. I look forward to seeing new hospitals and clinics opened in Kentucky and around the Nation.

Last year I told the Secretary that VA had come a long way in fixing its problems but there was still a long way to go. I am glad to say that the system is stronger this year, but we must not let up. We must keep working to make sure our veterans receive the assistance they need in a timely and convenient manner. I am committed to doing just that.

Finally, I recognize all the Kentucky veterans in the hearing room. I had a good visit with some of you in my office earlier this week. Thank you for making the trip today and thank you for your service to our Nation and your fellow veterans.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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.)

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–6984. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to prescribing, adjusting, and collecting fees incurred for activities under the Animal Welfare Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6985. A communication from the Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''17 CFR Part 1, Investment of Customer Funds (69 FR 6140, February 10, 2004)'' (RIN3038–AC01) received on April 5, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6986. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of the authorization of officers to wear the insignia of brigadier general; to the Committee on Armed Services.

EC–6987. A communication from the Register Liaison Officer, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Appeals and Hearings Procedures'' (RIN0729–AA74) received on April 5, 2004; to the Committee on Armed Services.

EC–6988. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report involving exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–6989. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the Bank's Annual Report to Congress; to the Committee on Banking, Housing, and Urban Affairs.

EC–6990. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''12 C.F.R 702 Prompt Corrective Action'' received on April 5, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6991. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the national emergency declared in Executive Order 13224 of September 23, 2001, with respect to persons who commit, threaten to commit, or support terrorism; to the Committee on Banking, Housing, and Urban Affairs.

EC–6992. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, a report relative to new foreign policy-based regional stability export controls on certain items on the Commerce Control List; to the Committee on Banking, Housing, and Urban Affairs.

EC–6993. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Railroad Locomotive Safety Standards: Clarifying Amendments; Headlights and Auxiliary Lights'' (RIN2130–AB58) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6994. A communication from the Attorney, Office of the Chief Counsel, Transportation Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License'' (RIN1652–AA17) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6995. A communication from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipelines); Corrections to Final Rule'' (RIN2137–AD54) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6996. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Performance History of New Drivers'' (RIN2126–AA17) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6997. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Minimum Training Requirements for Longer Combination Vehicle (LCV) Operators and LCV Driver-Instructor Requirements'' (RIN2126–AA08) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6998. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Transportation of Household Goods; Consumer Protection Regulations'' (RIN2126–AA32) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6999. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the National Park Service, Including the Park Roads and Parkways Programs'' (RIN2125–AE52) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7000. 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: Suisun Bay, Concord California [COTP San Francisco Bay 04–006]'' (RIN1625–AA00) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7001. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations (Including 7 Regulations): [CGD07–04–033], [CGD08–04–008], [CGD08–04–007], [CGD01–04–008], [CGD01–04–022], [CGD01–04–018], [CGD07–04–035]'' (RIN1625–AA09) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7002. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Establish Referendum Procedures and a Vote-Weighting Formula for a Gulf of Mexico Red Snapper Individual Fishing Quota Program'' (RIN0648–AR48) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7003. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Remove Expiration Date of Regulations Implemented Under the AFA'' (RIN0648–AR13) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7004. A communication from the Director, Office of White House Liaison, Department of Commerce, transmitting, pursuant to law, the report of a vacancy and nomination for the position of Deputy Secretary, Department of Commerce, received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7005. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule; Final 2004 Specifications for the Atlantic Deep-Sea Red Crab Fishery'' (RIN0648–AR58) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7006. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Prohibiting Directed Fishing for Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska'' received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7007. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of Fishery for Loligo Squid for Quarter I'' received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7008. A communication from the Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Advanced Technology Program'' (RIN0693–ZA56) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7009. A communication from the Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Implementation of the National Construction Safety Team Act'' (RIN0693–AB53) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7010. A communication from the Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Summer Undergraduate Research Fellowships (SURF) Gaithersburg and Boulder Programs; Availability of Funds'' (RIN0693–ZA53) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7011. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the Administration's report required by the FAA Reauthorization Act of 1996; to the Committee on Commerce, Science, and Transportation.

EC–7012. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the Exxon and Stripper Well oil overcharge funds; to the Committee on Energy and Natural Resources.

EC–7013. A communication from the Assistant Secretary for Policy, Management, and Budget, Department of the Interior, transmitting, pursuant to law, the Department's revised Strategic Plan for Fiscal Years 2003 through 2008; to the Committee on Energy and Natural Resources.

EC–7014. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the status of the Commission's latest monthly report on the status of its licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–7015. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the status of the Commission's latest monthly report on the status of its licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–7016. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Passport Procedures—Amendment to Passport Regulations'' (RIN1400–ZA05) received on April 5, 2004; to the Committee on Foreign Relations.

EC–7017. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Department of State Acquisition Regulation'' (RIN1400–AB06) received on April 5, 2004; to the Committee on Foreign Relations.

EC–7018. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the prevention of nuclear proliferation; to the Committee on Foreign Relations.

EC–7019. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the

Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–7020. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the Department's Inventory for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–7021. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''Publication of Revised Bylaws of the Interagency Security Classification Appeals Panel'' received on April 5, 2004; to the Committee on Governmental Affairs.

EC–7022. A communication from the Secretary, Postal Rate Commission, transmitting, pursuant to law, a report of activities under the Government in Sunshine Act for calendar year 2003; to the Committee on Governmental Affairs.

EC–7023. A communication from the Acting Director, Office of Government Ethics, transmitting, pursuant to law, the Office's audited financial statements for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–7024. A communication from the Acting Director, Office of Government Ethics, transmitting, pursuant to law, the Office's Annual Program Performance Report for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–7025. A communication from the Chairman, Federal Communications Commission, transmitting, pursuant to law, the Commission's Annual Program Performance Report for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–7026. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 1D for Fiscal Years 2000 through 2003, as of June 30, 2003''; to the Committee on Governmental Affairs.

EC–7027. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Certification of the Fiscal Year 2004 Revenue Estimate in Support of the District's $173,995,000 General Obligation Bonds (Series 2003B) and $140,325,000 Multimodal General Obligation Bonds (Series 2003C and 2003D)''; to the Committee on Governmental Affairs.

EC–7028. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to child welfare outcomes; to the Committee on Health, Education, Labor, and Pensions.

EC–7029. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures; Delay of Effective Date'' (RIN0905–AC81) received on April 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7030. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Skin Protectant Drug Products for Over-the-Counter Human Use, Astringent Drug Products; Final Monograph, Direct Final Rule; and Confirmation of Effective Date; Correction'' (RIN0910–AA01) received on April 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7031. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Correction'' (Doc. No. 2002N–0278) received on April 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7032. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Correction'' (Doc. No. 2002N–0278) received on April 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7033. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Small Business Size Standards; Testing Laboratories'' (RIN3245–AE78) received on April 5, 2004; to the Committee on Small Business and Entrepreneurship.

EC–7034. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Small Business Size Standards; Information Technology Value Added Reseller'' (RIN3245–AE80) received on April 5, 2004; to the Committee on Small Business and Entrepreneurship.

EC–7035. A communication from the Director, Regulations Management, National Cemetery Administration, transmitting, pursuant to law, the report of a rule entitled ''State Cemetery Grants'' (RIN2900–AH46) received on April 5, 2004; to the Committee on Veterans' Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. NELSON of Nebraska (for himself and Mr. BROWNBACK):

S. 2284. A bill to expand the medicare rural community hospital demonstration program to include outpatient services; to the Committee on Finance.

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

S. 2285. A bill to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself, Mrs. DOLE, and Mr. DEWINE):

S. 2286. A bill to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 2287. A bill to adjust the boundary of the Barataria Preserve Unit of Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. COLLINS:

S. 2288. A bill to amend the Public Health Service Act to assist States in establishing, maintaining, and improving systems to reduce the diversion and abuse of prescription drugs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SESSIONS:

S. 2289. A bill to amend title 18, United States Code, to combat terrorism against railroad carriers and mass transportation systems on land, on water, or through the air, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FEINGOLD:

S. Res. 332. A resolution observing the tenth anniversary of the Rwandan Genocide of 1994; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 1316

At the request of Mr. BROWNBACK, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1316, a bill to treat payments under the Conservation Reserve Program as rentals from real estate.

S. 1411

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1549

At the request of Mrs. DOLE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1549, a bill to amend the Richard B. Russell National School Lunch Act to phase out reduced price lunches and breakfasts by phasing in an increase in the income eligibility guidelines for free lunches and breakfasts.

S. 1709

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

S. 1948

At the request of Mr. REID, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1948, a bill to provide that service of the members of the organization known as the United States Cadet Nurse Corps during World War II constituted active military service for purposes of laws administered by the Secretary of Veterans Affairs.

S. 2072

At the request of Mr. CRAIG, the names of the Senator from Montana (Mr. BURNS) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 2072, a bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for elder care expenses.

S. 2207

At the request of Mr. CORNYN, his name and the names of the Senator

from Illinois (Mr. FITZGERALD) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 2207, a bill to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

S. 2212

At the request of Ms. COLLINS, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2212, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries.

S. 2244

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

S. 2261

At the request of Mr. DEWINE, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2261, a bill to expand certain preferential trade treatment for Haiti.

S. 2262

At the request of Mr. BINGAMAN, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from South Dakota (Mr. JOHNSON), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Arkansas (Mr. PRYOR) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 2262, a bill to provide for the establishment of campaign medals to be awarded to members of the Armed Forces who participate in Operation Enduring Freedom or Operation Iraqi Freedom.

S. 2267

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

S. 2270

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

S. 2273

At the request of Mr. MCCAIN, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Illinois (Mr. FITZGERALD), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. BREAUX), the Senator from North Dakota (Mr. DORGAN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2273, a bill to provide increased rail transportation security.

S. CON. RES. 83

At the request of Mr. BIDEN, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Con. Res. 83, a concurrent resolution promoting the establishment of a democracy caucus within the United Nations.

S. RES. 221

At the request of Mr. SARBANES, the names of the Senator from North Carolina (Mrs. DOLE), the Senator from Georgia (Mr. MILLER), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 298

At the request of Mr. CAMPBELL, the names of the Senator from South Dakota (Mr. DASCHLE), the Senator from Utah (Mr. HATCH) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. Res. 298, a resolution designating May 2004 as ''National Cystic Fibrosis Awareness Month''.

S. RES. 311

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

S. RES. 317

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

S. RES. 328

At the request of Mr. NELSON of Florida, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 328, a resolution expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba.

S. RES. 330

At the request of Mr. WYDEN, the names of the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Florida (Mr. NELSON), the Senator from Rhode Island (Mr. REED) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 330, a resolution expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries ('OPEC') cartel and non-OPEC countries that participate in the cartel of crude oil producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices.

AMENDMENT NO. 2918

At the request of Mrs. CLINTON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of amendment No. 2918 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2945

At the request of Mrs. BOXER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of amendment No. 2945 proposed to H.R. 4, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Nebraska (for himself and Mr. BROWNBACK):

S. 2284. A bill to expand the medicare rural community hospital demonstration program to include outpatient services; to the Committee on Finance.

Mr. NELSON of Nebraska. Mr. President, today I introduce legislation to continue the relief to six hospitals in Nebraska that have been struggling financially under the current Medicare payment structure.

Local hospitals can best meet the unique needs of rural communities which is why I am committed to ensuring that these hospitals have the resources they need. Vital services like hospitals are increasingly important for the survival of our rural communities. Towns can't adequately serve residents—or attract new residents—without access to basic services. We need to focus on ensuring that hospitals and other vital services have the resources they need, so that communities will have the essential services they require.

Last year, Senator BROWNBACK and I proposed legislation to provide cost-based reimbursement for rural community hospitals. Rural Community Hospitals (RCH) are hospitals with between 25–50 beds. Those hospitals had been adversely affected by Medicare formulas that set rates for reimbursement nationwide. These rates did not take into account the higher costs of practicing medicine in rural areas as these areas do not have the benefits of volume that larger hospitals enjoy. RCHs are also too large to qualify for critical access designation given to hospitals with fewer than 25 beds.

I am pleased that provisions from this legislation were included in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 as a pilot program. The program provided cost-based reimbursements for inpatient services.

The legislation Senator BROWNBACK and I are introducing today will expand the pilot program to cover outpatient services as well. This legislation will again address a critical shortcoming in current reimbursement practices and help Rural Community Hospitals serve their communities and invest in the future of rural health care.

Six Nebraska hospitals would be affected by expanding the scope of the pilot program. Those hospitals are: Beatrice Community Hospital, Columbus Community Hospital, McCook Community Hospital, Jennie Melham Memorial Medical Center in Broken Bow, Phelps Memorial Health Center in Holdrege, and Tri County Hospital in Lexington.

We made some progress for our rural hospitals by creating the RCH pilot program last year. This legislation would expand on that victory by ensuring that all Medicare treatments, whether inpatient or outpatient, would receive cost-based reimbursement. Expanding this program will make a big difference to these hospitals and more importantly, the patients they serve.

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

S. 2285. A bill to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, I rise today to introduce a bill that would direct the Secretary of the Interior to convey a parcel of property to Beaver County, UT. This bill would allow Beaver County in Southwestern Utah to obtain and maintain, without restrictions, the former Minersville State Park. In sum, this bill is necessary to allow County officials to sell a small portion of this land—which has essentially been under their control for over 40 years—in order to offset funding needed to maintain the remainder of the park.

Some history might be beneficial at this point. In 1961, Beaver County obtained a lease for 207 acres of land from the Bureau of Land Management (BLM) to develop a recreational locale under the Recreation and Public Purposes Act. In 1963, Beaver County turned over the acreage to the State for the development of a park. Over the course of nearly 40 years, the State of Utah spent about one million dollars to develop campsites, a boat ramp, a dock, and other camping amenities to turn this area into the Minersville Reservoir State Park. In 2002, in an endeavor to reduce operating costs, Utah State Parks transferred control of the area back over to Beaver County. As County officials stated during negotiations, in order for Beaver County to afford management of the day to day operations of the would-be county park, they would need to sell some of the property to private investors. However, it was not until after park management responsibility was transferred to the county that the BLM pointed out that the state had not yet acquired the property through the Recreation and Public Purposes Act process. The plan for Beaver County to sell some of the land to pay for park operation, however, is not allowed under the Recreation and Public Purposes Act lease, which only allows the property to be developed for recreation or other purposes. The only way for Beaver County to undertake responsibility for park is to remove the current Federal restrictions on the property.

Today, Beaver County faces financial constraints in operating this park that threaten its continued use. Due to the prevailing restrictions in the Recreation and Public Purposes Act lease, initiated more than 40 years ago, the good people of southern Utah and visitors to the area will not be able to access and enjoy this county park. The campsites would be littered and unkept. The boat ramp and the boat docks would have to be closed. The park would become a destitute recreation area, because there would be no one to administer park maintenance and upkeep. The only public access to Minersville Reservoir, which features a converted blue ribbon trout fishery, would go to waste because of the Federal government's current Recreation and Public Purposes Act lease restriction.

I don't believe that letting management of the park revert to the BLM is a viable option either. The intensive, day to day management this small park requires can be best accomplished to local officials. If Beaver County acquires the property, it will continue to make this park an excellent recreational refuge, a superb fishery, and a great place to visit. Beaver County will be able to provide a clean and safe park enjoyed by all who visit. That is why I am introducing this legislation this legislation that would convey the Minersville Park land to Beaver County.

I thank the Senate for the opportunity to address this issue today, and I urge my colleagues to support this legislation.

By Ms. COLLINS:

S. 2288. A bill to amend the Public Health Service Act to assist States in establishing, maintaining, and improving systems to reduce the diversion and abuse of prescription drugs; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, the abuse of prescription drugs has reached epidemic proportions in this country. In many States, including my home State of Maine, deaths from prescription drug overdoses now exceed deaths from illicit drugs. Nationwide, emergency room visits for prescription drug problems more than doubled in the last decade.

The number of Americans who divert prescription drugs from their intended purposes and abuse them was estimated at 4 million in 1998. Today, the estimate is 11 million Americans. At a time when, according to the National Institute on Drug Abuse, our young people are turning away from marijuana, cocaine, ecstasy, and even alcohol, they unfortunately are turning to the medicine cabinet.

Nearly one in five of our Nation's high school juniors and seniors say they abuse prescription drugs.

The cost of drug abuse to our society in treatment, health care, lost productivity, crime, and incarceration exceeds $150 billion a year. The cost to its victims is incalculable. That is why today I am introducing the Prescription Drug Stewardship Act. I use the word ''stewardship'' to emphasize our responsibility as individuals and as a society to see that these beneficial medications are used for their intended purposes, not to cause addiction, disability, and even death.

This legislation attacks the spiraling cycle of diversion and abuse with three key stewardship activities:

First, computerized prescription drug systems to better track the flow of medications.

Second, ongoing practitioner training to help our busy medical professionals keep current with the trends in diversion treatment and abuse.

Third, and perhaps most important, public education to help our citizens better understand the dangers posed by the misuse of these drugs.

I have found in talking with experts in this field that many individuals who would never think of trying heroin, for example, will take leftover prescription drugs that may, in the long run, be equally addictive and just as harmful.

Combined with improved and more accessible substance abuse treatment programs, the legislation I am introducing would help to stem the rising tide of abuse and addiction that has swamped families and weakened communities in my State and across the country.

My bill would authorize per year for each of the next 3 years to fund prescription drug monitoring and education programs at the State level. It would create competitive grant programs which would be administered by the Substance Abuse and Mental Health Services Administration. They would require States to demonstrate their commitment to stewardship with matching funds and also to meet the privacy requirements under current law as they carry out these important activities.

What we have found is that the most abused medications are those that relieve pain and anxiety. For millions of legitimate patients suffering from illness or injury, these medicines are

vital and their availability is proper and humane. They can make the difference between suffering and the ability to carry on with a normal life for people who are in serious pain or suffering from serious disease or injury. It is tragically clear, however, that these medications, many of them as powerful or as addictive as illegal drugs, increasingly are being diverted from their legitimate use to trafficking and abuse.

I want to emphasize that the problems is not with these medications when they are prescribed, dispensed, and consumed responsibly. In fact, we know that pain is still undertreated in this country, and that most physicians are extremely responsible in trying to relieve pain felt by their patients. The problem is what happens when the chain of responsibility breaks.

Oversight of the licensing and practices for prescribing and dispensing of these medications has long been a matter of State jurisdiction. As a former State regulator who was in charge of licensing boards for physicians and pharmacists, for example, I certainly have no desire to change that system. The States have not shirked their stewardship responsibility. They simply have been overwhelmed by this epidemic of diversion and abuse, and they need some Federal assistance, not to take over their programs, but to help them in a partnership to make them more effective.

This national calamity has hit rural States particularly hard. The Presiding Officer's home State of North Carolina is one of those States that has felt the devastating impact of this epidemic. Kentucky, Virginia, West Virginia all report prescription drug abuse at epidemic levels. But no State, unfortunately, has been hit harder than my State of Maine.

From 1997 to 2002, the number of accidental deaths in Maine from all drugs soared from 19 to 126, an increase of more than 500 percent, and prescription drugs were present in 60 percent of these deaths.

The 2002 Main Youth Drug and Alcohol Survey found that a disturbing 25 percent of my State's high school juniors and seniors abuse prescription drugs. That is an astonishing number and a very disturbing statistic. In the last 5 years, enrollment in Main clinics that treat opiate addiction has increased tenfold.

These shocking numbers from Main demonstrate that drug abuse and addiction is not longer a big-city problem. It is a problem that afflicts our citizens no matter where they live, whether it is Los Angeles, CA, or Calais, ME. In fact, a hearing I helped put together last year demonstrated that there is a terrible problem in Washington County in Downeast, ME. Some estimates are that as many as 1,000 of the citizens of this county of only 35,000 citizens are struggling with drug addiction and abuse. This was a hearing before the HELP Committee. It actually was 2 years ago. But last August, I chaired a committee meeting of the Governmental Affairs Committee in Bangor, ME, where we heard from law enforcement officers, from drug treatment counselors, and from many others who are expert in drug addiction and abuse. The picture they painted was a startling one. It showed that drug abuse, and abuse of prescription drugs in particular, is a problem throughout the entire State of Maine.

My legislation would provide States, such as Maine, with the resources to carry out three critical stewardship activities. The first would help States to monitor the flow of prescription drugs from practitioner to pharmacy to patient. We know that prescription drugs often find their way to the street when unscrupulous individuals obtain multiple prescriptions from multiple doctors. These so-called doctor shoppers operate in every State. Sometimes they act alone and sometimes they act in concert with organized gangs of criminals. Each can divert hundreds, even thousands, of pills per day. Many of these drugs have a street value 10 times the cost at the pharmacy.

Twenty States now have prescription tracking systems. Maine began operating such a system or putting it together just this summer. About half of these systems use the latest computer technology and have proven that illegal diversion can be curtailed without reducing access to these medications by legitimate patients and without breaching that essential doctor-patient confidentiality.

We want to make sure any system we put in place does not chill a doctor's ability to prescribe legitimate medication for patients who are suffering and need help with their pain.

These systems have also demonstrated an effective prescription drug system more than pays for itself by reducing the tremendous costs associated with drug abuse and addiction. Thirty States, however, have no system whatsoever for monitoring or tracking prescription drugs in a way that would help us identify and put a stop to doctor shopping. My legislation would provide the States with the resources to start up such a system to help improve its quality or to maintain it.

The testimony I heard last August in Bangor, ME, before the Governmental Affairs Committee, along with my colleague Senator SUNUNU, provided the basis not only for that provision of our bill but also for two others. The testimony we heard that day from those who are on the front lines, law enforcement, hospital emergency room physicians, and treatment clinic personnel, was alarming. They told us medical practitioners need our help. Our doctors, our physician assistants, our nurses are busy professionals, often far too busy. Many simply do not have the time to travel to seminars where they would receive information about the latest trends in drug abuse, learn how to recognize drug-seeking behavior, dependence, or addiction among their patients. The most effective and efficient way to provide that kind of training to medical personnel is to take the education to them through one-on-one small group mentoring in their offices or in their hospitals.

The second part of my legislation would provide grants for such mentoring projects so practitioners with special training in drug abuse issues can pass along this vital knowledge to their colleagues who are practicing in communities all over America. Experts also tell us a major reason so many Americans with no history of abusing illegal drugs now are abusing prescriptions drugs is many people have a terrible misconception that these prescription drugs are somehow safe to abuse, that it is safe to take someone else's prescription. After all, they think they are researched in high-tech laboratories, manufactured in modern factories, prescribed and dispensed by highly trained medical experts; therefore, they must be safe. When they are used properly, they are, but as the overdose and addiction statistics prove, when used improperly they can be fatal.

We need an aggressive public education campaign to warn our citizens about the dangers of abusing prescription drugs. The reduction in smoking rates, in illicit drug use, even in drunk-driving deaths is testament to the progress we can make with seemingly intractable problems when we commit the resources for public education campaigns in partnership with the States. I believe the same approach can help our citizens become better stewards of prescription medications.

I urge my colleagues to join me in support of the legislation I am introducing today to address the increasingly devastating problem of prescription drug abuse.

By Mr. SESSIONS:

S. 2289. A bill to amend title 18, United States Code, to combat terrorism against railroad carriers and mass transportation systems on land, on water, or through the air, and for other purposes; to the Committee on the Judiciary.

Mr. SESSIONS. 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. 2289

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 ''Railroad Carriers and Mass Transportation Protection Act of 2004''.

SEC. 2. ATTACKS AGAINST RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

"§ 1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air

''(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

''(1) wrecks, derails, sets fire to, or disables railroad on-track equipment or a mass transportation vehicle;

''(2) with intent to endanger the safety of any passenger or employee of a railroad carrier or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier—

''(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment or a mass transportation vehicle; or

''(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier or mass transportation provider;

''(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

''(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment; or

''(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;

''(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

''(5) with intent to endanger the safety of any passenger or employee of a railroad carrier or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment or a mass transportation vehicle;

''(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier or mass transportation provider that is used for railroad or mass transportation purposes;

''(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

''(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (8);

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) of this section in a circumstance in which—

''(1) the railroad on-track equipment or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

''(2) the railroad on-track equipment or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(3) the railroad on-track equipment or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

''(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

''(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

''(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

''(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

''(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider or railroad carrier engaged in or affecting interstate or foreign commerce.

''(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

''(d) NONAPPLICABILITY.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

''(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

''(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

''(e) DEFINITIONS.—In this section—

''(1) the term 'biological agent' has the meaning given to that term in section 178(1);

''(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

''(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

''(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

''(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

''(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

''(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

''(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

''(9) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

''(10) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

''(11) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

''(12) the term 'serious bodily injury' has the meaning given to that term in section 1365;

''(13) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

''(14) the term 'State' has the meaning given to that term in section 2266 ;

''(15) the term 'toxin' has the meaning given to that term in section 178(2); and

''(16) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking ''**RAILROADS**'' in the chapter heading and inserting ''**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**'';

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

''1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.''.

(2) The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

"97. Railroad carriers and mass transportation systems on land, on water, or through the air ..... 1991".

(3) Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking ''1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),'';

(B) in section 2339A, by striking ''1993,''; and

(C) in section 2516(1)(c) by striking ''1992 (relating to wrecking trains),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 322—OBSERVING THE TENTH ANNIVERSARY OF THE RWANDAN GENOCIDE OF 1994

Mr. FEINGOLD submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 332

Whereas 10 years ago, during a 3-month period in 1994, 800,000 Rwandans were killed in an organized campaign of genocide that targeted ethnic Tutsis and political moderates;

Whereas the United Nations Assistance Mission for Rwanda was dramatically scaled back as the genocide occurred;

Whereas by mid-July 2004, 2,000,000 Rwandans became refugees and another 1,000,000 were internally displaced due to the genocide and civil war;

Whereas in 1994, the United Nations Security Council established the International Criminal Tribunal for Rwanda to hold accountable those responsible for the atrocities;

Whereas in March 1998, President William Jefferson Clinton acknowledged that ''we in the United States and the world community did not do as much as we could have and should have done to try to limit what occurred in Rwanda in 1994'';

Whereas in 1999, the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda found that ''the failure by the United Nations to prevent, and subsequently, to stop the genocide in Rwanda was a failure by the United Nations system as a whole'';

Whereas the Rwandan genocide and its aftermath played a significant part in the destabilization of the entire Great Lakes region over the last decade; and

Whereas today, the vast majority of Rwandan refugees have returned to their country, and the Government of Rwanda is working to address the backlog of genocide-related cases awaiting trial through the formal justice sector and through community-based gacaca courts: Now, therefore, be it

Resolved, That the Senate—

(1) solemnly observes the tenth anniversary of the Rwandan genocide of 1994;

(2) recognizes and is saddened by the failure of the international community, including the United States, to prevent the genocide;

(3) reaffirms its commitment to the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris on December 9, 1948;

(4) supports ongoing efforts to educate the people of the United States and of the world about the Rwandan genocide;

(5) commits to continuing efforts to strengthen institutions working to bring to justice those responsible for the genocide; and

(6) urges the President and the international community to seize on the occasion of this anniversary to focus attention on the future of Rwanda, and to support the people of Rwanda so that they may—

(A) be free from the fear of ethnic violence, mob violence, or state-sponsored violence;

(B) enjoy full civil and political rights and feel free to voice legitimate disagreements honestly and publicly without fear of violence or intimidation;

(C) have confidence in the independence of the judiciary and the rule of law in Rwanda; and

(D) experience sustained economic growth and development that improves the standard of living in Rwanda.

Mr. FEINGOLD. Mr. President, I rise today to submit a resolution commemorating the 10th anniversary of the 1994 Rwandan genocide. Ten years ago, a deliberate, centrally-planned, and organized campaign of violence was set in motion, and eventually it took the lives of some 800,000 Rwandans. The campaign targeted ethnic Tutsis, but also ethnic Hutus who espoused moderate political beliefs and paid for their commitment to equal rights for all Rwandans with their lives. Millions were displaced, and the institutions and infrastructure of the country were shattered.

As this horror unfolded, the international community, including the United States, failed to act. The United Nations Mission for Rwanda was scaled down when the massacres started rather than being reinforced. The U.S. engaged in semantic strategies of avoidance, referring to massacres and atrocities and finally ''acts of genocide,'' but refusing to acknowledge the truth for fear it should make plain our responsibility.

If some of the Rwandan voices that will be heard during this time of commemoration and reflection sound angry, well, we have to accept that their anger is justified. The world had said ''never again'' to genocide. And then we abandoned the people of Rwanda to an unspeakable national nightmare.

Today, the people of Rwanda still struggle to cope with the legacy of the genocide, with the trauma of their national experience, and with the search for justice and accountability. And they still struggle with fear.

The United States can and should insist that those who devised and implemented the plan for genocide be held accountable for their actions. Four years ago I was proud to introduce legislation that extended the Rewards for Justice program, so that today the U.S. is helping to track down those who have been indicted by the International Criminal Tribunal for Rwanda and are still at large. In addition, we can and do assist the Government of Rwanda in strengthening its own capacity to address the backlog of genocide-related cases awaiting trial, sometimes through the formal justice system, and sometimes through the community-based gacaca courts.

But today I want to urge my colleagues to seize on this moment not only to reflect on the past, not only to honor the dead, but to think about the future and to care for the living. And the people of Rwanda today do need assistance. Too many Rwandans live in a context of crushing poverty. Approximately 9 percent of the adult population is HIV positive, and life expectancy is about 40 years. There is much development work yet to be done.

In Rwanda today, basic human rights are still not guaranteed. The most recent State Department human rights report on Rwanda makes reference to ''politically motivated disappearances; arbitrary arrest and detention, particularly of opposition supporters.''

No one with even a cursory grasp of Rwanda's history could fault the government for being sensitive to ethnically divisive forces. But, not all dissent is divisive, and history teaches us that imposing order alone is not enough to guarantee stability and security. Order without justice tends to crumble. Suppressing legitimate disagreements, allowing intimidation to silence citizens—these acts undermine security rather than enhance it. The people of Rwanda, including the leadership of the country, find themselves in a tremendously difficult position. I can imagine, but I cannot know, the challenges of governing in the wake of a tragedy of this magnitude. But I do know that those of us in the international community only compound our past mistakes when we do not interest ourselves in the future of the Rwandan people today, when we do not concern ourselves with freeing the next generation from fear.

I urge my colleagues to support this resolution of solemn commemoration. It acknowledges the terrible past, but it also expresses hope for the future. The people of Rwanda have picked themselves up and have set about rebuilding their lives and their country. The world failed them ten years ago. Let us resolve not to fail them again.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3016. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 3017. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3018. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3019. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3020. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3021. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3022. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST

to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3023. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3024. Mrs. CLINTON (for herself and Mr. DAYTON) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3025. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3026. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3027. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3028. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3029. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3030. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3031. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3032. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3033. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3034. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3035. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3036. Mr. BAUCUS (for himself and Mr. THOMAS) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3037. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3038. Mr. SANTORUM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3039. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3040. Mr. NICKLES (for himself and Mr. THOMAS) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3041. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3042. Mr. WYDEN (for himself, Mr. COLEMAN, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3016. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the instructions, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. TEMPORARY DUTY REDUCTIONS FOR CERTAIN COTTON SHIRTING FABRIC.

(a) CERTAIN COTTON SHIRTING FABRICS.—

(1) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.52.08	Woven fabrics of cotton, all the foregoing certified by the importer as suitable for use in making men's and boys' shirts and as imported by or for the benefit of a manufacturer of men's and boys' shirts, subject to the quantity limitations contained in general note 18 of this subchapter (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203))	Free	No change	No change	On or before 12/31/2005	
	9902.52.09	Woven fabrics of cotton, all the foregoing certified by the importer as containing 100 percent pima cotton grown in the United States, as suitable for use in making men's and boys' shirts, and as imported by or for the benefit of a manufacturer of men's and boys' shirts (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203))	Free	No change	No change	On or before 12/31/2005	".

(2) DEFINITIONS AND LIMITATION ON QUANTITY OF IMPORTS.—The U.S. Notes to chapter 99 are amended by adding at the end the following:

"17. For purposes of subheadings 9902.52.08 and 9902.52.09, the term 'making' means cutting and sewing in the United States, and the term 'manufacturer' means a person or entity that cuts and sews in the United States.

"18. The aggregate quantity of cotton fabrics entered under subheading 9902.52.08 from January 1 to December 31 of each year, inclusive, by or on behalf of each manufacturer of men's and boys' shirts shall be limited to 85 percent of the total square meter equivalents of all imported cotton woven fabric used by such manufacturer in cutting and sewing men's and boys' cotton shirts in the United States and purchased by such manufacturer during calendar year 2000.".

(b) DETERMINATION OF TARIFF-RATE QUOTAS.—

(1) AUTHORITY TO ISSUE LICENSES AND LICENSE USE.—To implement the limitation on the quantity of imports of cotton woven fabrics under subheading 9902.52.08 of the Harmonized Tariff Schedule of the United States, as required by U.S. Note 18 to subchapter II of chapter 99 of such Schedule, for the entry, or withdrawal from warehouse for consumption, the Secretary of Commerce shall issue licenses designating eligible manufacturers and the annual quantity restrictions under each such license. A licensee may assign the authority (in whole or in part) to import fabric under subheading 9902.52.08 of such Schedule.

(2) LICENSES UNDER U.S. NOTE 18.—For purposes of U.S. Note 18 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States, as added by subsection (a)(2), a license shall be issued within 60 days of an application containing a notarized affidavit from an officer of the manufacturer that the manufacturer is eligible to receive a license and stating the quantity of imported cotton woven fabric purchased during calendar year 2000 for use in the cutting and sewing men's and boys' shirts in the United States.

(3) AFFIDAVITS.—For purposes of an affidavit described in this subsection, the date of purchase shall be—

(A) the invoice date if the manufacturer is not the importer of record; and

(B) the date of entry if the manufacturer is the importer of record.

SEC. 502. COTTON TRUST FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the "Pima Cotton Trust Fund", consisting of $32,000,000 transferred to the Pima Cotton Trust Fund from funds in the general fund of the Treasury.

(b) GRANTS.—

(1) GENERAL PURPOSE.—From amounts in the Pima Cotton Trust Fund, the Secretary of Commerce is authorized to provide grants to spinners of United States grown pima cotton, manufacturers of men's and boys' cotton shirting, and a nationally recognized association that promotes the use of pima cotton grown in the United States, to assist such spinners and manufacturers in maximizing United States employment in the production of textile or apparel products and to increase the promotion of the use of United States grown pima cotton respectively.

(2) TIMING FOR GRANT AWARDS.—The Secretary of the Treasury shall, not later than 90 days after the date of enactment of this section, establish guidelines for the application and awarding of the grants described in paragraph (1), and shall award such grants to qualified applicants not later than 180 days after the date of enactment of this section. Each grant awarded under this section shall be distributed to the qualified applicant in 2 equal annual installments.

(3) DISTRIBUTION OF FUNDS.—Of the amounts in the Pima Cotton Trust Fund—

(A) $8,000,000 shall be made available to a nationally recognized association established for the promotion of pima cotton

grown in the United States for the use in textile and apparel goods;

(B) $8,000,000 shall be made available to yarn spinners of pima cotton grown in the United States, and shall be allocated to each spinner based on the percentage of the spinner's production of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), from pima cotton grown in the United States in single and plied form during calendar year 2002 (as evidenced by an affidavit provided by the spinner), compared to the production of such yarns for all spinners who qualify under this subparagraph; and

(C) $16,000,000 shall be made available to manufacturers who cut and sew cotton shirts in the United States and that certify that they used imported cotton fabric during the period January 1, 1998, through July 1, 2003, and shall be allocated to each manufacturer on the bases of the dollar value (excluding duty, shipping, and related costs) of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased by the manufacturer during calendar year 2002 (as evidenced by an affidavit from the manufacturer) used in the manufacturing of men's and boys' cotton shirts, compared to the dollar value (excluding duty, shipping, and related costs) of such fabric for all manufacturers who qualify under this subparagraph.

(4) AFFIDAVIT OF SHIRTING MANUFACTURERS.—For purposes of paragraph (3)(D), an officer of the manufacturer of men's and boys' shirts shall provide a notarized affidavit affirming—

(A) that the manufacturer used imported cotton fabric during the period January 1, 1998, through July 1, 2003, to cut and sew men's and boys' woven cotton shirts in the United States;

(B) the dollar value of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased during calendar year 2002;

(C) that the manufacturer maintains invoices along with other supporting documentation (such as price lists and other technical descriptions of the fabric qualities) showing the dollar value of such fabric purchased, the date of purchase, and evidencing the fabric as woven cotton fabric of 80s or higher count and 2-ply in warp; and

(D) that the fabric was suitable for use in the manufacturing of men's and boys' cotton shirts.

(5) DATE OF PURCHASE.—For purposes of the affidavit required by paragraph (4), the date of purchase shall be the invoice date, and the dollar value shall be determined excluding duty, shipping, and related costs.

(6) AFFIDAVIT OF YARN SPINNERS.—For purposes of paragraph (3)(B), an officer of a company that produces ringspun yarns shall provide a notarized affidavit affirming—

(A) that the manufacturer used pima cotton grown in the United States during the period January 1, 2002, through December 31, 2002, to produce ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during 2002;

(B) the quantity, measured in pounds, of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002; and

(C) that the manufacturer maintains supporting documentation showing the quantity of such yarns produced, and evidencing the yarns as ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002.

(7) NO APPEAL.—Any grant awarded by the Secretary under this section shall be final and not subject to appeal or protest.

(c) AUTHORIZATION.—There are authorized to be appropriated, and are appropriated out of the amounts in the general fund of the Treasury not otherwise appropriated, such sums as are necessary to carry out the provisions of this section, including funds necessary for the administration and oversight of the grants provided for in this section.

SA 3017. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of the instructions the following.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. CERTAIN STEAM GENERATORS OR OTHER GENERATING BOILERS USED IN NUCLEAR FACILITIES AND CERTAIN REACTOR VESSEL HEADS USED IN SUCH FACILITIES.

(a) IN GENERAL.—

(1) Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended by striking ''12/31/2006'' and inserting ''12/31/2012''.

(2) Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.84.03	Reactor vessel heads for nuclear reactors (provided for in subheading 8401.40.00)	Free	No change	No change	On or before 12/31/2012	''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(2) shall apply to goods entered, or withdrawn from warehouse, for consumption on or after January 1, 2005.

SA 3018. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of the instructions the following:

TITLE IX—NON-REVENUE PROVISIONS

SEC. 901. PLASMA DISPLAY PANELS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.85.23	Plasma display panels for use in plasma flat screen televisions (provided for in subheading 8529.90.53)	Free	No change	No change	On or before 12/31/2006	''.

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 3019. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of the instructions the following:

TITLE IX—NON-REVENUE PROVISIONS

SEC. 901. LCD PANEL ASSEMBLIES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.85.24	LCD panel assemblies for use in LCD projection type televisions (provided for in subheading 9013.80.90)	Free	No change	No change	On or before 12/31/2006	''.

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 3020. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of the instructions the following:

TITLE IX—NON-REVENUE PROVISIONS

SEC. 901. ELECTRON GUNS FOR CATHODE RAY TUBES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.85.25	Electron guns actually used for cathode ray tubes (CRT's) with a high definition television screen aspect ratio of 16:9 (provided for in subheading 8540.91.50)	Free	No change	No change	On or before 12/31/2006	''.

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 3021. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings of the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place the following:

SEC. ___. WAIVER OF 10 PERCENT EARLY WITHDRAWAL PENALTY TAX ON CERTAIN DISTRIBUTIONS OF PENSION PLANS FOR PUBLIC SAFETY EMPLOYEES.

(a) IN GENERAL.—Clause (v) of section 72(t)(2)(A) is amended by inserting ''(age 50 in the case of a distribution to a qualified public safety employee from a government plan (within the meaning of section 414(d)) which is a defined benefit plan)'' before the comma at the end.

(b) DEFINITION OF QUALIFIED PUBLIC SAFETY EMPLOYEE.—Section 72(t) (relating to subsection not to apply to certain distributions) is amended by adding at the end the following new paragraph:

''(10) QUALIFIED PUBLIC SAFETY EMPLOYEE.—For purposes of this subsection, the term 'qualified public safety employee' means any employee of any police department or fire department organized and operated by a State or political subdivision of a State if the employee provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision.''.

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

SA 3022. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings of the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the instruction insert the following:

SEC. ___. TAXATION OF CERTAIN SETTLEMENT FUNDS.

(a) IN GENERAL.—Subsection (g) of section 468B (relating to clarification of taxation of certain funds) is amended to read as follows:

''(g) CLARIFICATION OF TAXATION OF CERTAIN FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise.

''(2) EXEMPTION FROM TAX FOR CERTAIN SETTLEMENT FUNDS.—An escrow account, settlement fund, or similar fund shall be treated as beneficially owned by the United States and shall be exempt from taxation under this subtitle if—

''(A) it is established pursuant to a consent decree entered by a judge of a United States District Court,

''(B) it is created for the receipt of settlement payments as directed by a government entity for the sole purpose of resolving or satisfying one or more claims asserting liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980,

''(C) the authority and control over the expenditure of funds therein (including the expenditure of contributions thereto and any net earnings thereon) is with such government entity, and

''(D) upon termination, any remaining funds will be disbursed upon instructions by such government entity in accordance with applicable law.

For purposes of this paragraph, the term 'government entity' means the United States, any State or political subdivision thereof, the District of Columbia, any possession of the United States, and any agency or instrumentality of any of the foregoing.''.

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

SA 3023. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings of the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the instructions insert the following:

SEC. ___. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

''(i) EXTENSION FOR OTHER FACILITIES.—Notwithstanding subsection (f)(2), in the case of a facility for producing coke or coke gas which was placed in service before January 1, 1993, or after June 30, 1998, and before January 1, 2007, this section shall apply with respect to coke and coke gas produced in such facility and sold during the during the period—

''(1) beginning on the later of January 1, 2004, or the date that such facility is placed in service, and

''(2) ending on the earlier of the date which is 4 years after the date such period began or December 31, 2009.''.

SA 3024. Mrs. CLINTON (for herself and Mr. DAYTON) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings of the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place the following:

SEC. ___. TRANSMISSION OF PERSONALLY IDENTIFIABLE INFORMATION TO FOREIGN AFFILIATES OR SUBCONTRACTORS.

(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) BUSINESS ENTERPRISE.—The term ''business enterprise'' means any organization, association, or venture established to make a profit.

(2) COUNTRY WITH ADEQUATE PRIVACY PROTECTION.—The term ''country with adequate privacy protection'' means a country that has been certified by the Federal Trade Commission as having a legal system that provides adequate privacy protection for personally identifiable information.

(3) HEALTH CARE BUSINESS.—The term ''health care business'' means any business enterprise or private, nonprofit organization that collects or retains personally identifiable information about consumers in relation to medical care, including—

(A) hospitals;

(B) health maintenance organizations;

(C) medical partnerships;

(D) emergency medical transportation companies;

(E) medical transcription companies;

(F) banks that collect or process medical billing information; and

(G) subcontractors, or potential subcontractors, of the entities described in subparagraphs (A) through (F).

(4) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' includes—

(A) name;

(B) bank account information;

(C) social security number;

(D) address;

(E) telephone number;

(F) passwords;

(G) mother's maiden name; and

(H) date of birth.

(b) TRANSMISSION OF INFORMATION.—

(1) IN GENERAL.—A business enterprise may transmit personally identifiable information regarding a citizen of the United States to any foreign affiliate or subcontractor located in a country that is a country with adequate privacy protection in accordance with paragraph (2).

(2) CONSENT REQUIRED.—A business enterprise may not transmit personally identifiable information regarding a citizen of the United States to any foreign affiliate or subcontractor located outside of the United States unless—

(A) the business enterprise discloses to the citizen whether the country to which the information will be transmitted has been certified under subsection (d);

(B) the business enterprise obtains consent from the citizen, before a consumer relationship is established or before the effective date of this section, to transmit such information to such foreign affiliate or subcontractor; and

(C) the consent referred to in subparagraph (B) is renewed by the citizen within 1 year before such information is transmitted.

(3) LIABILITY.—A business enterprise shall be liable for any damages arising from the improper storage, duplication, sharing, or other misuse of personally identifiable information by the business enterprise or by any of its foreign affiliates or subcontractors that received such information from the business enterprise.

(4) RULEMAKING.—The Chairman of the Federal Trade Commission shall promulgate regulations through which the Chairman may enforce the provisions of this subsection and impose a fine for a violation of this subsection.

(c) HEALTH CARE INFORMATION.—

(1) IN GENERAL.—A health care business shall be liable for any damages arising from the improper storage, duplication, sharing, or other misuse of personally identifiable information by the business enterprise or by any of its foreign affiliates or subcontractors that received such information from the business enterprise.

(2) NO OPT OUT PROVISION.—A health care business may not terminate an existing relationship with a consumer of health care services to avoid the consent requirement under subsection (b)(2).

(3) RULEMAKING.—The Secretary of Health and Human Services shall promulgate regulations through which the Secretary may enforce the provisions of this subsection and impose a fine for the violation of this subsection.

(d) CERTIFICATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Federal Trade Commission shall—

(A) certify those countries that have legal systems that provide adequate privacy protection for personally identifiable information; and

(B) make the list of countries certified under subparagraph (A) available to the general public.

(2) CERTIFICATION CRITERIA.—In determining whether a country should be certified under this subsection, the Federal Trade Commission shall consider the adequacy of the country's infrastructure for detecting, evaluating, and responding to privacy violations.

(3) EUROPEAN UNION DATA PROTECTION DIRECTIVE.—A country that has passed comprehensive privacy legislation that meets the requirements of the European Union Data Protection Directive shall be certified under this subsection unless the Federal Trade Commission determines that such legislation is not commonly observed within such country.

(e) EFFECTIVE DATE.—This section shall take effect on the date which is 90 days after the date of enactment of this Act.

SA 3025. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 662 of the instructions and insert the following:

SEC. 662. NONATTRIBUTION OF CERTAIN MANUFACTURING BY PERSONS OTHER THAN CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 954(d) (defining foreign base company sales income) is amended by adding at the end the following new paragraph:

''(5) NONATTRIBUTION OF CERTAIN MANUFACTURING ACTIVITIES.—For purposes of this subsection, in determining whether income of a controlled foreign corporation is foreign base company sales income, any manufacturing, production, or construction by a person other than an individual who is an employee of the corporation shall not be attributed to the corporation, and property manufactured, produced, or constructed by such person for the corporation pursuant to a contractual arrangement shall not be considered as property sold on behalf of another person by the corporation.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning on or after the date of the enactment of this Act, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

(2) NO INFERENCE.—Nothing in the amendment made by this section shall be construed to infer the proper treatment of manufacturing, production, or construction for taxable years beginning before the date of the enactment of this Act.

SA 3026. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In the instructions strike section 662.

SA 3027. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause of the instructions and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Jumpstart Our Business Strength (JOBS) Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

Sec. 101. Repeal of exclusion for extraterritorial income.

TITLE II—REDUCTION OF TOP CORPORATE TAX RATE

Sec. 201. Reduction in corporate income tax rate.

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 301. Reduction in corporate AMT rate.
Sec. 302. Increase in exemption from AMT for small corporations.
Sec. 303. Foreign tax credit under alternative minimum tax.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

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Sec. 405. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 406. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 407. Disclosure of reportable transactions.
Sec. 408. Modifications to penalty for failure to register tax shelters.
Sec. 409. Modification of penalty for failure to maintain lists of investors.
Sec. 410. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 411. Understatement of taxpayer's liability by income tax return preparer.
Sec. 412. Penalty on failure to report interests in foreign financial accounts.
Sec. 413. Frivolous tax submissions.
Sec. 414. Regulation of individuals practicing before the Department of Treasury.
Sec. 415. Penalty on promoters of tax shelters.
Sec. 416. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 417. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 418. Authorization of appropriations for tax law enforcement.

Subtitle B—Other Corporate Governance Provisions

Sec. 421. Affirmation of consolidated return regulation authority.
Sec. 422. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.

Subtitle C—Enron-Related Tax Shelter Provisions
Sec. 431. Limitation on transfer or importation of built-in losses.
Sec. 432. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 433. Repeal of special rules for FASITs.
Sec. 434. Expanded disallowance of deduction for interest on convertible debt.
Sec. 435. Expanded authority to disallow tax benefits under section 269.
Sec. 436. Modification of interaction between subpart F and passive foreign investment company rules.
Subtitle D—Provisions to Discourage Expatriation
Sec. 441. Tax treatment of inverted corporate entities.
Sec. 442. Imposition of mark-to-market tax on individuals who expatriate.
Sec. 443. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 444. Reinsurance of United States risks in foreign jurisdictions.
Sec. 445. Reporting of taxable mergers and acquisitions.
Subtitle E—International Tax
Sec. 451. Clarification of banking business for purposes of determining investment of earnings in United States property.
Sec. 452. Prohibition on nonrecognition of gain through complete liquidation of holding company.
Sec. 453. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.
Sec. 454. Effectively connected income to include certain foreign source income.
Sec. 455. Recapture of overall foreign losses on sale of controlled foreign corporation.
Sec. 456. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.
Subtitle F—Other Revenue Provisions
PART I—FINANCIAL INSTRUMENTS
Sec. 461. Treatment of stripped interests in bond and preferred stock funds, etc.
Sec. 462. Application of earnings stripping rules to partnerships and S corporations.
Sec. 463. Recognition of cancellation of indebtedness income realized on satisfaction of debt with partnership interest.
Sec. 464. Modification of straddle rules.
Sec. 465. Denial of installment sale treatment for all readily tradeable debt.
PART II—CORPORATIONS AND PARTNERSHIPS
Sec. 466. Modification of treatment of transfers to creditors in divisive reorganizations.
Sec. 467. Clarification of definition of nonqualified preferred stock.
Sec. 468. Modification of definition of controlled group of corporations.
Sec. 469. Mandatory basis adjustments in connection with partnership distributions and transfers of partnership interests.
PART III—DEPRECIATION AND AMORTIZATION
Sec. 471. Extension of amortization of intangibles to sports franchises.
Sec. 472. Class lives for utility grading costs.
Sec. 473. Expansion of limitation on depreciation of certain passenger automobiles.
Sec. 474. Consistent amortization of periods for intangibles.
Sec. 475. Reform of tax treatment of leasing operations.
Sec. 476. Limitation on deductions allocable to property used by governments or other tax-exempt entities.
PART IV—ADMINISTRATIVE PROVISIONS
Sec. 481. Clarification of rules for payment of estimated tax for certain deemed asset sales.
Sec. 482. Extension of IRS user fees.
Sec. 483. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.
Sec. 484. Partial payment of tax liability in installment agreements.
Sec. 485. Extension of customs user fees.
Sec. 486. Deposits made to suspend running of interest on potential underpayments.
Sec. 487. Qualified tax collection contracts.
PART V—MISCELLANEOUS PROVISIONS
Sec. 491. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 492. Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale.
Sec. 493. Clarification of exemption from tax for small property and casualty insurance companies.
Sec. 494. Definition of insurance company for section 831.
Sec. 495. Limitations on deduction for charitable contributions of patents and similar property.
Sec. 496. Repeal of 10-percent rehabilitation tax credit.
Sec. 497. Increase in age of minor children whose unearned income is taxed as if parent's income.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRA-TERRITORIAL INCOME

SEC. 101. REPEAL OF EXCLUSION FOR EXTRA-TERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking ''114 or''.

(4) Section 275(a) is amended—

(A) by inserting ''or'' at the end of paragraph (4)(A), by striking ''or'' at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

''(A) IN GENERAL.—For purposes of''; and inserting:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of'', and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking ''114, 164(a),'' and inserting ''164(a)''.

(7) Section 999(c)(1) is amended by striking ''941(a)(5),''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term ''current FSC/ETI beneficiary'' means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

Years:	The phaseout percentage is:
2004	80
2005	80
2006	60.

(ii) SPECIAL RULE FOR 2004.—The phaseout percentage for 2004 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act bears to 365.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(C) SHORT TAXABLE YEAR.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the FSC/ETI benefit for the taxpayer's taxable year beginning in calendar year 2002.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term ''FSC/ETI benefit'' means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) SPECIAL RULE FOR AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phaseout percentage for 2004 shall be treated as being equal to 100 percent.

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount for calendar year 2004, reduced by

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

TITLE II—REDUCTION OF TOP CORPORATE TAX RATE

SEC. 201. REDUCTION IN CORPORATE INCOME TAX RATE.

(a) IN GENERAL.—Subsection (b) of section 11 (relating to tax imposed on corporations) is amended by redesignating paragraph (2) as paragraph (6) and by striking paragraph (1) and inserting the following new paragraphs:

''(1) FOR TAXABLE YEARS BEGINNING AFTER 2009.—In the case of taxable years beginning after 2009, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000	$13,750, plus 33% of the excess over $75,000.

''(2) FOR TAXABLE YEARS BEGINNING IN 2006, 2007, 2008, OR 2009.—In the case of taxable years beginning in 2006, 2007, 2008, or 2009, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000	$13,750, plus 33.5% of the excess over $75,000.

''(3) FOR TAXABLE YEARS BEGINNING IN 2005.—In the case of taxable years beginning in 2005, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000	$13,750, plus 34% of the excess over $75,000.

''(4) FOR TAXABLE YEARS BEGINNING IN 2004.—In the case of taxable years beginning in 2004, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000 but not over $10,000,000.	$13,750, plus 34% of the excess over $75,000.
Over $10,000,000	$3,388,250, plus 34.5% of the excess over $10,000,000.

''(5) PHASEOUT OF LOWER RATES FOR CERTAIN TAXPAYERS.—

''(A) GENERAL RULE.—In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under paragraph (1), (2), (3) or (4) for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $11,000 ($11,750 in the case of taxable years beginning before 2006 and $11,375 in the case of taxable years beginning after 2005 and before 2010).

''(B) HIGHER INCOME CORPORATIONS.—In the case of a corporation which has taxable income in excess of $15,000,000 for taxable years beginning in 2004, the amount of the tax determined under the foregoing provisions of this subsection shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $50,000.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 904(b)(3)(D)(ii) is amended to read as follows:

''(ii) in the case of a corporation, section 1201(a) applies to such taxable year.''.

(2) Section 1201(a) is amended by striking ''the last 2 sentences of section 11(b)(1)'' and inserting ''section 11(b)(5)''.

(3) Section 1561(a) is amended—

(A) by striking ''the last 2 sentences of section 11(b)(1)'' and inserting ''section 11(b)(5)'', and

(B) by striking ''such last 2 sentences'' and inserting ''section 11(b)(5)''.

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

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

SEC. 301. REDUCTION IN CORPORATE AMT RATE.

(a) IN GENERAL.—Section 55(b)(1)(B)(i) (relating to amount of tentative tax for corporations) is amended by striking ''20 percent'' and inserting ''19 percent (19.5 percent for taxable years beginning in 2004 or 2005)''.

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

SEC. 302. INCREASE IN EXEMPTION FROM AMT FOR SMALL CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 55(e) (relating to exemption for small corporations) is amended—

(1) by striking ''$7,500,000'' in the heading and the text of subparagraph (A) and inserting ''$15,000,000'',

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

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

SEC. 303. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Section 53(d)(1)(B)(i)(II) is amended by striking ''and if section 59(a)(2) did not apply''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 402. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 403. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

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

SEC. 404. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 405. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''.

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

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

SEC. 406. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 407. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 408. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 409. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 410. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''.

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 411. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

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

SEC. 412. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account

or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 413. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 414. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''.

SEC. 415. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 416. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 417. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest

paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''.

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

SEC. 418. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Corporate Governance Provisions

SEC. 421. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''.

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 422. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

(2) by adding at the end the following new subsection:

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''misdemeanor'' and inserting ''felony'', and

(ii) by striking ''1 year'' and inserting ''10 years'', and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

Subtitle C—Enron-Related Tax Shelter Provisions

SEC. 431. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

''(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.

''(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

''(A) IN GENERAL.—If—

''(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 432. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 433. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking '', and any regular interest in a FASIT,''.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: ''An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.''.

(B) The last sentence of section 860G(a)(3) is amended by inserting '', and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property'' before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: ''For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.''.

(8)(A) Section 860G(a)(3)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

''(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

''(II) occurs after the startup day, and

''(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.''.

(B) Section 860G(a)(7)(B) is amended to read as follows:

''(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

''(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

''(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).''.

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking ''and any regular interest in a FASIT,'', and

(B) by striking ''or FASIT'' each place it appears.

(11) Subparagraph (A) of section 7701(i)(2) is amended by striking ''or a FASIT''.

(12) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 434. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by inserting ''or equity held by the issuer (or any related party) in any other person'' after ''or a related party''.

(b) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

''(4) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.''.

(c) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

''(5) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.''.

(c) CONFORMING AMENDMENTS.—Paragraph (3) of section 163(l) is amended—

(1) by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person'', and

(2) by striking ''or interest'' each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 435. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

''(a) IN GENERAL.—If—

''(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

''(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 436. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

Subtitle D—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or

indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 442. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest

shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after January 1, 2004.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after January 1, 2004.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after January 1, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 443. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

''(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

''(e) DEFINITIONS.—For purposes of this section—

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

''(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A). Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 444. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

SEC. 445. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

''SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

''(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

''(1) a description of the acquisition,

''(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

''(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

''(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

''(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

''(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

''(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return,

''(2) the information required to be shown on such return with respect to such shareholder, and

''(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.''.

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ii) through (xvii) as clauses (iii) through (xviii), respectively, and by inserting after clause (i) the following new clause:

''(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),''.

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (F) through (AA) as subparagraphs (G) through (BB), respectively, and by inserting after subparagraph (E) the following new subparagraph:

''(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

''Sec. 6043A. Returns relating to taxable mergers and acquisitions.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

Subtitle E—International Tax

SEC. 451. CLARIFICATION OF BANKING BUSINESS FOR PURPOSES OF DETERMINING INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 956(c)(2) is amended to read as follows:

''(A) obligations of the United States, money, or deposits with—

''(i) any bank (as defined by section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), without regard to subparagraphs (C) and (G) of paragraph (2) of such section), or

''(ii) any corporation not described in clause (i) with respect to which a bank holding company (as defined by section 2(a) of such Act) or financial holding company (as defined by section 2(p) of such Act) owns directly or indirectly more than 80 percent by vote or value of the stock of such corporation;''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 452. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

''(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

''(1) IN GENERAL.—In the case of any distribution to a foreign corporation in complete liquidation of an applicable holding company—

''(A) subsection (a) and section 331 shall not apply to such distribution, and

''(B) such distribution shall be treated as a distribution to which section 301 applies.

''(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable holding company' means any domestic corporation—

''(i) which is a common parent of an affiliated group,

''(ii) stock of which is directly owned by the distributee foreign corporation,

''(iii) substantially all of the assets of which consist of stock in other members of such affiliated group, and

''(iv) which has not been in existence at all times during the 5 years immediately preceding the date of the liquidation.

''(B) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a) (without regard to paragraphs (2) and (4) of section 1504(b)).

''(3) COORDINATION WITH SUBPART F.—If the distributee of a distribution described in paragraph (1) is a controlled foreign corporation (as defined in section 957), then notwithstanding paragraph (1) or subsection (a), such distribution shall be treated as a distribution to which section 331 applies.

''(4) REGULATIONS.—The Secretary shall provide such regulations as appropriate to prevent the abuse of this subsection, including regulations which provide, for the purposes of clause (iv) of paragraph (2)(A), that a corporation is not in existence for any period unless it is engaged in the active conduct of a trade or business or owns a significant ownership interest in another corporation so engaged.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring on or after the date of the enactment of this Act.

SEC. 453. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

''(i) IN GENERAL.—In the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year before the taxable year in which paid only to the extent such original issue discount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

''(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged.''.

(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—Section 267(a)(3) is amended—

(1) by striking ''The Secretary'' and inserting:

''(A) IN GENERAL.—The Secretary'', and

(2) by adding at the end the following new subparagraph:

''(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), in the case of any amount payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year before the taxable year in which paid only to the extent such amount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

''(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged and in which the payment of the accrued amounts occurs within 8½ months after accrual or within such other period as the Secretary may prescribe.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments accrued on or after the date of the enactment of this Act.

SEC. 454. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) IN GENERAL.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

''Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.''.

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

SEC. 455. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

''(D) APPLICATION TO DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS.—In the case of any disposition by a taxpayer of any share of stock in a controlled foreign corporation (as defined in section 957), this paragraph shall apply to such disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions after the date of the enactment of this Act.

SEC. 456. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

''(l) MINIMUM HOLDING PERIOD FOR WITHHOLDING TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS ETC.—

''(1) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

''(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

''(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

''(2) EXCEPTION FOR TAXES PAID BY DEALERS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

''(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

''(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

''(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

''(C) DEALER.—For purposes of subparagraph (A), the term 'dealer' means—

''(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

''(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

''(D) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

''(3) EXCEPTIONS.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

''(5) DETERMINATION OF HOLDING PERIOD.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.''.

(b) CONFORMING AMENDMENT.—The heading of subsection (k) of section 901 is amended by inserting ''ON DIVIDENDS'' after ''TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

SEC. 461. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.''.

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

''(7) CROSS REFERENCE.—

''For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 462. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) IN GENERAL.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

''(A) IN GENERAL.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

''(B) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

''(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

''(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.''.

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

SEC. 463. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

''(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

''(A) a debtor corporation transfers stock, or

''(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 464. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

''(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

''(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

''(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

''(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.''.

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

''(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and'', and

(B) by adding at the end the following new flush sentence:

''The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.''.

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle.''.

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is

part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

''(A) terminated the position for its fair market value immediately before the settlement, and

''(B) sold the property so delivered by the taxpayer at its fair market value.''.

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Paragraph (3) of section 1092(d) (relating to definitions and special rules) is amended to read as follows:

''(3) SPECIAL RULES FOR STOCK.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'personal property' includes—

''(i) any stock which is a part of a straddle at least 1 of the offsetting positions of which is a position with respect to such stock or substantially similar or related property, or

''(ii) any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.

''(B) RULE FOR APPLICATION.—For purposes of determining whether subsection (e) applies to any transaction with respect to stock described in subparagraph (A)(ii), all includible corporations of an affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.''.

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking ''; except that the term 'personal property' shall include stock''.

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

''(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 465. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking ''is issued by a corporation or a government or political subdivision thereof and''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART II—CORPORATIONS AND PARTNERSHIPS

SEC. 466. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: ''In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.''.

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting ''with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355'' after ''section 368(a)(1)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 467. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: ''Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 468. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking ''possessing—'' and all that follows through ''(B)'' and inserting ''possessing''.

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

''(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

''(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

''(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).''.

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

SEC. 469. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking '', with respect to which the election provided in section 754 is in effect,'' in the matter preceding paragraph (1) of subsection (b),

(2) by striking ''(as adjusted by section 732(d))'' both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking ''**OPTIONAL**'' in the heading.

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking ''with respect to which the election provided in section 754 is in effect'' in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

''(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.'', and

(4) by striking ''**OPTIONAL**'' in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking ''section 734(b) (relating to the optional adjustment'' and inserting ''section 734(a) (relating to the adjustment'', and

(B) by striking ''section 743(b) (relating to the optional adjustment'' and inserting ''section 743(a) (relating to the adjustment''.

(3) Section 755(c), as added by this Act, is amended by striking ''section 734(b)'' and inserting ''section 734(a)''.

(4) Section 761(e)(2) is amended by striking ''optional''.

(5) Section 774(a) is amended by striking ''743(b)'' both places it appears and inserting ''743(a)''.

(6) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking ''Optional''.

(7) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking ''Optional''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART III—DEPRECIATION AND AMORTIZATION

SEC. 471. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 472. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) initial clearing and grading land improvements with respect to gas utility property.''.

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

''(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.''.

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting ''or (E)(iv)'' after ''(E)(iii)'', and

(2) by adding at the end the following new item:

''(F) ..... 25''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 473. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

''(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

''(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

''(I) is manufactured primarily for use on public streets, roads, and highways,

''(II) is not subject to section 280F, and

''(III) is rated at not more than 14,000 pounds gross vehicle weight.

''(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

''(I) does not have the primary load carrying device or container attached,

''(II) has a seating capacity of more than 12 individuals,

''(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

''(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

''(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 474. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(A) the amount of organizational expenditures with respect to the taxpayer, or

''(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.''.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

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

SEC. 475. REFORM OF TAX TREATMENT OF LEASING OPERATIONS.

(a) CLARIFICATION OF RECOVERY PERIOD FOR TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—Subparagraph (A) of section 168(g)(3) (relating to special rules for determining class life) is amended by inserting ''(notwithstanding any other subparagraph of this paragraph)'' after ''shall''.

(b) LIMITATION ON DEPRECIATION PERIOD FOR SOFTWARE LEASED TO TAX-EXEMPT ENTITY.—Paragraph (1) of section 167(f) is amended by adding at the end the following new subparagraph:

''(C) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of computer software which would be tax-exempt use property as defined in subsection (h) of section 168 if such section applied to computer software, the useful life under subparagraph (A) shall not be less than 125 percent of the lease term (within the meaning of section 168(i)(3)).''

(c) LEASE TERM TO INCLUDE RELATED SERVICE CONTRACTS.—Subparagraph (A) of section 168(i)(3) (relating to lease term) is amended by striking ''and'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) the term of a lease shall include the term of any service contract or similar arrangement (whether or not treated as a lease under section 7701(e))—

''(I) which is part of the same transaction (or series of related transactions) which includes the lease, and

''(II) which is with respect to the property subject to the lease or substantially similar property, and''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

''SEC. 470. LIMITATIONS ON LOSSES FROM TAX-EXEMPT USE PROPERTY.

''(a) LIMITATION ON LOSSES.—Except as otherwise provided in this section, a tax-exempt use loss for any taxable year shall not be allowed.

''(b) DISALLOWED LOSS CARRIED TO NEXT YEAR.—Any tax-exempt use loss with respect to any tax-exempt use property which is disallowed under subsection (a) for any taxable year shall be treated as a deduction with respect to such property in the next taxable year.

''(c) DEFINITIONS.—For purposes of this section—

''(1) TAX-EXEMPT USE LOSS.—The term 'tax-exempt use loss' means, with respect to any taxable year, the amount (if any) by which—

''(A) the sum of—

''(i) the aggregate deductions (other than interest) directly allocable to a tax-exempt use property, plus

''(ii) the aggregate deductions for interest properly allocable to such property, exceed

''(B) the aggregate income from such property.

''(2) TAX-EXEMPT USE PROPERTY.—The term 'tax-exempt use property' has the meaning given to such term by section 168(h) (without regard to paragraph (1)(C) or (3)(C) thereof and determined as if property described in section 167(f)(1)(B) were tangible property).

''(d) EXCEPTION FOR CERTAIN LEASES.—This section shall not apply to any lease of property which meets the requirements of all of the following paragraphs:

''(1) PROPERTY NOT FINANCED WITH TAX-EXEMPT BONDS.—A lease of property meets the requirements of this paragraph if no part of the property was financed (directly or indirectly) from the proceeds of an obligation the interest on which is exempt from tax under section 103(a) and which (or any refunding bond of which) is outstanding when the lease is entered into. The Secretary may by regulations provide for a de minimis exception from this paragraph.

''(2) AVAILABILITY OF FUNDS.—

''(A) IN GENERAL.—A lease of property meets the requirements of this paragraph if (at any time during the lease term) not more than an allowable amount of funds are—

''(i) subject to any arrangement referred to in subparagraph (B), or

''(ii) otherwise reasonably expected to remain available,

to or for the benefit of the lessor or any lender, or to or for the benefit of the lessee to satisfy the lessee's obligations or options under the lease.

''(B) ARRANGEMENTS.—The arrangements referred to in this subparagraph are—

''(i) a defeasance arrangement, a loan by the lessee to the lessor or any lender, a deposit arrangement, a letter of credit collateralized with cash or cash equivalents, a payment undertaking agreement, a lease prepayment, a sinking fund arrangement, or any similar arrangement (whether or not such arrangement provides credit support), and

''(ii) any other arrangement identified by the Secretary in regulations.

''(C) ALLOWABLE AMOUNT.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'allowable amount' means an amount equal to 20 percent of the lessor's adjusted basis in the property at the time the lease is entered into.

''(ii) HIGHER AMOUNT PERMITTED IN CERTAIN CASES.—To the extent provided in regulations, a higher percentage shall be permitted under clause (i) where necessary because of the credit-worthiness of the lessee. In no event may such regulations permit a percentage of more than 50 percent.

''(iii) OPTION TO PURCHASE.—If under the lease the lessee has the option to purchase the property for other than the fair market value of the property (determined at the time of exercise), the allowable amount at the time such option may be exercised may not exceed 50 percent of the price at which such option may be exercised.

''(3) LESSOR MUST MAKE SUBSTANTIAL EQUITY INVESTMENT.—A lease of property meets the requirements of this paragraph if—

''(A) the lessor—

''(i) has at the time the lease is entered into an unconditional at-risk equity investment (as determined by the Secretary) in the property of at least 20 percent of the lessor's adjusted basis in the property as of that time, and

''(ii) maintains such investment throughout the term of the lease, and

''(B) the fair market value of the property at the end of the lease term is reasonably expected to be equal to at least 20 percent of such basis.

''(4) LESSEE MAY NOT BEAR MORE THAN MINIMAL RISK OF LOSS.—

''(A) IN GENERAL.—A lease of property meets the requirements of this paragraph if there is no arrangement under which more than a minimal risk of loss (as determined under regulations) in the value of the property is borne by the lessee.

''(B) CERTAIN ARRANGEMENTS FAIL REQUIREMENT.—In no event will the requirements of this paragraph be met if there is any arrangement under which the lessee bears—

''(i) any portion of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were 25 percent less than its projected fair market value at the end of the lease term, or

''(ii) more than 50 percent of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were zero.

''(5) REGULATORY REQUIREMENTS.—A lease of property meets the requirements of this paragraph if such lease of property meets such requirements as the Secretary may prescribe by regulations.

''(e) SPECIAL RULES.—

''(1) TREATMENT OF FORMER TAX-EXEMPT USE PROPERTY.—

''(A) IN GENERAL.—In the case of any former tax-exempt use property—

''(i) any deduction allowable under subsection (b) with respect to such property for any taxable year shall be allowed only to the extent of any net income (without regard to such deduction) from such property for such taxable year, and

''(ii) any portion of such unused deduction remaining after application of clause (i) shall be treated as allowable under subsection (b) with respect to such property in the next taxable year.

''(B) FORMER TAX-EXEMPT USE PROPERTY.—For purposes of this subsection, the term 'former tax-exempt use property' means any property which—

''(i) is not tax-exempt use property for the taxable year, but

''(ii) was tax-exempt use property for any prior taxable year.

''(2) DISPOSITION OF ENTIRE INTEREST IN PROPERTY.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property (or former tax-exempt use property), rules similar to the rules of section 469(g) shall apply for purposes of this section.

''(3) COORDINATION WITH SECTION 469.—This section shall be applied before the application of section 469.

''(f) OTHER DEFINITIONS.—For purposes of this section—

''(1) RELATED PARTIES.—The terms 'lessor', 'lessee', and 'lender' include any related party (within the meaning of section 197(f)(9)(C)(i)).

''(2) LEASE TERM.—The term 'lease term' has the meaning given to such term by section 168(i)(3).

''(3) LENDER.—The term 'lender' means, with respect to any lease, a person that makes a loan to the lessor which is secured (or economically similar to being secured) by the lease or the leased property.

''(4) LOAN.—The term 'loan' includes any similar arrangement.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section, including regulation which—

''(1) allow in appropriate cases the aggregation of property subject to the same lease, and

''(2) provide for the determination of the allocation of interest expense for purposes of this section.''

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

''Sec. 470. Limitations on losses from tax-exempt use property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 481. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) IN GENERAL.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: ''The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 482. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''September 30, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 483. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term ''Voluntary Offshore Compliance Initiative'' means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 484. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 485. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''March 31, 2004'' and inserting ''September 30, 2013''.

SEC. 486. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

''SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

''(d) PAYMENT OF INTEREST.—

''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

''(2) DISPUTABLE TAX.—

''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

''(i) has a reasonable basis for its treatment of such item, and

''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

''(e) USE OF DEPOSITS.—

''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

''(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 487. QUALIFIED TAX COLLECTION CONTRACTS.

(a) CONTRACT REQUIREMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

''SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

''(a) IN GENERAL.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

''(b) QUALIFIED TAX COLLECTION CONTRACT.—For purposes of this section, the term 'qualified tax collection contract' means any contract which—

''(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

''(A) to locate and contact any taxpayer specified by the Secretary,

''(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 3 years, and

''(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

''(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

''(3) prohibits subcontractors from—

''(A) having contacts with taxpayers,

''(B) providing quality assurance services, and

''(C) composing debt collection notices, and

''(4) permits subcontractors to perform other services only with the approval of the Secretary.

''(c) FEES.—The Secretary may retain and use an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

''(d) NO FEDERAL LIABILITY.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

''(e) APPLICATION OF FAIR DEBT COLLECTION PRACTICES ACT.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

''(f) CROSS REFERENCES.—

''(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

''(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 7809(a) is amended by inserting ''6306,'' before ''7651''.

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

''Sec. 6306. Qualified Tax Collection Contracts.''.

(b) CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

''SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

''(a) IN GENERAL.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

''(b) MODIFICATIONS.—For purposes of subsection (a)—

''(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with

the Secretary and shall not be brought against the United States.

''(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

''(3) Such civil action shall not be an exclusive remedy with respect to such person.

''(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

''Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.''.

(c) APPLICATION OF TAXPAYER ASSISTANCE ORDERS TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

''(g) APPLICATION TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.''.

(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MISCONDUCT TO PERFORM UNDER CONTRACT.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

''(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.''.

(e) EFFECTIVE DATE.—The amendments made to this section shall take effect on the date of the enactment of this Act.

PART V—MISCELLANEOUS PROVISIONS

SEC. 491. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''May 8, 2003''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 492. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) IN GENERAL.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 493. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15)(A) is amended to read as follows:

''(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

''(i) the gross receipts for the taxable year do not exceed $600,000, and

''(ii) more than 50 percent of such gross receipts consist of premiums.''.

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) is amended by inserting '', except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded'' before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) is amended by striking ''exceed $350,000 but''.

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

SEC. 494. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

(a) IN GENERAL.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).''.

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

SEC. 495. LIMITATIONS ON DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) DEDUCTION ALLOWED ONLY TO THE EXTENT OF BASIS.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property,''.

(b) TREATMENT OF CONTRIBUTIONS WHERE DONOR RECEIVES INTEREST.—Section 170(e) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULES FOR CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY WHERE DONOR RECEIVES INTEREST.—

''(A) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under this section with respect to a contribution of property described in paragraph (1)(B)(iii) if the taxpayer after the contribution has any interest in the property other than a qualified interest.

''(B) CONTRIBUTIONS WITH QUALIFIED INTEREST.—If a taxpayer after a contribution of property described in paragraph (1)(B)(iii) has a qualified interest in the property—

''(i) any payment pursuant to the qualified interest shall be treated as ordinary income and shall be includible in gross income of the taxpayer for the taxable year in which the payment is received by the taxpayer, and

''(ii) subsection (f)(3) and section 1011(b) shall not apply to the transfer of the property from the taxpayer to the donee.

''(C) QUALIFIED INTEREST.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified interest' means, with respect to any taxpayer, a right to receive from the donee a percentage (not greater than 50 percent) of any royalty payment received by the donee with respect to property described in paragraph (1)(B)(iii) (other than copyrights which are described in section 1221(a)(3) or 1231(b)(1)(C)) contributed by the taxpayer to the donee.

''(ii) SECRETARIAL AUTHORITY.—

''(I) IN GENERAL.—Except as provided in subclause (II), the Secretary may by regulation or other administrative guidance treat as a qualified interest the right to receive other payments from the donee, but only if the donee does not possess a right to receive any payment (whether royalties or otherwise) from a third party with respect to the contributed property.

''(II) EXCEPTIONS.—The Secretary may not treat as a qualified interest the right to receive any payment which provides a benefit to the donor which is greater than the benefit retained by the donee or the right to receive any portion of the proceeds from the sale of the property contributed.

''(iii) LIMITATION.—An interest shall be treated as a qualified interest under this subparagraph only if the taxpayer has no right to receive any payment described in clause (i) or (ii)(I) after the earlier of the date on which the legal life of the contributed property expires or the date which is 20 years after the date of the contribution.''.

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 6050L(a) (relating to returns regarding certain dispositions of donated property) is amended—

(A) by striking ''If'' and inserting:

''(1) DISPOSITIONS OF DONATED PROPERTY.—If'',

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and

(C) by adding at the end the following new paragraph:

''(2) PAYMENTS OF QUALIFIED INTERESTS.—Each donee of property described in section 170(e)(1)(B)(iii) which makes a payment to a donor pursuant to a qualified interest (as defined in section 170(e)(7)) during any calendar year shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

''(A) the name, address, and TIN of the payor and the payee with respect to such a payment,

''(B) a description, and date of contribution, of the property to which the qualified interest relates,

''(C) the dates and amounts of any royalty payments received by the donee with respect to such property,

''(D) the date and the amount of the payment pursuant to the qualified interest, and

''(E) a description of the terms of the qualified interest.''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 6050L is amended by striking ''**CERTAIN DISPOSITIONS OF**''.

(B) The item relating to section 6050L in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking ''certain dispositions of''.

(d) ANTI-ABUSE RULES.—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after October 1, 2003.

SEC. 496. REPEAL OF 10-PERCENT REHABILITATION TAX CREDIT.

Section 47 is amended by adding at the end the following new subsection:

''(e) TERMINATION.—This section shall not apply to expenditures described in subsection (a)(1) incurred in taxable years beginning after December 31, 2003.''.

SEC. 497. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking ''age 14'' and inserting ''age 18''.

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

SA 3028. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the instructions add the following:

TITLE IX—NON-REVENUE PROVISIONS

SEC. 901. CUSTOMS SERVICES.

Section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)) is amended—

(1) by striking ''(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)),'' and inserting:

''(1) IN GENERAL.—

''(A) SCHEDULED FLIGHTS.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)),''; and

(2) by adding at the end the following:

''(B) CHARTER FLIGHTS.—If an air carrier (as defined in section 40102(2) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the air carrier.''.

SA 3029. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—TRADE ADJUSTMENT ASSISTANCE

Subtitle A—Service Workers

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance Equity For Service Workers Act of 2004''.

SEC. 512. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking ''firm)'' and inserting ''firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)''.

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (1), by inserting ''or public agency'' after ''of the firm''; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''like or directly competitive with articles produced'' and inserting ''or services like or directly competitive with articles produced or services provided''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided, by such firm, subdivision, or public agency; or

''(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (2), by inserting ''or service'' after ''related to the article''; and

(C) in paragraph (3)(A), by inserting ''or services'' after ''component parts'';

(3) in subsection (c)—

(A) in paragraph (2), by adding at the end the following:

''(C) Taconite pellets produced in the United States shall be considered to be an article that is like or directly competitive with imports of semifinished steel slab.''.

(B) in paragraph (3)—

(i) by inserting ''or services'' after ''value-added production processes'';

(ii) by striking ''or finishing'' and inserting '', finishing, or testing'';

(iii) by inserting ''or services'' after ''for articles''; and

(iv) by inserting ''(or subdivision)'' after ''such other firm''; and

(C) in paragraph (4)—

(i) by striking ''for articles'' and inserting '', or services, used in the production of articles or in the provision of services''; and

(ii) by inserting ''(or subdivision)'' after ''such other firm''; and

(4) by adding at the end the following new subsection:

''(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

''(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a firm in a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

''(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.''.

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking ''$220,000,000'' and inserting ''$440,000,000''.

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting ''or public agency'' after ''of a firm''; and

(B) by inserting ''or public agency'' after ''or subdivision'';

(2) in paragraph (2)(B), by inserting ''or public agency'' after ''the firm'';

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

''(8) The term 'service sector firm' means an entity engaged in the business of providing services.''.

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking '', other than subchapter D''.

SEC. 513. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—

(1) ASSISTANCE.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting ''or service sector firm'' after ''(including any agricultural firm'';

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting ''or service sector firm'' after ''any agricultural firm'';

(ii) in subparagraph (B)(ii), by inserting ''or service'' after ''of an article''; and

(iii) in subparagraph (C), by striking ''articles like or directly competitive with articles which are produced'' and inserting ''articles or services like or directly competitive with articles or services which are produced or provided''; and

(C) by adding at the end the following:

''(e) BASIS FOR SECRETARY DETERMINATION.—

''(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive articles or services exist if customers accounting for not less than 20 percent of the sales of the workers' firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The Secretary may exercise the authority under section 249 in carrying out this subsection.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''$16,000,000'' and inserting ''$32,000,000''.

(3) DEFINITION.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(A) by striking ''For purposes of'' and inserting ''(a) FIRM.—For purposes of''; and

(B) by adding at the end the following:

''(b) SERVICE SECTOR FIRM.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.''.

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting ''or service'' after ''new product''.

SEC. 514. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking ''The Secretary'' and inserting ''(a) MONITORING PROGRAMS.—The Secretary'';

(B) by inserting ''and services'' after ''imports of articles'';

(C) by inserting ''and domestic provision of services'' after ''domestic production'';

(D) by inserting ''or providing services'' after ''producing articles''; and

(E) by inserting '', or provision of services,'' after ''changes in production''; and

(2) by adding at the end the following:

''(b) COLLECTION OF DATA AND REPORTS ON SERVICES SECTOR.—

''(1) SECRETARY OF LABOR.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Equity For Service Workers Act of 2004, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

''(2) SECRETARY OF COMMERCE.—Not later than 6 months after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.''.

SEC. 515. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.

IN GENERAL.—Section 246(a)(3) of the Trade Act of 1974 (19 U.S.C. 2318(a)(3)) is amended to read as follows:

''(3) ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

''(A) is covered by a certification under subchapter A of this chapter;

''(B) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

''(C) is at least 40 years of age;

''(D) earns not more than $50,000 a year in wages from reemployment;

''(E) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

''(F) does not return to the employment from which the worker was separated.''.

(b) CONFORMING AMENDMENTS.—(1) Subparagraphs (A) and (B) of section 246(a)(2) of the Trade Act of 1974 (19 U.S.C. 2318(a)(2) (A) and (B)) are amended by striking ''paragraph (3)(B)'' and inserting ''paragraph (3)'' each place it appears.

(2) Section 246(b)(2) of such Act is amended by striking ''subsection (a)(3)(B)'' and inserting ''subsection (a)(3)''.

SEC. 516. CLARIFICATION OF MARKETING YEAR.

Section 291(5) of the Trade Act of 1974 (19 U.S.C. 2401(5)) is amended by inserting before the end period the following: '', or in the case of an agricultural commodity that has no marketing year, in a 12-month period for which the petitioner provides written justification''.

SEC. 517. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall take effect on October 1, 2004.

(b) SPECIAL RULE FOR CERTAIN SERVICE WORKERS.—A group of workers in a service sector firm, or subdivision of a service sector firm, or public agency (as defined in section 247 (7) and (8) of the Trade Act of 1974, as added by section 512(d) of this Act) who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm or public agency occurred on or after November 4, 2002 and before October 1, 2004.

(c) SPECIAL RULE FOR TACONITE.—A group of workers in a firm, or subdivision of a firm, engaged in the production of taconite pellets who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm occurred on or after November 4, 2002 and before October 1, 2004.

Subtitle B—Data Collection

SEC. 521. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance Accountability Act''.

SEC. 522. DATA COLLECTION; STUDY; INFORMATION TO WORKERS.

(a) DATA COLLECTION; EVALUATIONS.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 249, the following new section:

''SEC. 250. DATA COLLECTION; EVALUATIONS; REPORTS.

''(a) DATA COLLECTION.—The Secretary shall, pursuant to regulations prescribed by the Secretary, collect any data necessary to meet the requirements of this chapter.

''(b) PERFORMANCE EVALUATIONS.—The Secretary shall establish an effective performance measuring system to evaluate the following:

''(1) PROGRAM PERFORMANCE.—A comparison of the trade adjustment assistance program before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002 with respect to—

''(A) the number of workers certified and the number of workers actually participating in the trade adjustment assistance program;

''(B) the time for processing petitions;

''(C) the number of training waivers granted;

''(D) the coordination of programs under this chapter with programs under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

''(E) the effectiveness of individual training providers in providing appropriate information and training;

''(F) the extent to which States have designed and implemented health care coverage options under title II of the Trade Act of 2002, including any difficulties States have encountered in carrying out the provisions of title II;

''(G) how Federal, State, and local officials are implementing the trade adjustment assistance program to ensure that all eligible individuals receive benefits, including providing outreach, rapid response, and other activities; and

''(H) any other data necessary to evaluate how individual States are implementing the requirements of this chapter.

''(2) PROGRAM PARTICIPATION .—The effectiveness of the program relating to—

''(A) the number of workers receiving benefits and the type of benefits being received both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

''(B) the number of workers enrolled in, and the duration of, training by major types of training both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

''(C) earnings history of workers that reflects wages before separation and wages in any job obtained after receiving benefits under this Act;

''(D) reemployment rates and sectors in which dislocated workers have been employed;

''(E) the cause of dislocation identified in each petition that resulted in a certification under this chapter; and

''(F) the number of petitions filed and workers certified in each congressional district of the United States.

''(c) STATE PARTICIPATION.—The Secretary shall ensure, to the extent practicable, through oversight and effective internal control measures the following:

''(1) STATE PARTICIPATION.—Participation by each State in the performance measurement system established under subsection (b).

''(2) MONITORING.—Monitoring by each State of internal control measures with respect to performance measurement data collected by each State.

''(3) RESPONSE.—The quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)).

''(d) REPORTS.—

''(1) REPORTS BY THE SECRETARY.—

''(A) INITIAL REPORT.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Accountability Act, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that—

''(i) describes the performance measurement system established under subsection (b);

''(ii) includes analysis of data collected through the system established under subsection (b); and

''(iii) provides recommendations for program improvements.

''(B) ANNUAL REPORT.—Not later than 1 year after the date the report is submitted under subparagraph (A), and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes the information collected under clause (ii) of subparagraph (A).

''(2) STATE REPORTS.—Pursuant to regulations prescribed by the Secretary, each State shall submit to the Secretary a report that details its participation in the programs established under this chapter, and that contains the data necessary to allow the Secretary to submit the report required under paragraph (1).

''(3) PUBLICATION.—The Secretary shall make available to each State, and other public and private organizations as determined by the Secretary, the data gathered and evaluated through the performance measurement system established under subsection (b).''.

(b) CONFORMING AMENDMENTS.—

(1) COORDINATION.—Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended by striking ''Departments of Labor and Commerce'' and inserting ''Departments of Labor, Commerce, and Agriculture''.

(2) TRADE MONITORING SYSTEM.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended by striking ''The Secretary of Commerce and the Secretary of Labor'' and inserting ''The Secretaries of Commerce, Labor, and Agriculture''.

(3) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 249, the following new item:

''Sec. 250. Data collection; evaluations; reports.''.

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

Subtitle C—Trade Adjustment Assistance for Communities

SEC. 531. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance for Communities Act of 2004''.

SEC. 532. PURPOSE.

The purpose of this subtitle is to assist communities negatively impacted by trade with economic adjustment through the integration of political and economic organizations, the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the provision of economic transition assistance.

SEC. 533. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read as follows:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''SEC. 271. DEFINITIONS.

''In this chapter:

''(1) AFFECTED DOMESTIC PRODUCER.—The term 'affected domestic producer' means any manufacturer, producer, service provider, farmer, rancher, fisherman or worker representative (including associations of such persons) that was affected by a finding under the Antidumping Act of 1921, or by an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

''(3) COMMUNITY.—The term 'community' means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State that the Secretary certifies as being negatively impacted by trade.

''(4) COMMUNITY NEGATIVELY IMPACTED BY TRADE.—A community negatively impacted by trade means a community with respect to which a determination has been made under section 273.

''(5) ELIGIBLE COMMUNITY.—The term 'eligible community' means a community certified under section 273 for assistance under this chapter.

''(6) FISHERMAN.—

''(A) IN GENERAL.—The term 'fisherman' means any person who—

''(i) is engaged in commercial fishing; or

''(ii) is a United States fish processor.

''(B) COMMERCIAL FISHING, FISH, FISHERY, FISHING, FISHING VESSEL, PERSON, AND UNITED STATES FISH PROCESSOR.—The terms 'commercial fishing', 'fish', 'fishery', 'fishing', 'fishing vessel', 'person', and 'United States fish processor' have the same meanings as such terms have in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(7) JOB LOSS.—The term 'job loss' means the total or partial separation of an individual, as those terms are defined in section 247.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

''SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—Within 6 months after the date of enactment of the Trade Adjustment Assistance for Communities Act of 2004, the Secretary shall establish a Trade Adjustment Assistance for Communities Program at the Department of Commerce.

''(b) PERSONNEL.—The Secretary shall designate such staff as may be necessary to carry out the responsibilities described in this chapter.

''(c) COORDINATION OF FEDERAL RESPONSE.—The Secretary shall—

''(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

''(2) coordinate the Federal response to an eligible community—

''(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

''(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

''(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning economic adjustment for an eligible community; and

''(D) by identifying and strengthening existing agency mechanisms designed to assist eligible communities in their efforts to achieve economic adjustment and workforce reemployment;

''(3) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

''(A) identify serious economic problems in the community that are the result of negative impacts from trade;

''(B) integrate the major groups and organizations significantly affected by the economic adjustment;

''(C) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;

''(D) diversify and strengthen the community economy; and

''(E) develop a community-based strategic plan to address economic development and workforce dislocation, including unemployment among agricultural commodity producers, and fishermen;

''(4) establish specific criteria for submission and evaluation of a strategic plan submitted under section 274(d);

''(5) establish specific criteria for submitting and evaluating applications for grants under section 275;

''(6) administer the grant programs established under sections 274 and 275; and

''(7) establish an interagency Trade Adjustment Assistance for Communities Working Group, consisting of the representatives of any Federal department or agency with responsibility for economic adjustment assistance, including the Department of Agriculture, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the Department of Commerce, and any other Federal, State, or regional department or agency the Secretary determines necessary or appropriate.

''SEC. 273. CERTIFICATION AND NOTIFICATION.

''(a) CERTIFICATION.—Not later than 45 days after an event described in subsection (c)(1), the Secretary of Commerce shall determine if a community described in subsection (b)(1) is negatively impacted by trade, and if a positive determination is made, shall certify the community for assistance under this chapter.

''(b) DETERMINATION THAT COMMUNITY IS ELIGIBLE.—

''(1) COMMUNITY DESCRIBED.—A community described in this paragraph means a community with respect to which on or after October 1, 2004—

''(A) the Secretary of Labor certifies a group of workers (or their authorized representative) in the community as eligible for assistance pursuant to section 223;

''(B) the Secretary of Commerce certifies a firm located in the community as eligible for adjustment assistance under section 251;

''(C) the Secretary of Agriculture certifies a group of agricultural commodity producers (or their authorized representative) in the community as eligible for adjustment assistance under section 293;

''(D) an affected domestic producer is located in the community; or

''(E) the Secretary determines that a significant number of fishermen in the community is negatively impacted by trade.

''(2) NEGATIVELY IMPACTED BY TRADE.—The Secretary shall determine that a community is negatively impacted by trade, after taking into consideration—

''(A) the number of jobs affected compared to the size of workforce in the community;

''(B) the severity of the rates of unemployment in the community and the duration of the unemployment in the community;

''(C) the income levels and the extent of underemployment in the community;

''(D) the outmigration of population from the community and the extent to which the

outmigration is causing economic injury in the community; and

''(E) the unique problems and needs of the community.

''(c) DEFINITION AND SPECIAL RULES.—

''(1) EVENT DESCRIBED.—An event described in this paragraph means one of the following:

''(A) A notification described in paragraph (2).

''(B) A certification of a firm under section 251.

''(C) A finding under the Antidumping Act of 1921, or an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(D) A determination by the Secretary that a significant number of fishermen in a community have been negatively impacted by trade.

''(2) NOTIFICATION.—The Secretary of Labor, immediately upon making a determination that a group of workers is eligible for trade adjustment assistance under section 223, (or the Secretary of Agriculture, immediately upon making a determination that a group of agricultural commodity producers is eligible for adjustment assistance under section 293, as the case may be) shall notify the Secretary of Commerce of the determination.

''(d) NOTIFICATION TO ELIGIBLE COMMUNITIES.—Immediately upon certification by the Secretary of Commerce that a community is eligible for assistance under subsection (b), the Secretary shall notify the community—

''(1) of the determination under subsection (b);

''(2) of the provisions of this chapter;

''(3) how to access the clearinghouse established by the Department of Commerce regarding available economic assistance;

''(4) how to obtain technical assistance provided under section 272(c)(3); and

''(5) how to obtain grants, tax credits, low income loans, and other appropriate economic assistance.

''SEC. 274. STRATEGIC PLANS.

''(a) IN GENERAL.—An eligible community may develop a strategic plan for community economic adjustment and diversification.

''(b) REQUIREMENTS FOR STRATEGIC PLAN.—A strategic plan shall contain, at a minimum, the following:

''(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used.

''(2) A description of the commitment of the community to the strategic plan over the long term and the participation and input of groups affected by economic dislocation.

''(3) A description of the projects to be undertaken by the eligible community.

''(4) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.

''(5) A description of how the plan will achieve economic adjustment and diversification.

''(6) A description of how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.

''(7) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.

''(8) A description of how the plan will address the occupational and workforce conditions in the eligible community.

''(9) A description of the educational programs available for workforce training and future employment needs.

''(10) A description of how the plan will adapt to changing markets and business cycles.

''(11) A description and justification for the cost and timing of the total funds required by the community for economic assistance.

''(12) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.

''(c) GRANTS TO DEVELOP STRATEGIC PLANS.—The Secretary, upon receipt of an application from an eligible community, may award a grant to that community to be used to develop the strategic plan.

''(d) SUBMISSION OF PLAN.—A strategic plan developed under subsection (a) shall be submitted to the Secretary for evaluation and approval.

''SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, upon approval of a strategic plan from an eligible community, may award a grant to that community to carry out any project or program that is certified by the Secretary to be included in the strategic plan approved under section 274(d), or consistent with that plan.

''(b) ADDITIONAL GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), in order to assist eligible communities to obtain funds under Federal grant programs, other than the grants provided for in section 274(c) or subsection (a), the Secretary may, on the application of an eligible community, make a supplemental grant to the community if—

''(A) the purpose of the grant program from which the grant is made is to provide technical or other assistance for planning, constructing, or equipping public works facilities or to provide assistance for public service projects; and

''(B) the grant is 1 for which the community is eligible except for the community's inability to meet the non-Federal share requirements of the grant program.

''(2) USE AS NON-FEDERAL SHARE.—A supplemental grant made under this subsection may be used to provide the non-Federal share of a project, unless the total Federal contribution to the project for which the grant is being made exceeds 80 percent and that excess is not permitted by law.

''(c) RURAL COMMUNITY PREFERENCE.—The Secretary shall develop guidelines to ensure that rural communities receive preference in the allocation of resources.

''SEC. 276. GENERAL PROVISIONS.

''(a) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter. Before implementing any regulation or guideline proposed by the Secretary with respect to this chapter, the Secretary shall submit the regulation or guideline to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for approval.

''(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $100,000,000 for each of fiscal years 2005 through 2008, to carry out this chapter. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

SEC. 534. CONFORMING AMENDMENTS.

(a) TERMINATION.—Section 285(b) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by adding at the end the following new paragraph:

''(3) ASSISTANCE FOR COMMUNITIES.—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2008.''.

(b) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting after the items relating to chapter 3 the following new items:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''Sec. 271. Definitions.
''Sec. 272. Community Trade Adjustment Assistance Program.
''Sec. 273. Certification and notification.
''Sec. 274. Strategic plans.
''Sec. 275. Grants for economic development.
''Sec. 276. General provisions.''.

(c) JUDICIAL REVIEW.—Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by striking ''section 271'' and inserting ''section 273''.

SEC. 535. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on October 1, 2004.

Subtitle D—Office of Trade Adjustment Assistance

SEC. 541. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance for Firms Reorganization Act''.

SEC. 542. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following new section:

''SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Trade Adjustment Assistance for Firms Reorganization Act, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance.

''(b) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.

''(c) FUNCTIONS.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following new item:

''Sec. 255A. Office of Trade Adjustment Assistance.''.

SEC. 543. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the earlier of—

(1) the date of the enactment of this Act; or

(2) October 1, 2004.

TITLE VI—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 601. CLARIFICATION OF 3-MONTH REQUIREMENT OF EXISTING COVERAGE.

(a) IN GENERAL.—Clause (i) of section 35(e)(2)(B) of the Internal Revenue Code of 1986 (defining qualifying individual) is amended by inserting ''(prior to the employment separation necessary to attain the status of an eligible individual)'' after ''9801(c)''.

(b) CONFORMING AMENDMENT.—Section 173(f)(2)(B)(ii)(I) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)(ii)(I)) is amended by inserting ''(prior to the employment separation necessary to attain the status of an eligible individual)'' after ''1986''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 602. DISREGARD OF TAA PRE-CERTIFICATION PERIOD FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4)(C).''.

(b) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4)(C).''.

(c) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following:

''(D) TAA-ELIGIBLE INDIVIDUALS.—

''(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary of Labor (or by any person or entity designated by the Secretary of Labor) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 4980B(f)(5)(C)(iv).''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 603. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''75''.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''75''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 604. EXPEDITED REFUND OF CREDIT FOR PRORATED FIRST MONTHLY PREMIUM.

(a) IN GENERAL.—Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following:

''(e) EXPEDITED PAYMENT OF PRORATED FIRST MONTHLY PREMIUM.—The program established under subsection (a) shall provide for payment to a certified individual of an amount equal to the applicable percentage (as defined in section 35(a)(2)) of the prorated first monthly premium for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months upon receipt by the Secretary of evidence of payment of such premium by the certified individual.''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SA 3030. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the instructions, add the following:

TITLE V—TRADE ADJUSTMENT ASSISTANCE

Subtitle A—Service Workers

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance Equity For Service Workers Act of 2004''.

SEC. 512. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking ''firm)'' and inserting ''firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)''.

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (1), by inserting ''or public agency'' after ''of the firm''; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''like or directly competitive with articles produced'' and inserting ''or services like or directly competitive with articles produced or services provided''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided, by such firm, subdivision, or public agency; or

''(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (2), by inserting ''or service'' after ''related to the article''; and

(C) in paragraph (3)(A), by inserting ''or services'' after ''component parts'';

(3) in subsection (c)—

(A) in paragraph (2), by adding at the end the following:

''(C) Taconite pellets produced in the United States shall be considered to be an article that is like or directly competitive with imports of semifinished steel slab.''.

(B) in paragraph (3)—

(i) by inserting ''or services'' after ''value-added production processes'';

(ii) by striking ''or finishing'' and inserting '', finishing, or testing'';

(iii) by inserting ''or services'' after ''for articles''; and

(iv) by inserting ''(or subdivision)'' after ''such other firm''; and

(C) in paragraph (4)—

(i) by striking ''for articles'' and inserting '', or services, used in the production of articles or in the provision of services''; and

(ii) by inserting ''(or subdivision)'' after ''such other firm''; and

(4) by adding at the end the following new subsection:

''(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

''(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a firm in a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

''(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.''.

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking ''$220,000,000'' and inserting ''$440,000,000''.

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting ''or public agency'' after ''of a firm''; and

(B) by inserting ''or public agency'' after ''or subdivision'';

(2) in paragraph (2)(B), by inserting ''or public agency'' after ''the firm'';

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

''(8) The term 'service sector firm' means an entity engaged in the business of providing services.''.

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is

amended by striking '', other than subchapter D''.

SEC. 513. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—

(1) ASSISTANCE.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting ''or service sector firm'' after ''(including any agricultural firm'';

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting ''or service sector firm'' after ''any agricultural firm'';

(ii) in subparagraph (B)(ii), by inserting ''or service'' after ''of an article''; and

(iii) in subparagraph (C), by striking ''articles like or directly competitive with articles which are produced'' and inserting ''articles or services like or directly competitive with articles or services which are produced or provided''; and

(C) by adding at the end the following:

''(e) BASIS FOR SECRETARY DETERMINATION.—

''(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive articles or services exist if customers accounting for not less than 20 percent of the sales of the workers' firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The Secretary may exercise the authority under section 249 in carrying out this subsection.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''$16,000,000'' and inserting ''$32,000,000''.

(3) DEFINITION.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(A) by striking ''For purposes of'' and inserting ''(a) FIRM.—For purposes of''; and

(B) by adding at the end the following:

''(b) SERVICE SECTOR FIRM.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.''.

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting ''or service'' after ''new product''.

SEC. 514. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking ''The Secretary'' and inserting ''(a) MONITORING PROGRAMS.—The Secretary'';

(B) by inserting ''and services'' after ''imports of articles'';

(C) by inserting ''and domestic provision of services'' after ''domestic production'';

(D) by inserting ''or providing services'' after ''producing articles''; and

(E) by inserting '', or provision of services,'' after ''changes in production''; and

(2) by adding at the end the following:

''(b) COLLECTION OF DATA AND REPORTS ON SERVICES SECTOR.—

''(1) SECRETARY OF LABOR.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Equity For Service Workers Act of 2004, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

''(2) SECRETARY OF COMMERCE.—Not later than 6 months after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.''.

SEC. 515. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.

IN GENERAL.—Section 246(a)(3) of the Trade Act of 1974 (19 U.S.C. 2318(a)(3)) is amended to read as follows:

''(3) ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

''(A) is covered by a certification under subchapter A of this chapter;

''(B) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

''(C) is at least 40 years of age;

''(D) earns not more than $50,000 a year in wages from reemployment;

''(E) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

''(F) does not return to the employment from which the worker was separated.''.

(b) CONFORMING AMENDMENTS.—(1) Subparagraphs (A) and (B) of section 246(a)(2) of the Trade Act of 1974 (19 U.S.C. 2318(a)(2) (A) and (B)) are amended by striking ''paragraph (3)(B)'' and inserting ''paragraph (3)'' each place it appears.

(2) Section 246(b)(2) of such Act is amended by striking ''subsection (a)(3)(B)'' and inserting ''subsection (a)(3)''.

SEC. 516. CLARIFICATION OF MARKETING YEAR.

Section 291(5) of the Trade Act of 1974 (19 U.S.C. 2401(5)) is amended by inserting before the end period the following: '', or in the case of an agricultural commodity that has no marketing year, in a 12-month period for which the petitioner provides written justification''.

SEC. 517. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall take effect on October 1, 2004.

(b) SPECIAL RULE FOR CERTAIN SERVICE WORKERS.—A group of workers in a service sector firm, or subdivision of a service sector firm, or public agency (as defined in section 247 (7) and (8) of the Trade Act of 1974, as added by section 512(d) of this Act) who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm or public agency occurred on or after November 4, 2002 and before October 1, 2004.

(c) SPECIAL RULE FOR TACONITE.—A group of workers in a firm, or subdivision of a firm, engaged in the production of taconite pellets who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm occurred on or after November 4, 2002 and before October 1, 2004.

Subtitle B—Data Collection

SEC. 521. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance Accountability Act''.

SEC. 522. DATA COLLECTION; STUDY; INFORMATION TO WORKERS.

(a) DATA COLLECTION; EVALUATIONS.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 249, the following new section:

''SEC. 250. DATA COLLECTION; EVALUATIONS; REPORTS.

''(a) DATA COLLECTION.—The Secretary shall, pursuant to regulations prescribed by the Secretary, collect any data necessary to meet the requirements of this chapter.

''(b) PERFORMANCE EVALUATIONS.—The Secretary shall establish an effective performance measuring system to evaluate the following:

''(1) PROGRAM PERFORMANCE.—A comparison of the trade adjustment assistance program before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002 with respect to—

''(A) the number of workers certified and the number of workers actually participating in the trade adjustment assistance program;

''(B) the time for processing petitions;

''(C) the number of training waivers granted;

''(D) the coordination of programs under this chapter with programs under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

''(E) the effectiveness of individual training providers in providing appropriate information and training;

''(F) the extent to which States have designed and implemented health care coverage options under title II of the Trade Act of 2002, including any difficulties States have encountered in carrying out the provisions of title II;

''(G) how Federal, State, and local officials are implementing the trade adjustment assistance program to ensure that all eligible individuals receive benefits, including providing outreach, rapid response, and other activities; and

''(H) any other data necessary to evaluate how individual States are implementing the requirements of this chapter.

''(2) PROGRAM PARTICIPATION .—The effectiveness of the program relating to—

''(A) the number of workers receiving benefits and the type of benefits being received both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

''(B) the number of workers enrolled in, and the duration of, training by major types of training both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

''(C) earnings history of workers that reflects wages before separation and wages in any job obtained after receiving benefits under this Act;

''(D) reemployment rates and sectors in which dislocated workers have been employed;

''(E) the cause of dislocation identified in each petition that resulted in a certification under this chapter; and

''(F) the number of petitions filed and workers certified in each congressional district of the United States.

''(c) STATE PARTICIPATION.—The Secretary shall ensure, to the extent practicable,

through oversight and effective internal control measures the following:

''(1) STATE PARTICIPATION.—Participation by each State in the performance measurement system established under subsection (b).

''(2) MONITORING.—Monitoring by each State of internal control measures with respect to performance measurement data collected by each State.

''(3) RESPONSE.—The quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)).

''(d) REPORTS.—

''(1) REPORTS BY THE SECRETARY.—

''(A) INITIAL REPORT.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Accountability Act, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that—

''(i) describes the performance measurement system established under subsection (b);

''(ii) includes analysis of data collected through the system established under subsection (b); and

''(iii) provides recommendations for program improvements.

''(B) ANNUAL REPORT.—Not later than 1 year after the date the report is submitted under subparagraph (A), and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes the information collected under clause (ii) of subparagraph (A).

''(2) STATE REPORTS.—Pursuant to regulations prescribed by the Secretary, each State shall submit to the Secretary a report that details its participation in the programs established under this chapter, and that contains the data necessary to allow the Secretary to submit the report required under paragraph (1).

''(3) PUBLICATION.—The Secretary shall make available to each State, and other public and private organizations as determined by the Secretary, the data gathered and evaluated through the performance measurement system established under subsection (b).''.

(b) CONFORMING AMENDMENTS.—

(1) COORDINATION.—Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended by striking ''Departments of Labor and Commerce'' and inserting ''Departments of Labor, Commerce, and Agriculture''.

(2) TRADE MONITORING SYSTEM.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended by striking ''The Secretary of Commerce and the Secretary of Labor'' and inserting ''The Secretaries of Commerce, Labor, and Agriculture''.

(3) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 249, the following new item:

''Sec. 250. Data collection; evaluations; reports.''.

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

Subtitle C—Trade Adjustment Assistance for Communities

SEC. 531. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance for Communities Act of 2004''.

SEC. 532. PURPOSE.

The purpose of this subtitle is to assist communities negatively impacted by trade with economic adjustment through the integration of political and economic organizations, the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the provision of economic transition assistance.

SEC. 533. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read as follows:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''SEC. 271. DEFINITIONS.

''In this chapter:

''(1) AFFECTED DOMESTIC PRODUCER.—The term 'affected domestic producer' means any manufacturer, producer, service provider, farmer, rancher, fisherman or worker representative (including associations of such persons) that was affected by a finding under the Antidumping Act of 1921, or by an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

''(3) COMMUNITY.—The term 'community' means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State that the Secretary certifies as being negatively impacted by trade.

''(4) COMMUNITY NEGATIVELY IMPACTED BY TRADE.—A community negatively impacted by trade means a community with respect to which a determination has been made under section 273.

''(5) ELIGIBLE COMMUNITY.—The term 'eligible community' means a community certified under section 273 for assistance under this chapter.

''(6) FISHERMAN.—

''(A) IN GENERAL.—The term 'fisherman' means any person who—

''(i) is engaged in commercial fishing; or

''(ii) is a United States fish processor.

''(B) COMMERCIAL FISHING, FISH, FISHERY, FISHING, FISHING VESSEL, PERSON, AND UNITED STATES FISH PROCESSOR.—The terms 'commercial fishing', 'fish', 'fishery', 'fishing', 'fishing vessel', 'person', and 'United States fish processor' have the same meanings as such terms have in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(7) JOB LOSS.—The term 'job loss' means the total or partial separation of an individual, as those terms are defined in section 247.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

''SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—Within 6 months after the date of enactment of the Trade Adjustment Assistance for Communities Act of 2004, the Secretary shall establish a Trade Adjustment Assistance for Communities Program at the Department of Commerce.

''(b) PERSONNEL.—The Secretary shall designate such staff as may be necessary to carry out the responsibilities described in this chapter.

''(c) COORDINATION OF FEDERAL RESPONSE.—The Secretary shall—

''(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

''(2) coordinate the Federal response to an eligible community—

''(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

''(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

''(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning economic adjustment for an eligible community; and

''(D) by identifying and strengthening existing agency mechanisms designed to assist eligible communities in their efforts to achieve economic adjustment and workforce reemployment;

''(3) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

''(A) identify serious economic problems in the community that are the result of negative impacts from trade;

''(B) integrate the major groups and organizations significantly affected by the economic adjustment;

''(C) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;

''(D) diversify and strengthen the community economy; and

''(E) develop a community-based strategic plan to address economic development and workforce dislocation, including unemployment among agricultural commodity producers, and fishermen;

''(4) establish specific criteria for submission and evaluation of a strategic plan submitted under section 274(d);

''(5) establish specific criteria for submitting and evaluating applications for grants under section 275;

''(6) administer the grant programs established under sections 274 and 275; and

''(7) establish an interagency Trade Adjustment Assistance for Communities Working Group, consisting of the representatives of any Federal department or agency with responsibility for economic adjustment assistance, including the Department of Agriculture, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the Department of Commerce, and any other Federal, State, or regional department or agency the Secretary determines necessary or appropriate.

''SEC. 273. CERTIFICATION AND NOTIFICATION.

''(a) CERTIFICATION.—Not later than 45 days after an event described in subsection (c)(1), the Secretary of Commerce shall determine if a community described in subsection (b)(1) is negatively impacted by trade, and if a positive determination is made, shall certify the community for assistance under this chapter.

''(b) DETERMINATION THAT COMMUNITY IS ELIGIBLE.—

''(1) COMMUNITY DESCRIBED.—A community described in this paragraph means a community with respect to which on or after October 1, 2004—

''(A) the Secretary of Labor certifies a group of workers (or their authorized representative) in the community as eligible for assistance pursuant to section 223;

''(B) the Secretary of Commerce certifies a firm located in the community as eligible for adjustment assistance under section 251;

''(C) the Secretary of Agriculture certifies a group of agricultural commodity producers (or their authorized representative) in the community as eligible for adjustment assistance under section 293;

''(D) an affected domestic producer is located in the community; or

''(E) the Secretary determines that a significant number of fishermen in the community is negatively impacted by trade.

''(2) NEGATIVELY IMPACTED BY TRADE.—The Secretary shall determine that a community is negatively impacted by trade, after taking into consideration—

''(A) the number of jobs affected compared to the size of workforce in the community;

''(B) the severity of the rates of unemployment in the community and the duration of the unemployment in the community;

''(C) the income levels and the extent of underemployment in the community;

''(D) the outmigration of population from the community and the extent to which the outmigration is causing economic injury in the community; and

''(E) the unique problems and needs of the community.

''(c) DEFINITION AND SPECIAL RULES.—

''(1) EVENT DESCRIBED.—An event described in this paragraph means one of the following:

''(A) A notification described in paragraph (2).

''(B) A certification of a firm under section 251.

''(C) A finding under the Antidumping Act of 1921, or an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(D) A determination by the Secretary that a significant number of fishermen in a community have been negatively impacted by trade.

''(2) NOTIFICATION.—The Secretary of Labor, immediately upon making a determination that a group of workers is eligible for trade adjustment assistance under section 223, (or the Secretary of Agriculture, immediately upon making a determination that a group of agricultural commodity producers is eligible for adjustment assistance under section 293, as the case may be) shall notify the Secretary of Commerce of the determination.

''(d) NOTIFICATION TO ELIGIBLE COMMUNITIES.—Immediately upon certification by the Secretary of Commerce that a community is eligible for assistance under subsection (b), the Secretary shall notify the community—

''(1) of the determination under subsection (b);

''(2) of the provisions of this chapter;

''(3) how to access the clearinghouse established by the Department of Commerce regarding available economic assistance;

''(4) how to obtain technical assistance provided under section 272(c)(3); and

''(5) how to obtain grants, tax credits, low income loans, and other appropriate economic assistance.

''SEC. 274. STRATEGIC PLANS.

''(a) IN GENERAL.—An eligible community may develop a strategic plan for community economic adjustment and diversification.

''(b) REQUIREMENTS FOR STRATEGIC PLAN.—A strategic plan shall contain, at a minimum, the following:

''(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used.

''(2) A description of the commitment of the community to the strategic plan over the long term and the participation and input of groups affected by economic dislocation.

''(3) A description of the projects to be undertaken by the eligible community.

''(4) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.

''(5) A description of how the plan will achieve economic adjustment and diversification.

''(6) A description of how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.

''(7) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.

''(8) A description of how the plan will address the occupational and workforce conditions in the eligible community.

''(9) A description of the educational programs available for workforce training and future employment needs.

''(10) A description of how the plan will adapt to changing markets and business cycles.

''(11) A description and justification for the cost and timing of the total funds required by the community for economic assistance.

''(12) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.

''(c) GRANTS TO DEVELOP STRATEGIC PLANS.—The Secretary, upon receipt of an application from an eligible community, may award a grant to that community to be used to develop the strategic plan.

''(d) SUBMISSION OF PLAN.—A strategic plan developed under subsection (a) shall be submitted to the Secretary for evaluation and approval.

''SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, upon approval of a strategic plan from an eligible community, may award a grant to that community to carry out any project or program that is certified by the Secretary to be included in the strategic plan approved under section 274(d), or consistent with that plan.

''(b) ADDITIONAL GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), in order to assist eligible communities to obtain funds under Federal grant programs, other than the grants provided for in section 274(c) or subsection (a), the Secretary may, on the application of an eligible community, make a supplemental grant to the community if—

''(A) the purpose of the grant program from which the grant is made is to provide technical or other assistance for planning, constructing, or equipping public works facilities or to provide assistance for public service projects; and

''(B) the grant is 1 for which the community is eligible except for the community's inability to meet the non-Federal share requirements of the grant program.

''(2) USE AS NON-FEDERAL SHARE.—A supplemental grant made under this subsection may be used to provide the non-Federal share of a project, unless the total Federal contribution to the project for which the grant is being made exceeds 80 percent and that excess is not permitted by law.

''(c) RURAL COMMUNITY PREFERENCE.—The Secretary shall develop guidelines to ensure that rural communities receive preference in the allocation of resources.

''SEC. 276. GENERAL PROVISIONS.

''(a) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter. Before implementing any regulation or guideline proposed by the Secretary with respect to this chapter, the Secretary shall submit the regulation or guideline to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for approval.

''(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $100,000,000 for each of fiscal years 2005 through 2008, to carry out this chapter. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

SEC. 534. CONFORMING AMENDMENTS.

(a) TERMINATION.—Section 285(b) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by adding at the end the following new paragraph:

''(3) ASSISTANCE FOR COMMUNITIES.—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2008.''.

(b) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting after the items relating to chapter 3 the following new items:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''Sec. 271. Definitions.
''Sec. 272. Community Trade Adjustment Assistance Program.
''Sec. 273. Certification and notification.
''Sec. 274. Strategic plans.
''Sec. 275. Grants for economic development.
''Sec. 276. General provisions.''.

(c) JUDICIAL REVIEW.—Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by striking ''section 271'' and inserting ''section 273''.

SEC. 535. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on October 1, 2004.

Subtitle D—Office of Trade Adjustment Assistance

SEC. 541. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance for Firms Reorganization Act''.

SEC. 542. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following new section:

''SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Trade Adjustment Assistance for Firms Reorganization Act, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance.

''(b) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.

''(c) FUNCTIONS.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following new item:

''Sec. 255A. Office of Trade Adjustment Assistance.''.

SEC. 543. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the earlier of—

(1) the date of the enactment of this Act; or

(2) October 1, 2004.

TITLE VI—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 601. CLARIFICATION OF 3-MONTH REQUIREMENT OF EXISTING COVERAGE.

(a) IN GENERAL.—Clause (i) of section 35(e)(2)(B) of the Internal Revenue Code of 1986 (defining qualifying individual) is amended by inserting ''(prior to the employment separation necessary to attain the status of an eligible individual)'' after ''9801(c)''.

(b) CONFORMING AMENDMENT.—Section 173(f)(2)(B)(ii)(I) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)(ii)(I)) is amended by inserting ''(prior to the employment separation necessary to attain the status of an eligible individual)'' after ''1986''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 602. DISREGARD OF TAA PRE-CERTIFICATION PERIOD FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4)(C).''.

(b) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4)(C).''.

(c) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following:

''(D) TAA-ELIGIBLE INDIVIDUALS.—

''(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary of Labor (or by any person or entity designated by the Secretary of Labor) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 4980B(f)(5)(C)(iv).''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 603. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''75''.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''75''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 604. EXPEDITED REFUND OF CREDIT FOR PRORATED FIRST MONTHLY PREMIUM.

(a) IN GENERAL.—Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following:

''(e) EXPEDITED PAYMENT OF PRORATED FIRST MONTHLY PREMIUM.—The program established under subsection (a) shall provide for payment to a certified individual of an amount equal to the applicable percentage (as defined in section 35(a)(2)) of the prorated first monthly premium for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months upon receipt by the Secretary of evidence of payment of such premium by the certified individual.''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SA 3031. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—NON-REVENUE PROVISIONS

SEC. 501. CUSTOMS SERVICES.

Section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)) is amended—

(1) by striking ''(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)),'' and inserting:

''(1) IN GENERAL.—

''(A) SCHEDULED FLIGHTS.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)),''; and

(2) by adding at the end the following:

''(B) CHARTER FLIGHTS.—If an air carrier (as defined in section 40102(2) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the air carrier.''.

SA 3032. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 85, line 20, strike all through page 146, line 23, and insert the following:

SEC. 201. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

(a) IN GENERAL.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

''(i) arise out of commodity hedging transactions (as defined in paragraph (4)(A)),

''(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or''.

(b) DEFINITION AND SPECIAL RULES.—Subsection (c) of section 954 is amended by adding after paragraph (3) the following new paragraph:

''(4) DEFINITION AND SPECIAL RULES RELATING TO COMMODITY TRANSACTIONS.—

''(A) COMMODITY HEDGING TRANSACTIONS.—For purposes of paragraph (1)(C)(i), the term 'commodity hedging transaction' means any transaction with respect to a commodity if such transaction—

''(i) is a hedging transaction as defined in section 1221(b)(2), determined—

''(I) without regard to subparagraph (A)(ii) thereof,

''(II) by applying subparagraph (A)(i) thereof by substituting 'ordinary property or property described in section 1231(b)' for 'ordinary property', and

''(III) by substituting 'controlled foreign corporation' for 'taxpayer' each place it appears, and

''(ii) is clearly identified as such in accordance with section 1221(a)(7).

''(B) TREATMENT OF DEALER ACTIVITIES UNDER PARAGRAPH (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(C) in computing a controlled foreign corporation's foreign personal holding company income shall not be taken into account in applying the substantially all test under paragraph (1)(C)(ii) to such corporation.

''(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties.''.

(c) MODIFICATION OF EXCEPTION FOR DEALERS.—Clause (i) of section 954(c)(2)(C) is amended by inserting ''and transactions involving physical settlement'' after ''(including hedging transactions''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after December 31, 2004.

SA 3033. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply

with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. REPEAL OF CHECK-THE-BOX RULES.

(a) IN GENERAL.—Paragraph (3) of section 7701(a) (relating to corporation) is amended by inserting at the end the following new sentence: ''The determination as to whether any foreign business entity is a corporation shall be made without regard to any election regarding the classification of the business form of such entity and shall be made under rules similar to the rules for determining the status of such entity on December 31, 1996 (except that any foreign business entity which is defined as a corporation under regulations on the date of the enactment of this sentence shall continue to be classified as a corporation).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning in calendar years beginning after the date of the enactment of this Act.

SA 3034. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. CREDIT FOR INVESTMENT IN TECHNOLOGY TO MAKE MOTION PICTURES MORE ACCESSIBLE TO THE HEARING IMPAIRED.

(a) IN GENERAL.—

(1) ALLOWANCE OF CREDIT.—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. EXPENDITURES TO PROVIDE ACCESS TO MOTION PICTURES FOR HEARING IMPAIRED INDIVIDUALS.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the motion picture accessibility credit for any taxable year shall be an amount equal to 90 percent of the qualified expenditures made by the eligible taxpayer during the taxable year.

''(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means a taxpayer who is in the business of—

''(1) showing motion pictures to the public, or

''(2) producing such motion pictures.

''(c) QUALIFIED EXPENDITURES.—For purposes of this section, the term 'qualified expenditures' means amounts paid or incurred by the taxpayer for the purpose of making motion pictures accessible to hearing impaired individuals.

''(d) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so allowed.

''(e) NO DOUBLE BENEFIT.—In the case of the credit determined under this section, no deduction or credit shall be allowed for such amount under any other provision of this chapter.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit) 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 motion picture accessibility credit determined under section 45G(a).''.

(B) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) in the case of property with respect to which a credit was allowed under section 45G, to the extent provided in section 45G(d).''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules) is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF MOTION PICTURE ACCESSIBILITY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the motion picture accessibility credit determined under section 45G may be carried to a taxable year beginning before January 1, 2004.''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45F the following new item:

''Sec. 45G. Expenditures to provide access to motion pictures for hearing impaired individuals.''.

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

SA 3035. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

TITLE V—HOUSING BOND AND CREDIT MODERNIZATION AND FAIRNESS PROVISIONS

SEC. 501. REPEAL OF REQUIRED USE OF CERTAIN PRINCIPAL REPAYMENTS ON MORTGAGE SUBSIDY BOND FINANCINGS TO REDEEM BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 143(a)(2) (defining qualified mortgage issue) is amended by adding ''and'' at the end of clause (ii), by striking '', and'' at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(b) CONFORMING AMENDMENT.—Clause (ii) of section 143(a)(2)(D) of such Code is amended by striking ''(and clause (iv) of subparagraph (A))''.

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

SEC. 502. MODIFICATION OF PURCHASE PRICE LIMITATION UNDER MORTGAGE SUBSIDY BOND RULES BASED ON MEDIAN FAMILY INCOME.

(a) IN GENERAL.—Paragraph (1) of section 143(e) (relating to purchase price requirement) is amended to read as follows:

''(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not exceed the greater of—

''(A) 90 percent of the average area purchase price applicable to the residence, or

''(B) 3.5 times the applicable median family income (as defined in subsection (f)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to financing provided, and mortgage credit certificates issued, after the date of the enactment of this Act.

SEC. 503. DETERMINATION OF AREA MEDIAN GROSS INCOME FOR LOW-INCOME HOUSING CREDIT PROJECTS.

(a) IN GENERAL.—Paragraph (4) of section 42(g) (relating to certain rules made applicable) is amended by striking the period at the end and inserting ''and the term 'area median gross income' means the amount equal to the greater of—

''(A) the area median gross income determined under section 142(d)(2)(B), or

''(B) the statewide median gross income for the State in which the project is located.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) housing credit dollar amounts allocated after the date of the enactment of this Act, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof.

SA 3036. Mr. BAUCUS (for himself and Mr. THOMAS) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—WOOL TRUST FUND

SEC. 501. EXTENSION AND MODIFICATION OF PROVISIONS RELATING TO THE WOOL RESEARCH, DEVELOPMENT, AND PROMOTION TRUST FUND.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—

(1) HEADING 9902.51.11.—Heading 9902.51.11 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''2005'' and inserting ''2010''; and

(B) by striking ''17.5 %'' and inserting ''10 %''.

(2) HEADING 9902.51.12.—Heading 9902.51.12 of the Harmonized Tariff Schedule of the United States is amended by striking ''2005'' and inserting ''2010''.

(3) HEADING 9902.51.13.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by striking ''2005'' and inserting ''2010''.

(4) HEADING 9902.51.14.—Heading 9902.51.14 of the Harmonized Tariff Schedule of the United States is amended by striking ''2005'' and inserting ''2010''.

(b) MODIFICATION OF LIMITATION ON QUANTITY OF IMPORTS.—

(1) NOTE 15.—U.S. Note 15 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''and'' after ''2002'';

(B) by striking ''year 2003'' and all that follows through the end period and inserting the following: ''years 2003 and 2004, and

5,500,000 square meter equivalents in calendar year 2005 and each calendar year thereafter for the benefit of manufacturers of men's and boys' suits.''.

(2) NOTE 16.—U.S. Note 16 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''and'' after ''2002''; and

(B) by striking ''year 2003'' and all that follows through the end period and inserting the following: ''years 2003 and 2004, and 5,000,000 square meter equivalents in calendar year 2005 and each calendar year thereafter for the benefit of manufacturers of men's and boys' suits, and 2,000,000 square meter equivalents in calendar year 2005 and each calendar year thereafter for the benefit of manufacturers of worsted wool fabric suitable for use in men's and boys' suits.''.

(3) CONFORMING AMENDMENTS.—

(A) SUNSET STAGED REDUCTION REQUIREMENT.—Paragraph (2) of section 501(a) of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 299) is amended by adding before the period ''for goods entered, or withdrawn from warehouse for consumption, before January 1, 2005''.

(B) ALLOCATION OF TARIFF-RATE QUOTAS.—Subsection (e) of section 501 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 200) is amended—

(i) by inserting ''for manufacturers of men's and boys' suits'' after ''implementing the limitation''; and

(ii) by inserting at the end the following new sentence: ''In implementing the limitation for manufacturers of worsted wool fabric on the quantity of worsted wool fabrics under heading 9902.51.12 of the Harmonized Tariff Schedule of the United States, as required by U.S. Note 16 of subchapter II of chapter 99 of such Schedule, for the entry, or withdrawal from warehouse for consumption, the Secretary of Commerce shall prescribe regulations to allocate fairly the quantity of worsted wool fabrics required under United States note 16 of such schedule to manufacturers who weave worsted wool fabric in the United States.''.

(C) SUNSET AUTHORITY TO MODIFY LIMITATION ON QUANTITY.—Subsection (b) of section 504 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 301) is repealed effective January 1, 2005.

(c) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—The United States Customs Service shall make 5 additional payments to each manufacturer that receives a payment under section 505 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 303) during calendar year 2005, and that, not later than March 1 of each year of an additional payment, provides an affidavit that it remains a manufacturer in the United States as of January 1 of the year of that payment. Each payment shall be equal to the amount of the payment received for calendar year 2005 as follows:

(A) The first payment to be made after January 1, 2006, but on or before April 15, 2006.

(B) The second, third, fourth, and fifth payments to be made after January 1, but on or before April 15, of each of the following 4 calendar years.

(2) EXTENSION OF WOOL RESEARCH, DEVELOPMENT, AND PROMOTION TRUST FUND.—Section 506(f) of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 304) is amended by striking ''2006'' and inserting ''2011''.

(3) COMMERCE AUTHORITY TO PROMOTE DOMESTIC EMPLOYMENT.—The Secretary of Commerce shall provide grants through December 31, 2010 to manufacturers of worsted wool fabric in the amount of $2,666,000 annually to manufacturers of worsted wool fabric of the kind described in heading 9902.51.12 of the Harmonized Tariff Schedule of the United States during calendar years 1999, 2000, and 2001, and $2,666,000 annually to manufacturers of worsted wool fabric of the kind described in heading 9902.51.11 of the Harmonized Tariff Schedule of the United States during such calendar years, allocated based on the percentage of each manufacturer's production of the fabric described in such heading for such 3 years compared to the production of such fabric for all such applicants who qualify under this paragraph for such grant category. Any grant awarded by the Secretary under this section shall be final and not subject to appeal or protest.

(4) SPECIAL RULE FOR SUCCESSOR-IN-INTEREST.—

(A) IN GENERAL.—Any person that becomes a successor-in-interest to a manufacturer entitled to payment, under title V of the Trade and Development Act of 2002 (Public Law 106–200; 114 Stat. 299) or this title, shall be eligible to claim payments as if the successor-in-interest was the original claimant without regard to section 3727 of title 31, United States Code. The right to claim payment as a successor-in-interest under the preceding sentence shall be effective as if the right was included in section 505 of the Trade and Development Act of 2000.

(B) STATUS AS SUCCESSOR-IN-INTEREST.—A person may become a successor-in-interest for purposes of subparagraph (A) pursuant to—

(i) an assignment of the claim for payment under title V of the Trade and Development Act of 2002;

(ii) an assignment of the original claimant's right to manufacture under the same trade name as the original claimant;

(iii) a reorganization; or

(iv) some other legally recognized manner.

(5) AUTHORIZATION.—There is authorized to be appropriated and is hereby appropriated out of amounts in the general fund of the Treasury not otherwise appropriated such sums as are necessary to carry out the provisions of this subsection.

(6) EFFECTIVE DATE.—The grants described in paragraph (3) shall commence on or after January 1, 2005, and before December 31, 2010.

(d) EFFECTIVE DATE.—The amendment made by subsection (a)(1)(B) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2005.

SEC. 502. LABELING OF WOOL PRODUCTS TO FACILITATE COMPLIANCE AND PROTECT CONSUMERS.

(a) IN GENERAL.—Section 4 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68b(a)) is amended by adding at the end the following new paragraph:

''(5) In the case of a wool product stamped, tagged, labeled, or otherwise identified in any one of the following subparagraphs, the average fiber diameter may be subject to a variation of 0.25 microns, and may be subject to such other standards or deviations as prescribed by regulation by the Commission:

''(A) 'Super 80's' or '80's' if the average fiber diameter thereof does not average 19.5 microns or finer.

''(B) 'Super 90's' or '90's' if the average fiber diameter thereof does not average 19.0 microns or finer.

''(C) 'Super 100's' or '100's' if the average fiber diameter thereof does not average 18.5 microns or finer.

''(D) 'Super 110's' or '110's' if the average diameter of wool fiber thereof does not average 18.0 microns or finer.

''(E) 'Super 120's' or '120's' if the average diameter of wool fiber thereof does not average 17.5 microns or finer.

''(F) 'Super 130's' or '130's' if the average diameter of wool fiber thereof does not average 17.0 microns or finer.

''(G) 'Super 140's' or '140's' if the average diameter of wool fiber thereof does not average 16.5 microns or finer.

''(H) 'Super 150's' or '150's' if the average diameter of wool fiber thereof does not average 16.0 microns or finer.

''(I) 'Super 160's' or '160's' if the average diameter of wool fiber thereof does not average 15.5 microns or finer.

''(J) 'Super 170's' or '170's' if the average diameter of wool fiber thereof does not average 15.0 microns or finer.

''(K) 'Super 180's' or '180's' if the average diameter of wool fiber thereof does not average 14.5 microns or finer.

''(L) 'Super 190's' or '190's' if the average diameter of wool fiber thereof does not average 14.0 microns or finer.

''(M) 'Super 200's' or '200's' if the average diameter of wool fiber thereof does not average 13.5 microns or finer.

''(N) 'Super 210's' or '210's' if the average diameter of wool fiber thereof does not average 13.0 microns or finer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to wool products manufactured on or after January 1, 2005.

SA 3037. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of paragraph (2) of section 42A(f) of the Internal Revenue Code of 1986 (as added by section 633 of the Amendment) insert the following:

''For purposes of the preceding sentence, the term 'county' includes any organized borough or unified municipality which is outside a metropolitan statistical area (as so defined) in Alaska and any census area in the unorganized borough of Alaska which is recognized by the Bureau of the Census.''.

SA 3038. Mr. SANTORUM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization ruling on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the instructions add the following:

DIVISION B—CARE ACT

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the ''CARE Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—CHARITABLE GIVING INCENTIVES

Sec. 101. Deduction for portion of charitable contributions to be allowed to individuals who do not itemize deductions.
Sec. 102. Tax-free distributions from individual retirement accounts for charitable purposes.
Sec. 103. Charitable deduction for contributions of food inventories.
Sec. 104. Charitable deduction for contributions of book inventories.
Sec. 105. Expansion of charitable contribution allowed for scientific property used for research and for computer technology and equipment used for educational purposes.
Sec. 106. Modifications to encourage contributions of capital gain real property made for conservation purposes.
Sec. 107. Exclusion of 25 percent of gain on sales or exchanges of land or water interests to eligible entities for conservation purposes.
Sec. 108. Tax exclusion for cost-sharing payments under Partners for Fish and Wildlife Program.
Sec. 109. Adjustment to basis of S corporation stock for certain charitable contributions.
Sec. 110. Enhanced deduction for charitable contribution of literary, musical, artistic, and scholarly compositions.
Sec. 111. Mileage reimbursements to charitable volunteers excluded from gross income.
Sec. 112. Extension of enhanced deduction for inventory to include public schools.
Sec. 113. 10-year divestiture period for certain excess business holdings of private foundations

TITLE II—PROPOSALS IMPROVING THE OVERSIGHT OF TAX-EXEMPT ORGANIZATIONS

Sec. 201. Disclosure of written determinations.
Sec. 202. Disclosure of Internet web site and name under which organization does business.
Sec. 203. Modification to reporting capital transactions.
Sec. 204. Disclosure that Form 990 is publicly available.
Sec. 205. Disclosure to State officials of proposed actions related to section 501(c) organizations.
Sec. 206. Expansion of penalties to preparers of Form 990.
Sec. 207. Notification requirement for entities not currently required to file.
Sec. 208. Suspension of tax-exempt status of terrorist organizations.

TITLE III—OTHER CHARITABLE AND EXEMPT ORGANIZATION PROVISIONS

Sec. 301. Modification of excise tax on unrelated business taxable income of charitable remainder trusts.
Sec. 302. Modifications to section 512(b)(13).
Sec. 303. Simplification of lobbying expenditure limitation.
Sec. 304. Expedited review process for certain tax-exemption applications.
Sec. 305. Clarification of definition of church tax inquiry.
Sec. 306. Expansion of declaratory judgment remedy to tax-exempt organizations.
Sec. 307. Definition of convention or association of churches.
Sec. 308. Payments by charitable organizations to victims of war on terrorism and families of astronauts killed in the line of duty.
Sec. 309. Modification of scholarship foundation rules.
Sec. 310. Treatment of certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness.
Sec. 311. Charitable contribution deduction for certain expenses incurred in support of Native Alaskan subsistence whaling.
Sec. 312. Matching grants to low-income taxpayer clinics for return preparation.
Sec. 313. Exemption of qualified 501(c)(3) bonds for nursing homes from Federal guarantee prohibitions.
Sec. 314. Excise taxes exemption for blood collector organizations.
Sec. 315. Pilot project for forest conservation activities.
Sec. 316. Clarification of treatment of Johnny Micheal Spann Patriot Trusts.

TITLE IV—SOCIAL SERVICES BLOCK GRANT

Sec. 401. Restoration of funds for the Social Services Block Grant.
Sec. 402. Restoration of authority to transfer up to 10 percent of TANF funds to the Social Services Block Grant.
Sec. 403. Requirement to submit annual report on State activities.

TITLE V—INDIVIDUAL DEVELOPMENT ACCOUNTS

Sec. 501. Short title.
Sec. 502. Purposes.
Sec. 503. Definitions.
Sec. 504. Structure and administration of qualified individual development account programs.
Sec. 505. Procedures for opening and maintaining an individual development account and qualifying for matching funds.
Sec. 506. Deposits by qualified individual development account programs.
Sec. 507. Withdrawal procedures.
Sec. 508. Certification and termination of qualified individual development account programs.
Sec. 509. Reporting, monitoring, and evaluation.
Sec. 510. Authorization of appropriations.
Sec. 511. Matching funds for individual development accounts provided through a tax credit for qualified financial institutions.
Sec. 512. Account funds disregarded for purposes of certain means-tested Federal programs.

TITLE VI—MANAGEMENT OF EXEMPT ORGANIZATIONS

Sec. 601. Authorization of appropriations.

TITLE VII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 701. Clarification of economic substance doctrine.
Sec. 702. Penalty for failing to disclose reportable transaction.
Sec. 703. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 704. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 705. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 706. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 707. Disclosure of reportable transactions.
Sec. 708. Modifications to penalty for failure to register tax shelters.
Sec. 709. Modification of penalty for failure to maintain lists of investors.
Sec. 710. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 711. Understatement of taxpayer's liability by income tax return preparer.
Sec. 712. Penalty on failure to report interests in foreign financial accounts.
Sec. 713. Frivolous tax submissions.
Sec. 714. Regulation of individuals practicing before the Department of Treasury.
Sec. 715. Penalty on promoters of tax shelters.
Sec. 716. Statute of limitations for taxable years for which listed transactions not reported.
Sec. 717. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 718. Authorization of appropriations for tax law enforcement.

Subtitle B—Other Provisions

Sec. 721. Affirmation of consolidated return regulation authority.
Sec. 722. Signing of corporate tax returns by chief executive officer.
Sec. 723. Securities civil enforcement provisions.
Sec. 724. Review of State agency blindness and disability determinations.

TITLE VIII—COMPASSION CAPITAL FUND

Sec. 801. Support for nonprofit community-based organizations; Department of Health and Human Services.
Sec. 802. Support for nonprofit community-based organizations; Corporation for National and Community Service.
Sec. 803. Support for nonprofit community-based organizations; Department of Justice.
Sec. 804. Support for nonprofit community-based organizations; Department of Housing and Urban Development.
Sec. 805. Coordination.

TITLE IX—MATERNITY GROUP HOMES

Sec. 901. Maternity group homes.

TITLE I—CHARITABLE GIVING INCENTIVES

SEC. 101. DEDUCTION FOR PORTION OF CHARITABLE CONTRIBUTIONS TO BE ALLOWED TO INDIVIDUALS WHO DO NOT ITEMIZE DEDUCTIONS.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—In the case of an individual who does not itemize deductions for any taxable year, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the amount allowable under subsection (a) for the taxable year for cash contributions, to the extent that such contributions exceed $250 ($500 in the case of a joint return) but do not exceed $500 ($1,000 in the case of a joint return).''.

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 (defining taxable income) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(2) DEFINITION.—Section 63 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(m).''.

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall study the effect of the amendments made by this section on increased charitable giving and taxpayer compliance, including a comparison of taxpayer compliance between taxpayers who itemize their charitable contributions and taxpayers who claim a direct charitable deduction.

(2) REPORT.—By not later than December 31, 2004, the Secretary of the Treasury shall report on the study required under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002, and before January 1, 2005.

SEC. 102. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

''(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

''(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement account—

''(i) which is made directly by the trustee—

''(I) to an organization described in section 170(c), or

''(II) to a split-interest entity, and

''(ii) which is made on or after—

''(I) in the case of any distribution described in clause (i)(I), the date that the individual for whose benefit the account is maintained has attained age 70½, and

''(II) in the case of any distribution described in clause (i)(II), the the date that such individual has attained age 59½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such account is maintained, the spouse of such individual, or any organization described in section 170(c).

''(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph—

''(i) DIRECT CONTRIBUTIONS.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

''(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

''(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts were distributed from all individual retirement accounts treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion on such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

''(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

''(i) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

''(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

''(iii) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

''(F) DENIAL OF DEDUCTION.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

''(G) SPLIT-INTEREST ENTITY DEFINED.—For purposes of this paragraph, the term 'split-interest entity' means—

''(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)) which must be funded exclusively by qualified charitable distributions,

''(ii) a pooled income fund (as defined in section 642(c)(5)), but only if the fund accounts separately for amounts attributable to qualified charitable distributions, and

''(iii) a charitable gift annuity (as defined in section 501(m)(5)).''.

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

''SEC. 6034. RETURNS BY TRUSTS DESCRIBED IN SECTION 4947(a)(2) OR CLAIMING CHARITABLE DEDUCTIONS UNDER SECTION 642(c).

''(a) TRUSTS DESCRIBED IN SECTION 4947(a)(2).—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

''(b) TRUSTS CLAIMING A CHARITABLE DEDUCTION UNDER SECTION 642(c).—

''(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

''(A) the amount of the deduction taken under section 642(c) within such year,

''(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

''(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

''(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

''(E) the total income of the trust within such year and the expenses attributable thereto, and

''(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to a trust for any taxable year if—

''(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

''(B) the trust is described in section 4947(a)(1).''.

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

''(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

''(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

''(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

''(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.''.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: ''In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions—

(A) described in section 408(d)(8)(B)(i)(I) of the Internal Revenue Code of 1986, as added by this section, made after the date of the enactment of this Act, and

(B) described in section 408(d)(8)(B)(i)(II) of such Code, as so added, made after December 31, 2003.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2003.

SEC. 103. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORIES.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

''(7) APPLICATION OF PARAGRAPH (3) TO CERTAIN CONTRIBUTIONS OF FOOD INVENTORY.—For purposes of this section—

''(A) EXTENSION TO INDIVIDUALS.—In the case of a charitable contribution of apparently wholesome food—

''(i) paragraph (3)(A) shall be applied without regard to whether the contribution is made by a C corporation, and

''(ii) in the case of a taxpayer other than a C corporation, the aggregate amount of such contributions from any trade or business (or interest therein) of the taxpayer for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's net income from any such trade or business, computed without regard to this section, for such taxable year.

''(B) LIMITATION ON REDUCTION.—In the case of a charitable contribution of apparently wholesome food, notwithstanding paragraph (3)(B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of such property exceeds twice the basis of such property.

''(C) DETERMINATION OF BASIS.—If a taxpayer—

''(i) does not account for inventories under section 471, and

''(ii) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of paragraph (3)(B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

''(D) DETERMINATION OF FAIR MARKET VALUE.—In the case of a charitable contribution of apparently wholesome food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraph (A) of this paragraph) and which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

''(i) without regard to such internal standards or such lack of market and

''(ii) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

''(E) APPARENTLY WHOLESOME FOOD.—For purposes of this paragraph, the term 'apparently wholesome food' has the meaning given such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 104. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES.

(a) IN GENERAL.—Section 170(e)(3) (relating to certain contributions of ordinary income and capital gain property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

''(C) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY FOR EDUCATIONAL PURPOSES.—

''(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

''(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

''(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

''(ii) AMOUNT OF REDUCTION.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book) exceeds twice the basis of such property.

''(iii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

''(iv) IDENTITY OF DONEE.—The requirement of this clause is met if the contribution is to an organization—

''(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

''(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

''(v) CERTIFICATION BY DONEE.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

''(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

''(II) the donee will use the books in its educational programs.

''(vi) BONA FIDE PUBLISHED MARKET PRICE.—For purposes of this subparagraph, the term 'bona fide published market price' means, with respect to any book, a price—

''(I) determined using the same printing and edition,

''(II) determined in the usual market in which such a book has been customarily sold by the taxpayer, and

''(III) for which the taxpayer can demonstrate to the satisfaction of the Secretary that the taxpayer customarily sold such books in arm's length transactions within 7 years preceding the contribution of such a book.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 105. EXPANSION OF CHARITABLE CONTRIBUTION ALLOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.

(a) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting ''or assembled'' after ''constructed''.

(2) CONFORMING AMENDMENT.—Clause (iii) of section 170(e)(4)(B) is amended by inserting ''or assembling'' after ''construction''.

(b) COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(6)(B) is amended by inserting ''or assembled'' after ''constructed'' and ''or assembling'' after ''construction''.

(2) SPECIAL RULE EXTENDED.—Section 170(e)(6)(G) is amended by striking ''2003'' and inserting ''2005''.

(3) CONFORMING AMENDMENTS.—Subparagraph (D) of section 170(e)(6) is amended by inserting ''or assembled'' after ''constructed'' and ''or assembling'' after ''construction''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 106. MODIFICATIONS TO ENCOURAGE CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Section 170(h) (relating to qualified conservation contribution) is amended by adding at the end the following new paragraph:

''(7) ADDITIONAL INCENTIVES FOR QUALIFIED CONSERVATION CONTRIBUTIONS.—

''(A) IN GENERAL.—In the case of any qualified conservation contribution (as defined in paragraph (1)) made by an individual—

''(i) subparagraph (C) of subsection (b)(1) shall not apply,

''(ii) except as provided in subparagraph (B)(i), subsections (b)(1)(A) and (d)(1) shall be applied separately with respect to such contributions by treating references to 50 percent of the taxpayer's contribution base as references to the amount of such base reduced by the amount of other contributions allowable under subsection (b)(1)(A), and

''(iii) subparagraph (A) of subsection (d)(1) shall be applied—

''(I) by substituting '15 succeeding taxable years' for '5 succeeding taxable years', and

''(II) by applying clause (ii) to each of the 15 succeeding taxable years.

''(B) SPECIAL RULES FOR ELIGIBLE FARMERS AND RANCHERS.—

''(i) IN GENERAL.—In the case of any such contributions by a taxpayer who is an eligible farmer or rancher for the taxable year in which such contributions are made—

''(I) if the taxpayer is an individual, subsections (b)(1)(A) and (d)(1) shall be applied separately with respect to such contributions by substituting 'the taxpayer's contribution base reduced by the amount of other contributions allowable under subsection (b)(1)(A)' for '50 percent of the taxpayer's contribution base' each place it appears, and

''(II) if the taxpayer is a corporation, subsections (b)(2) and (d)(2) shall be applied separately with respect to such contributions, subsection (b)(2) shall be applied with respect to such contributions as if such subsection did not contain the words '10 percent of' and as if subparagraph (A) thereof read 'the deduction under this section for qualified conservation contributions', and rules similar to the rules of subparagraph (A)(iii) shall apply for purposes of subsection (d)(2).

''(ii) DEFINITION.—For purposes of clause (i), the term 'eligible farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is at least 51 percent of the taxpayer's gross income for the taxable year, and, in the case of a C corporation, the stock of which is not publicly traded on a recognized exchange.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 107. EXCLUSION OF 25 PERCENT OF GAIN ON SALES OR EXCHANGES OF LAND OR WATER INTERESTS TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following new section:

"SEC. 121A. 25-PERCENT EXCLUSION OF GAIN ON SALES OR EXCHANGES OF LAND OR WATER INTERESTS TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES.

''(a) EXCLUSION.—Gross income shall not include 25 percent of the qualifying gain from a conservation sale of a long-held qualifying land or water interest.

''(b) QUALIFYING GAIN.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying gain' means any gain which would be recognized as long-term capital gain, reduced by the amount of any long-term capital gain attributable to disqualified improvements.

''(2) DISQUALIFIED IMPROVEMENT.—For purposes of paragraph (1), the term 'disqualified improvement' means any building, structure, or other improvement, other than—

''(A) any improvement which is described in section 175(c)(1), determined—

''(i) without regard to the requirements that the taxpayer be engaged in farming, and

''(ii) without taking into account subparagraphs (A) and (B) thereof, or

''(B) any improvement which the Secretary determines directly furthers conservation purposes.

''(3) SPECIAL RULE FOR SALES OF STOCK.—If the long-held qualifying land or water interest is 1 or more shares of stock in a qualifying land or water corporation, the qualifying gain is equal to the lesser of—

''(A) the qualifying gain determined under paragraph (1), or

''(B) the product of—

''(i) the percentage of such corporation's stock which is transferred by the taxpayer, times

''(ii) the amount which would have been the qualifying gain (determined under paragraph (1)) if there had been a conservation sale by such corporation of all of its interests in the land and water for a price equal to the product of the fair market value of such interests times the ratio of—

''(I) the proceeds of the conservation sale of the stock, to

''(II) the fair market value of the stock which was the subject of the conservation sale.

''(c) CONSERVATION SALE.—For purposes of this section, the term 'conservation sale' means a sale or exchange which meets the following requirements:

''(1) TRANSFEREE IS AN ELIGIBLE ENTITY.—The transferee of the long-held qualifying land or water interest is an eligible entity.

''(2) QUALIFYING LETTER OF INTENT REQUIRED.—At the time of the sale or exchange, such transferee provides the taxpayer with a qualifying letter of intent.

''(3) NONAPPLICATION TO CERTAIN SALES.—The sale or exchange is not made pursuant to an order of condemnation or eminent domain.

''(4) CONTROLLING INTEREST IN STOCK SALE REQUIRED.—In the case of the sale or exchange of stock in a qualifying land or water corporation, at the end of the taxpayer's taxable year in which such sale or exchange occurs, the transferee's ownership of stock in such corporation meets the requirements of section 1504(a)(2) (determined by substituting '90 percent' for '80 percent' each place it appears).

''(d) LONG-HELD QUALIFYING LAND OR WATER INTEREST.—For purposes of this section—

''(1) IN GENERAL.—The term 'long-held qualifying land or water interest' means any qualifying land or water interest owned by the taxpayer or a member of the taxpayer's family (as defined in section 2032A(e)(2)) at all times during the 5-year period ending on the date of the sale.

''(2) QUALIFYING LAND OR WATER INTEREST.—

''(A) IN GENERAL.—The term 'qualifying land or water interest' means a real property interest which constitutes—

''(i) a taxpayer's entire interest in land,

''(ii) a taxpayer's entire interest in water rights,

''(iii) a qualified real property interest (as defined in section 170(h)(2)), or

''(iv) stock in a qualifying land or water corporation.

''(B) ENTIRE INTEREST.—For purposes of clause (i) or (ii) of subparagraph (A)—

''(i) a partial interest in land or water is not a taxpayer's entire interest if an interest in land or water was divided in order to create such partial interest in order to avoid the requirements of such clause or section 170(f)(3)(A), and

''(ii) a taxpayer's entire interest in certain land does not fail to satisfy subparagraph (A)(i) solely because the taxpayer has retained an interest in other land, even if the other land is contiguous with such certain land and was acquired by the taxpayer along with such certain land in a single conveyance.

''(e) OTHER DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) a governmental unit referred to in section 170(c)(1), or an agency or department thereof operated primarily for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A), or

''(B) an entity which is—

''(i) described in section 170(b)(1)(A)(vi) or section 170(h)(3)(B), and

''(ii) organized and at all times operated primarily for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A).

''(2) QUALIFYING LETTER OF INTENT.—The term 'qualifying letter of intent' means a written letter of intent which includes the following statement: 'The transferee's intent is that this acquisition will serve 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986, that the transferee's use of the property so acquired will be consistent with section 170(h)(5) of such Code, and that the use of the property will continue to be consistent with such section, even if ownership or possession of such property is subsequently transferred to another person.'

''(3) QUALIFYING LAND OR WATER CORPORATION.—The term 'qualifying land or water corporation' means a C corporation (as defined in section 1361(a)(2)) if, as of the date of the conservation sale—

''(A) the fair market value of the corporation's interests in land or water held by the corporation at all times during the preceding 5 years equals or exceeds 90 percent of the fair market value of all of such corporation's assets, and

''(B) not more than 50 percent of the total fair market value of such corporation's assets consists of water rights or infrastructure related to the delivery of water, or both.

''(f) TAX ON SUBSEQUENT TRANSFERS OR REMOVALS OF CONSERVATION RESTRICTIONS.—

''(1) IN GENERAL.—A tax is hereby imposed on any subsequent—

''(A) transfer by an eligible entity of ownership or possession, whether by sale, exchange, or lease, of property acquired directly or indirectly in—

''(i) a conservation sale described in subsection (a), or

''(ii) a transfer described in clause (i), (ii), or (iii) of paragraph (4)(A), or

''(B) removal of a conservation restriction contained in an instrument of conveyance of such property.

''(2) AMOUNT OF TAX.—The amount of tax imposed by paragraph (1) on any transfer or removal shall be equal to the sum of—

''(A) either—

''(i) 20 percent of the fair market value (determined at the time of the transfer) of the property the ownership or possession of which is transferred, or

''(ii) 20 percent of the fair market value (determined at the time immediately after the removal) of the property upon which the conservation restriction was removed, plus

''(B) the product of—

''(i) the highest rate of tax specified in section 11, times

''(ii) any gain or income realized by the transferor or person removing such restriction as a result of the transfer or removal.

''(3) LIABILITY.—The tax imposed by paragraph (1) shall be paid—

''(A) on any transfer, by the transferor, and

''(B) on any removal of a conservation restriction contained in an instrument of conveyance, by the person removing such restriction.

''(4) RELIEF FROM LIABILITY.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1)—

''(A) with respect to any transfer if—

''(i) the transferee is an eligible entity which provides such person, at the time of transfer, a qualifying letter of intent,

''(ii) in any case where the transferee is not an eligible entity, it is established to the satisfaction of the Secretary, that the transfer of ownership or possession, as the case may be, will be consistent with section 170(h)(5), and the transferee provides such person, at the time of transfer, a qualifying letter of intent, or

''(iii) tax has previously been paid under this subsection as a result of a prior transfer of ownership or possession of the same property, or

''(B) with respect to any removal of a conservation restriction contained in an instrument of conveyance, if it is established to the satisfaction of the Secretary that the retention of the restriction was impracticable or impossible and the proceeds continue to be used in a manner consistent with 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A).

''(5) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subsection shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.

''(6) REPORTING.—The Secretary may require such reporting as may be necessary or appropriate to further the purpose under this section that any conservation use be in perpetuity.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 121 the following new item:

''Sec. 121A. 25-percent exclusion of gain on sales or exchanges of land or water interests to eligible entities for conservation purposes.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges occurring after the date of the enactment of this Act.

SEC. 108. TAX EXCLUSION FOR COST-SHARING PAYMENTS UNDER PARTNERS FOR FISH AND WILDLIFE PROGRAM.

(a) IN GENERAL.—Section 126(a) (relating to certain cost-sharing payments) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following:

''(10) The Partners for Fish and Wildlife Program authorized by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after the date of the enactment of this Act.

SEC. 109. ADJUSTMENT TO BASIS OF S CORPORATION STOCK FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

''The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 110. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property), as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOLARLY COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

''(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

''(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

''(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 111. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139 the following new section:

''SEC. 139A. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

''Sec. 139A. Mileage reimbursements to charitable volunteers.''.

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

SEC. 112. EXTENSION OF ENHANCED DEDUCTION FOR INVENTORY TO INCLUDE PUBLIC SCHOOLS.

(a) IN GENERAL.—Subparagraph (A) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended by striking ''to an organization which is described in'' and all that follows through the end of clause (i) and inserting ''to a qualified organization, but only if—

''(i) the property is to be used by the donee solely for the care of the ill, the needy, or infants and, in the case of—

''(I) an organization described in section 501(c)(3) (other than an organization described in subclause (II)), the use of the property by the donee is related to the purpose or function constituting the basis for its exemption under section 501, and

''(II) an organization described in subsection (b)(1)(A)(ii), the use of the property by the donee is related to educational purposes and such property is not computer technology or equipment (as defined in paragraph (6)(F)(i));''.

(b) QUALIFIED ORGANIZATION.—Paragraph (3) of section 170(e) of such Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

''(C) QUALIFIED ORGANIZATION.—For purposes of this paragraph, the term 'qualified organization' means—

''(i) an organization which is described in section 501(c)(3) and is exempt under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), and

''(ii) an educational organization described in subsection (b)(1)(A)(ii).''.

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

SEC. 113. 10-YEAR DIVESTITURE PERIOD FOR CERTAIN EXCESS BUSINESS HOLDINGS OF PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Section 4943(c) (relating to excess business holdings) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) 10-YEAR PERIOD TO DISPOSE OF CERTAIN LARGE GIFTS AND BEQUESTS.—

''(A) IN GENERAL.—Paragraph (6) shall be applied by substituting '10-year period' for '5-year period' if—

''(i) upon the election of a private foundation, it is established to the satisfaction of the Secretary that—

''(I) the excess business holdings (or increase in excess business holdings) in a business enterprise by the private foundation in an amount which is not less than $1,000,000,000 is the result of a gift or bequest the fair market value of which is not less than $1,000,000,000, and

''(II) after such gift or bequest, the private foundation does not have effective control of

such business enterprise to which such gift or bequest relates,

''(ii) subject to subparagraph (C), the private foundation submits to the Secretary with such election a reasonable plan for disposing of all of the excess business holdings related to such gift or bequest, and

''(iii) the private foundation certifies annually to the Secretary that the private foundation is complying with the plan submitted under this paragraph, the requirement under clause (i)(II), and the rules under subparagraph (D).

''(B) ELECTION.—Any election under subparagraph (A)(i) shall be made not later than 6 months after the date of such gift or bequest and shall—

''(i) establish the fair market value of such gift or bequest, and

''(ii) include a certification that the requirement of subparagraph (A)(i)(II) is met.

''(C) REASONABLENESS OF PLAN.—

''(i) IN GENERAL.—Any plan submitted under subparagraph (A)(ii) shall be presumed reasonable unless the Secretary notifies the private foundation to the contrary not later than 6 months after the submission of such plan.

''(ii) RESUBMISSION.—Upon notice by the Secretary under clause (i), the private foundation may resubmit a plan and shall have the burden of establishing the reasonableness of such plan to the Secretary.

''(D) SPECIAL RULES.—During any period in which an election under this paragraph is in effect—

''(i) section 4941(d)(2) (other than subparagraph (A) thereof) shall apply only with respect to any disqualified person described in section 4941(a)(1)(B),

''(ii) section 4942(a) shall be applied by substituting 'third' for 'second' both places it appears,

''(iii) section 4942(e)(1) shall be applied by substituting '12 percent' for '5 percent', and

''(iv) section 4942(g)(1)(A) shall be applied without regard to any portion of reasonable and necessary administrative expenses.

''(E) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2003, the $1,000,000,000 amount under subparagraph (A)(i)(I) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting '2002' for '1992' in subparagraph (B) thereof. If the $1,000,000,000 amount as increased under this subparagraph is not a multiple of $100,000,000, such amount shall be rounded to the next lowest multiple of $100,000,000.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to gifts and bequests made after the date of the enactment of this Act.

TITLE II—PROPOSALS IMPROVING THE OVERSIGHT OF TAX-EXEMPT ORGANIZATIONS

SEC. 201. DISCLOSURE OF WRITTEN DETERMINATIONS.

(a) IN GENERAL.—Section 6110(l) (relating to section not to apply) is amended by striking all matter before subparagraph (A) of paragraph (2) and inserting the following:

''(1) SECTION NOT TO APPLY.—

''(1) IN GENERAL.—This section shall not apply to any matter to which section 6104 or 6105 applies, except that this section shall apply to any written determination and related background file document relating to an organization described under subsection (c) or (d) of section 501 (including any written determination denying an organization tax-exempt status under such subsection) or a political organization described in section 527 which is not required to be disclosed by section 6104(a)(1)(A).

''(2) ADDITIONAL MATTERS.—This section shall not apply to any—''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to written determinations issued after the date of the enactment of this Act.

SEC. 202. DISCLOSURE OF INTERNET WEB SITE AND NAME UNDER WHICH ORGANIZATION DOES BUSINESS.

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) DISCLOSURE OF NAME UNDER WHICH ORGANIZATION DOES BUSINESS AND ITS INTERNET WEB SITE.—Any organization which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

''(1) any name under which such organization operates or does business, and

''(2) the Internet web site address (if any) of such organization.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after December 31, 2003.

SEC. 203. MODIFICATION TO REPORTING CAPITAL TRANSACTIONS.

(a) REQUIREMENT OF SUMMARY REPORT.—Section 6033(c) (relating to additional provisions relating to private foundations) is amended by adding at the end the following new sentence: ''Any information included in an annual return regarding the gain or loss from the sale or other disposition of stock or securities which are listed on an established securities market which is required to be furnished in order to calculate the tax on net investment income shall also be reported in summary form with a notice that detailed information is available upon request by the public.''.

(b) DISCLOSURE REQUIREMENT.—Section 6104(b) (relating to inspection of annual information returns), as amended by this Act, is amended by adding at the end the following new sentence: ''With respect to any private foundation (as defined in section 509(a)), any information regarding the gain or loss from the sale or other disposition of stock or securities which are listed on an established securities market which is required to be furnished in order to calculate the tax on net investment income but which is not in summary form is not required to be made available to the public under this subsection except upon the explicit request by a member of the public to the Secretary.''.

(c) PUBLIC INSPECTION REQUIREMENT.—Section 6104(d) (relating to public inspection of certain annual returns, applications for exemptions, and notices of status) is amended by adding at the end the following new paragraph:

''(9) APPLICATION TO PRIVATE FOUNDATION CAPITAL TRANSACTION INFORMATION.—With respect to any private foundation (as defined in section 509(a)), any information regarding the gain or loss from the sale or other disposition of stock or securities which are listed on an established securities market which is required to be furnished in order to calculate the tax on net investment income but which is not in summary form is not required to be made available to the public under this subsection except upon the explicit request by a member of the public to the private foundation in the form and manner of a request described in paragraph (1)(B).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after December 31, 2003.

SEC. 204. DISCLOSURE THAT FORM 990 IS PUBLICLY AVAILABLE.

(a) IN GENERAL.—The Commissioner of the Internal Revenue shall notify the public in appropriate publications or other materials of the extent to which an exempt organization's Form 990, Form 990–EZ, or Form 990–PF is publicly available.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to publications or other materials issued or revised after the date of the enactment of this Act.

SEC. 205. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general,

''(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

''(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting ''or any appropriate State officer who has or had access to returns or return information under section 6104(c)'' after ''this section'' in paragraph (2), and

(B) by striking ''or subsection (n)'' in paragraph (3) and inserting ''subsection (n), or section 6104(c)''.

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''and section 6104(c)'' after ''section'' in the first sentence.

(3) Paragraph (4) of section 6103(p), 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) or any appropriate State officer (as defined in section 6104(c))''.

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS''.

(5) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(7) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6104(c))'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 206. EXPANSION OF PENALTIES TO PREPARERS OF FORM 990.

(a) IN GENERAL.—Section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) is amended by adding at the end the following new subsections:

''(h) CERTAIN OMISSIONS AND MISREPRESENTATIONS.—

''(1) IN GENERAL.—Any person who prepares for compensation any return under section 6033 who omits or misrepresents any information with respect to such return which was known or should have been known by such person shall pay a penalty of $250 with respect to such return.

''(2) EXCEPTION FOR MINOR, INADVERTENT OMISSIONS.—Paragraph (1) shall not apply to minor, inadvertent omissions.

''(3) RULES FOR DETERMINING RETURN PREPARER.—For purposes of this subsection and subsection (i), any reference to a person who prepares for compensation a return under section 6033—

''(A) shall include any person who employs 1 or more persons to prepare for compensation a return under section 6033, and

''(B) shall not include any person who would be described in clause (i), (ii), (iii), or (iv) of section 7701(a)(36)(B) if such section referred to a return under section 6033.

''(i) WILLFUL OR RECKLESS CONDUCT.—

''(1) IN GENERAL.—Any person who prepares for compensation any return under section 6033 who recklessly or intentionally misrepresents any information or recklessly or intentionally disregards any rule or regulation with respect to such return shall pay a penalty of $1,000 with respect to such return.

''(2) COORDINATION WITH OTHER PENALTIES.—With respect to any return, the amount of the penalty payable by any person by reason of paragraph (1) shall be reduced by the amount of the penalty paid by such person by reason of subsection (h) or section 6694.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 6695 is amended by inserting ''**AND OTHER**'' after ''**INCOME TAX**''.

(2) The item relating to section 6695 in the table of sections for part I of subchapter B of chapter 68 is amended by inserting ''and other'' after ''income tax''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to documents prepared after the date of the enactment of this Act.

SEC. 207. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(2)(A)(ii) or (a)(2)(B)—

''(1) shall furnish annually, at such time and in such manner as the Secretary may by forms or regulations prescribe, information setting forth—

''(A) the legal name of the organization,

''(B) any name under which such organization operates or does business,

''(C) the organization's mailing address and Internet web site address (if any),

''(D) the organization's taxpayer identification number,

''(E) the name and address of a principal officer, and

''(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

''(2) upon the termination of the existence of the organization, shall furnish notice of such termination.''.

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

''(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

''(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

''(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.''.

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(j)(1).''.

(d) NO INSPECTION REQUIREMENT.—Section 6104(b) (relating to inspection of annual information returns) is amended by inserting ''(other than subsection (i) thereof)'' after ''6033''.

(e) NO DISCLOSURE REQUIREMENT.—Section 6104(d)(3) (relating to exceptions from disclosure requirements) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) NONDISCLOSURE OF ANNUAL NOTICES.—Paragraph (1) shall not require the disclosure of any notice required under section 6033(i).''.

(f) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

''(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(i).''.

(g) SECRETARIAL OUTREACH REQUIREMENTS.—

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(i) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(i) and of the penalty established under section 6033(j)—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(j) of such Code for the failure to file a return under section 6033(a)(1) of such Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2003.

SEC. 208. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

''(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

''(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

''(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

''(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

''(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

''(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

''(ii) such Executive order refers to this subsection.

''(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

''(A) begins on the later of—

''(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

''(ii) the date of the enactment of this subsection, and

''(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

''(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

''(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

''(6) ERRONEOUS DESIGNATION.—

''(A) IN GENERAL.—If—

''(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

''(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

''(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

''(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

''(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

TITLE III—OTHER CHARITABLE AND EXEMPT ORGANIZATION PROVISIONS

SEC. 301. MODIFICATION OF EXCISE TAX ON UNRELATED BUSINESS TAXABLE INCOME OF CHARITABLE REMAINDER TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 664 (relating to exemption from income taxes) is amended to read as follows:

''(c) TAXATION OF TRUSTS.—

''(1) INCOME TAX.—A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle.

''(2) EXCISE TAX.—

''(A) IN GENERAL.—In the case of a charitable remainder annuity trust or a charitable remainder unitrust which has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust) for a taxable year, there is hereby imposed on such trust or unitrust an excise tax equal to the amount of such unrelated business taxable income.

''(B) CERTAIN RULES TO APPLY.—The tax imposed by subparagraph (A) shall be treated as imposed by chapter 42 for purposes of this title other than subchapter E of chapter 42.

''(C) TAX COURT PROCEEDINGS.—For purposes of this paragraph, the references in section 6212(c)(1) to section 4940 shall be deemed to include references to this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 302. MODIFICATIONS TO SECTION 512(b)(13).

(a) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) PARAGRAPH TO APPLY ONLY TO EXCESS PAYMENTS.—

''(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

''(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

''(I) such excess determined without regard to any amendment or supplement to a return of tax, or

''(II) such excess determined with regard to all such amendments and supplements.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to payments received or accrued after December 31, 2000.

(2) PAYMENTS SUBJECT TO BINDING CONTRACT TRANSITION RULE.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

SEC. 303. SIMPLIFICATION OF LOBBYING EXPENDITURE LIMITATION.

(a) REPEAL OF GRASSROOTS EXPENDITURE LIMIT.—Paragraph (1) of section 501(h) (relating to expenditures by public charities to influence legislation) is amended to read as follows:

''(1) GENERAL RULE.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year.''.

(b) EXCESS LOBBYING EXPENDITURES.—Section 4911(b) is amended to read as follows:

''(b) EXCESS LOBBYING EXPENDITURES.—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 501(h)(2) is amended by striking subparagraphs (C) and (D).

(2) Section 4911(c) is amended by striking paragraphs (3) and (4).

(3) Paragraph (1)(A) of section 4911(f) is amended by striking ''limits of section 501(h)(1) have'' and inserting ''limit of section 501(h)(1) has''.

(4) Paragraph (1)(C) of section 4911(f) is amended by striking ''limits of section 501(h)(1) are'' and inserting ''limit of section 501(h)(1) is''.

(5) Paragraphs (4)(A) and (4)(B) of section 4911(f) are each amended by striking ''limits of section 501(h)(1)'' and inserting ''limit of section 501(h)(1)''.

(6) Paragraph (8) of section 6033(b) (relating to certain organizations described in section 501(c)(3)) is amended by inserting ''and'' at the end of subparagraph (A) and by striking subparagraphs (C) and (D).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 304. EXPEDITED REVIEW PROCESS FOR CERTAIN TAX-EXEMPTION APPLICATIONS.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate (in this section, referred to as the ''Secretary'') shall adopt procedures to expedite the consideration of applications for exempt status under

section 501(c)(3) of the Internal Revenue Code of 1986 filed after December 31, 2003, by any organization that—

(1) is organized and operated for the primary purpose of providing social services;

(2) is seeking a contract or grant under a Federal, State, or local program that provides funding for social services programs;

(3) establishes that, under the terms and conditions of the contract or grant program, an organization is required to obtain such exempt status before the organization is eligible to apply for a contract or grant;

(4) includes with its exemption application a copy of its completed Federal, State, or local contract or grant application; and

(5) meets such other criteria as the Secretary deems appropriate for expedited consideration.

The Secretary may prescribe other similar circumstances in which such organizations may be entitled to expedited consideration.

(b) WAIVER OF APPLICATION FEE FOR EXEMPT STATUS.—Any organization that meets the conditions described in subsection (a) (without regard to paragraph (3) of that subsection) is entitled to a waiver of any fee for an application for exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 if the organization certifies that the organization has had (or expects to have) average annual gross receipts of not more than $50,000 during the preceding 4 years (or, in the case of an organization not in existence throughout the preceding 4 years, during such organization's first 4 years).

(c) SOCIAL SERVICES DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term ''social services'' means services directed at helping people in need, reducing poverty, improving outcomes of low-income children, revitalizing low-income communities, and empowering low-income families and low-income individuals to become self-sufficient, including—

(A) child care services, protective services for children and adults, services for children and adults in foster care, adoption services, services related to the management and maintenance of the home, day care services for adults, and services to meet the special needs of children, older individuals, and individuals with disabilities (including physical, mental, or emotional disabilities);

(B) transportation services;

(C) job training and related services, and employment services;

(D) information, referral, and counseling services;

(E) the preparation and delivery of meals, and services related to soup kitchens or food banks;

(F) health support services;

(G) literacy and mentoring programs;

(H) services for the prevention and treatment of juvenile delinquency and substance abuse, services for the prevention of crime and the provision of assistance to the victims and the families of criminal offenders, and services related to the intervention in, and prevention of, domestic violence; and

(I) services related to the provision of assistance for housing under Federal law.

(2) EXCLUSIONS.—The term does not include a program having the purpose of delivering educational assistance under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) or under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 305. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking ''or'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', or'', and by inserting after paragraph (5) the following:

''(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.''.

SEC. 306. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after ''509(a))'' the following: ''or as a private operating foundation (as defined in section 4942(j)(3))''; and

(2) by amending subparagraph (C) to read as follows:

''(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or''.

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking ''United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia'' and inserting the following: ''United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2002.

SEC. 307. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.''.

SEC. 308. PAYMENTS BY CHARITABLE ORGANIZATIONS TO VICTIMS OF WAR ON TERRORISM AND FAMILIES OF ASTRONAUTS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) any payment made by an organization described in section 501(c)(3) of such Code to—

(A) a member of the Armed Forces of the United States, or to an individual of such member's immediate family, by reason of the death, injury, wounding, or illness of such member incurred as the result of the military response of the United States to the terrorist attacks against the United States on September 11, 2001, or

(B) an individual of an astronaut's immediate family by reason of the death of such astronaut occurring in the line of duty after December 31, 2002,

shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payment is made using an objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATES.—This section shall apply to—

(1) payments described in subsection (a)(1)(A) made after the date of the enactment of this Act and before September 11, 2004, and

(2) payments described in subsection (a)(1)(B) made after December 31, 2002.

SEC. 309. MODIFICATION OF SCHOLARSHIP FOUNDATION RULES.

In applying the limitations on the percentage of scholarship grants which may be awarded after the date of the enactment of this Act, to children of current or former employees under Revenue Procedure 76–47, such percentage shall be increased to 35 percent of the eligible applicants to be considered by the selection committee and to 20 percent of individuals eligible for the grants, but only if the foundation awarding the grants demonstrates that, in addition to meeting the other requirements of Revenue Procedure 76–47, it provides a comparable number and aggregate amount of grants during the same program year to individuals who are not such employees, children or dependents of such employees, or affiliated with the employer of such employees.

SEC. 310. TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS FOR PURPOSES OF DETERMINING ACQUISITION INDEBTEDNESS.

(a) IN GENERAL.—Subparagraph (C) of section 514(c)(9) (relating to real property acquired by a qualified organization) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ''; or'', and by adding at the end the following new clause:

''(iv) a qualified hospital support organization (as defined in subparagraph (I)).''.

(b) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—Paragraph (9) of section 514(c) is amended by adding at the end the following new subparagraph:

''(I) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—For purposes of subparagraph (C)(iv), the term 'qualified hospital support organization' means, with respect to any eligible indebtedness (including any qualified refinancing of such eligible indebtedness), a support organization (as defined in section 509(a)(3)) which supports a hospital described in section 119(d)(4)(B) and with respect to which—

''(i) more than half of the organization's assets (by value) at any time since its organization—

''(I) were acquired, directly or indirectly, by testamentary gift or devise, and

''(II) consisted of real property, and

''(ii) the fair market value of the organization's real estate acquired, directly or indirectly, by gift or devise, exceeded 25 percent of the fair market value of all investment assets held by the organization immediately prior to the time that the eligible indebtedness was incurred.

For purposes of this subparagraph, the term 'eligible indebtedness' means indebtedness secured by real property acquired by the organization, directly or indirectly, by gift or devise, the proceeds of which are used exclusively to acquire any leasehold interest in such real property or for improvements on, or repairs to, such real property. A determination under clauses (i) and (ii) of this subparagraph shall be made each time such an eligible indebtedness (or the qualified refinancing of such an eligible indebtedness) is incurred. For purposes of this subparagraph, a refinancing of such an eligible indebtedness shall be considered qualified if such refinancing does not exceed the amount of the refinanced eligible indebtedness immediately before the refinancing.''.

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

SEC. 311. CHARITABLE CONTRIBUTION DEDUCTION FOR CERTAIN EXPENSES INCURRED IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts), as amended by this Act, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) EXPENSES PAID BY CERTAIN WHALING CAPTAINS IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.—

''(1) IN GENERAL.—In the case of an individual who is recognized by the Alaska Eskimo Whaling Commission as a whaling captain charged with the responsibility of maintaining and carrying out sanctioned whaling activities and who engages in such activities during the taxable year, the amount described in paragraph (2) (to the extent such amount does not exceed $10,000 for the taxable year) shall be treated for purposes of this section as a charitable contribution.

''(2) AMOUNT DESCRIBED.—

''(A) IN GENERAL.—The amount described in this paragraph is the aggregate of the reasonable and necessary whaling expenses paid by the taxpayer during the taxable year in carrying out sanctioned whaling activities.

''(B) WHALING EXPENSES.—For purposes of subparagraph (A), the term 'whaling expenses' includes expenses for—

''(i) the acquisition and maintenance of whaling boats, weapons, and gear used in sanctioned whaling activities,

''(ii) the supplying of food for the crew and other provisions for carrying out such activities, and

''(iii) storage and distribution of the catch from such activities.

''(3) SANCTIONED WHALING ACTIVITIES.—For purposes of this subsection, the term 'sanctioned whaling activities' means subsistence bowhead whale hunting activities conducted pursuant to the management plan of the Alaska Eskimo Whaling Commission.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contributions made after December 31, 2003.

SEC. 312. MATCHING GRANTS TO LOW-INCOME TAXPAYER CLINICS FOR RETURN PREPARATION.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

''SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

''(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RETURN PREPARATION CLINIC.—

''(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—

''(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

''(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

''(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

''(2) CLINIC.—The term 'clinic' includes—

''(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

''(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (5) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

''Sec. 7526A. Return preparation clinics for low-income taxpayers.''.

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

SEC. 313. EXEMPTION OF QUALIFIED 501(c)(3) BONDS FOR NURSING HOMES FROM FEDERAL GUARANTEE PROHIBITIONS.

(a) IN GENERAL.—Section 149(b)(3) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(E) EXCEPTION FOR QUALIFIED 501(C)(3) BONDS FOR NURSING HOMES.—

''(i) IN GENERAL.—Paragraph (1) shall not apply to any qualified 501(c)(3) bond issued before the date which is 1 year after the date of the enactment of this subparagraph for the benefit of an organization described in section 501(c)(3), if such bond is part of an issue the proceeds of which are used to finance 1 or more of the following facilities primarily for the benefit of the elderly:

''(I) Licensed nursing home facility.

''(II) Licensed or certified assisted living facility.

''(III) Licensed personal care facility.

''(IV) Continuing care retirement community.

''(ii) LIMITATION.—With respect to any calendar year, clause (i) shall not apply to any bond described in such clause if the aggregate authorized face amount of the issue of which such bond is a part when increased by the outstanding amount of such bonds issued by the issuer for such calendar year exceeds $15,000,000.

''(iii) CONTINUING CARE RETIREMENT COMMUNITY.—For purposes of this subparagraph, the term 'continuing care retirement community' means a community which provides, on the same campus, a continuum of residential living options and support services to persons at least 60 years of age under a written agreement. For purposes of the preceding sentence, the residential living options shall include independent living units, nursing home beds, and either assisted living units or personal care beds.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 314. EXCISE TAXES EXEMPTION FOR BLOOD COLLECTOR ORGANIZATIONS.

(a) EXEMPTION FROM IMPOSITION OF SPECIAL FUELS TAX.—Section 4041(g) (relating to other exemptions) is amended by striking ''and'' at the end of paragraph (3), by striking the period in paragraph (4) and inserting ''; and'', and by inserting after paragraph (4) the following new paragraph:

''(5) with respect to the sale of any liquid to a qualified blood collector organization (as defined in section 7701(a)(48)) for such organization's exclusive use, or with respect to the use by a qualified blood collector organization of any liquid as a fuel.''.

(b) EXEMPTION FROM MANUFACTURERS EXCISE TAX.—

(1) IN GENERAL.—Section 4221(a) (relating to certain tax-free sales) is amended by striking ''or'' at the end of paragraph (4), by adding ''or'' at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

''(6) to a qualified blood collector organization (as defined in section 7701(a)(48)) for such organization's exclusive use,''.

(2) CONFORMING AMENDMENTS.—

(A) The second sentence of section 4221(a) is amended by striking ''Paragraphs (4) and (5)'' and inserting ''Paragraphs (4), (5), and (6)''.

(B) Section 6421(c) is amended by striking ''or (5)'' and inserting ''(5), or (6)''.

(c) EXEMPTION FROM COMMUNICATION EXCISE TAX.—

(1) IN GENERAL.—Section 4253 (relating to exemptions) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

''(k) EXEMPTION FOR QUALIFIED BLOOD COLLECTOR ORGANIZATIONS.—Under regulations provided by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a qualified blood collector organization (as defined in section 7701(a)) for services or facilities furnished to such organization.''.

(2) CONFORMING AMENDMENT.—Section 4253(l), as redesignated by paragraph (1), is amended by striking ''or (j)'' and inserting ''(j), or (k)''.

(d) CREDIT FOR REFUND FOR CERTAIN TAXES ON SALES AND SERVICES.—

(1) DEEMED OVERPAYMENT.—

(A) IN GENERAL.—Section 6416(b)(2) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) sold to a qualified blood collector organization's (as defined in section 7701(a)(48)) for such organization's exclusive use;''.

(B) CONFORMING AMENDMENTS.—Section 6416(b)(2) is amended—

(i) by striking ''Subparagraphs (C) and (D)'' and inserting ''Subparagraphs (C), (D), and (E)'', and

(ii) by striking ''(C), and (D)'' and inserting ''(C), (D), and (E)''.

(2) SALES OF TIRES.—Clause (ii) of section 6416(b)(4)(B) is amended by inserting ''sold to a qualified blood collector organization (as defined in section 7701(a)(48)),'' after ''for its exclusive use,''.

(e) DEFINITION OF QUALIFIED BLOOD COLLECTOR ORGANIZATION.—Section 7701(a) is amended by inserting at the end the following new paragraph:

''(48) QUALIFIED BLOOD COLLECTOR ORGANIZATION.—For purposes of this title, the term 'qualified blood collector organization' means an organization which is—

''(A) described in section 501(c)(3) and exempt from tax under section 501(a),

''(B) registered by the Food and Drug Administration to collect blood, and

''(C) primarily engaged in the activity of the collection of blood.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to excise taxes imposed on sales or uses occurring on or after October 1, 2003.

(2) REFUND OF GASOLINE TAX.—For purposes of section 6421(c) of the Internal Revenue Code of 1986 and any other provision that allows for a refund or a payment in respect of an excise tax payable at a level before the sale to a qualified blood collector organization, the amendments made by this section shall apply with respect to sales to a qualified collector organization on or after October 1, 2003.

SEC. 315. PILOT PROJECT FOR FOREST CONSERVATION ACTIVITIES.

(a) TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) QUALIFIED FOREST CONSERVATION BOND.—For purposes of this section, the term ''qualified forest conservation bond'' means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is issued for a qualified organization, and

(C) such bond is issued before December 31, 2006.

(3) LIMITATION ON AGGREGATE AMOUNT ISSUED.—

(A) IN GENERAL.—The maximum aggregate face amount of bonds which may be issued under this subsection shall not exceed $2,000,000,000 for all projects (excluding refunding bonds).

(B) ALLOCATION OF LIMITATION.—The limitation described in subparagraph (A) shall be allocated by the Secretary of the Treasury among qualified organizations based on criteria established by the Secretary not later than 180 days after the date of the enactment of this section, after consultation with the Chief of the Forest Service.

(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection, the term ''qualified project costs'' means the sum of—

(A) the cost of acquisition by the qualified organization from an unrelated person of forests and forest land which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) SPECIAL RULES.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued to refund a qualified forest conservation bond issued before December 31, 2006, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) EFFECTIVE DATE.—This subsection shall apply to obligations issued on or after the date which is 180 days after the enactment of this Act.

(b) ITEMS FROM QUALIFIED HARVESTING ACTIVITIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by a qualified organization shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) LIMITATION.—The amount of income excluded from gross income under paragraph (1) for any taxable year shall not exceed the amount used by the qualified organization to make debt service payments during such taxable year for qualified forest conservation bonds.

(3) QUALIFIED HARVESTING ACTIVITY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term ''qualified harvesting activity'' means the sale, lease, or harvesting, of standing timber—

(i) on land owned by a qualified organization which was acquired with proceeds of qualified forest conservation bonds,

(ii) with respect to which a written acknowledgement has been obtained by the qualified organization from the State or local governments with jurisdiction over such land that the acquisition lessens the burdens of such government with respect to such land, and

(iii) pursuant to a qualified conservation plan adopted by the qualified organization.

(B) EXCEPTIONS.—

(i) CESSATION AS QUALIFIED ORGANIZATION.—The term ''qualified harvesting activity'' shall not include any sale, lease, or harvesting for any period during which the organization ceases to qualify as a qualified organization.

(ii) EXCEEDING LIMITS ON HARVESTING.—The term ''qualified harvesting activity'' shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land or,

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to post-fire restoration and rehabilitation or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophes, or which are in imminent danger from insect or disease attack.

(4) TERMINATION.—This subsection shall not apply to any qualified harvesting activity of a qualified organization occurring after the date on which there is no outstanding qualified forest conservation bond with respect to such qualified organization or any such bond ceases to be a tax-exempt bond.

(5) PARTIAL RECAPTURE OF BENEFITS IF HARVESTING LIMIT EXCEEDED.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of timber harvested from the land exceeds the requirement of paragraph (3)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary of the Treasury, by the sum of the tax benefits attributable to such excess and interest at the underpayment rate under section 6621 of such Code for the period of the underpayment.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CONSERVATION PLAN.—The term ''qualified conservation plan'' means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land, and

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the region's ecotype,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat, or

(v) enhancing research opportunities in sustainable renewable resource uses.

(2) CONSERVATION RESTRICTION.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the qualified organization to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) QUALIFIED ORGANIZATION.—The term ''qualified organization'' means an organization—

(A) which is a nonprofit organization substantially all the activities of which are charitable, scientific, or educational, including acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific and public benefit,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has at all times a board of directors—

(i) at least 20 percent of the members of which represent the holders of the conservation restriction described in paragraph (2),

(ii) at least 20 percent of the members of which are public officials, and

(iii) not more than one-third of the members of which are individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the qualified organization has a contractual or other financial arrangement,

(E) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation plan and any change thereto, and

(F) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) UNRELATED PERSON.—The term ''unrelated person'' means a person who is not a related person.

(5) RELATED PERSON.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting ''25 percent'' for ''50 percent'' each place it appears therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

SEC. 316. CLARIFICATION OF TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.

(a) CLARIFICATION OF TAX-EXEMPT STATUS OF TRUSTS.—

(1) IN GENERAL.—Subsection (b) of section 601 of the Homeland Security Act of 2002 is amended to read as follows:

''(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and meets the requirements described in subsection (c) shall be eligible to designate itself as a 'Johnny Micheal Spann Patriot trust'.''.

(2) CONFORMING AMENDMENT.—Section 601(c)(3) of such Act is amended by striking ''based'' and all that follows through ''Trust''.

(b) PUBLICLY AVAILABLE AUDITS.—Section 601(c)(7) of the Homeland Security Act of 2002 is amended by striking ''shall be filed with the Internal Revenue Service, and shall be open to public inspection'' and inserting ''shall be open to public inspection consistent with section 6104(d)(1) of the Internal Revenue Code of 1986''.

(c) CLARIFICATION OF REQUIRED DISTRIBUTIONS TO PRIVATE FOUNDATION.—

(1) IN GENERAL.—Section 601(c)(8) of the Homeland Security Act of 2002 is amended by striking ''not placed'' and all that follows and inserting ''not so distributed shall be contributed to a private foundation which is described in section 509(a) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and which is dedicated to such beneficiaries not later than 36 months after the end of the fiscal year in which such funds, donations, or earnings are received.''.

(2) CONFORMING AMENDMENTS.—Section 601(c) of such Act is amended—

(A) by striking ''(or, if placed in a private foundation, held in trust for)'' in paragraph (1) and inserting ''(or contributed to a private foundation described in paragraph (8) for the benefit of)'', and

(B) by striking ''invested in a private foundation'' in paragraph (2) and inserting ''contributed to a private foundation described in paragraph (8)''.

(d) REQUIREMENTS FOR DISTRIBUTIONS FROM TRUSTS.—Section 601(c)(9)(A) of the Homeland Security Act of 2002 is amended by striking ''should'' and inserting ''shall''.

(e) REGULATIONS REGARDING NOTIFICATION OF TRUST BENEFICIARIES.—Section 601(f) of the Homeland Security Act of 2002 is amended by striking ''this section'' and inserting ''subsection (e)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 601 of the Homeland Security Act of 2002.

TITLE IV—SOCIAL SERVICES BLOCK GRANT

SEC. 401. RESTORATION OF FUNDS FOR THE SOCIAL SERVICES BLOCK GRANT.

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

(1) On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105) was signed into law.

(2) In enacting that law, Congress authorized $2,800,000,000 for fiscal year 2003 and each fiscal year thereafter to carry out the Social Services Block Grant program established under title XX of the Social Security Act (42 U.S.C. 1397 et seq.).

(b) RESTORATION OF FUNDS.—Section 2003(c)(11) of the Social Security Act (42 U.S.C. 1397b(c)(11)) is amended by inserting '', except that, with respect to fiscal year 2004, the amount shall be $1,975,000,000, and with respect to fiscal year 2005, the amount shall be $2,800,000,000'' after ''thereafter.''.

SEC. 402. RESTORATION OF AUTHORITY TO TRANSFER UP TO 10 PERCENT OF TANF FUNDS TO THE SOCIAL SERVICES BLOCK GRANT.

(a) IN GENERAL.—Section 404(d)(2) of the Social Security Act (42 U.S.C. 604(d)(2)) is amended to read as follows:

''(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—A State may use not more than 10 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to amounts made available for fiscal year 2004 and each fiscal year thereafter.

SEC. 403. REQUIREMENT TO SUBMIT ANNUAL REPORT ON STATE ACTIVITIES.

(a) IN GENERAL.—Section 2006(c) of the Social Security Act (42 U.S.C. 1397e(c)) is amended by adding at the end the following: ''The Secretary shall compile the information submitted by the States and submit that information to Congress on an annual basis.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to information submitted by States under section 2006 of the Social Security Act (42 U.S.C. 1397e) with respect to fiscal year 2003 and each fiscal year thereafter.

TITLE V—INDIVIDUAL DEVELOPMENT ACCOUNTS

SEC. 501. SHORT TITLE.

This title may be cited as the ''Savings for Working Families Act of 2004''.

SEC. 502. PURPOSES.

The purposes of this title are to provide for the establishment of individual development account programs that will—

(1) provide individuals and families with limited means an opportunity to accumulate assets and to enter the financial mainstream,

(2) promote education, homeownership, and the development of small businesses,

(3) stabilize families and build communities, and

(4) support continued United States economic expansion.

SEC. 503. DEFINITIONS.

As used in this title:

(1) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term ''eligible individual'' means, with respect to any taxable year, an individual who—

(i) has attained the age of 18 but not the age of 61 as of the last day of such taxable year,

(ii) is a citizen or lawful permanent resident (within the meaning of section 7701(b)(6) of the Internal Revenue Code of 1986) of the United States as of the last day of such taxable year,

(iii) was not a student (as defined in section 151(c)(4) of such Code) for the immediately preceding taxable year,

(iv) is not an individual with respect to whom a deduction under section 151 of such Code is allowable to another taxpayer for a taxable year of the other taxpayer ending during the immediately preceding taxable year of the individual,

(v) is not a taxpayer described in subsection (c), (d), or (e) of section 6402 of such Code for the immediately preceding taxable year,

(vi) is not a taxpayer described in section 1(d) of such Code for the immediately preceding taxable year, and

(vii) is a taxpayer the modified adjusted gross income of whom for the immediately preceding taxable year does not exceed—

(I) $18,000, in the case of a taxpayer described in section 1(c) of such Code,

(II) $30,000, in the case of a taxpayer described in section 1(b) of such Code, and

(III) $38,000, in the case of a taxpayer described in section 1(a) of such Code.

(B) INFLATION ADJUSTMENT.—

(i) IN GENERAL.—In the case of any taxable year beginning after 2004, each dollar amount referred to in subparagraph (A)(vii) 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) of the Internal Revenue Code of 1986 for the calendar year in which the taxable year begins, by substituting ''2003'' for ''1992''.

(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A)(v), the term ''modified adjusted gross income'' means adjusted gross income—

(i) determined without regard to sections 86, 893, 911, 931, and 933 of the Internal Revenue Code of 1986, and

(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

(2) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term ''Individual Development Account'' means an account established for an eligible individual as part of a qualified individual development account program, but only if the written governing instrument creating the account meets the following requirements:

(A) The owner of the account is the individual for whom the account was established.

(B) No contribution will be accepted unless it is in cash, and, except in the case of any qualified rollover, contributions will not be accepted for the taxable year in excess of $1,500 on behalf of any individual.

(C) The trustee of the account is a qualified financial institution.

(D) The assets of the account will not be commingled with other property except in a

common trust fund or common investment fund.

(E) Except as provided in section 507(b), any amount in the account may be paid out only for the purpose of paying the qualified expenses of the account owner.

(3) PARALLEL ACCOUNT.—The term ''parallel account'' means a separate, parallel individual or pooled account for all matching funds and earnings dedicated to an Individual Development Account owner as part of a qualified individual development account program, the trustee of which is a qualified financial institution.

(4) QUALIFIED FINANCIAL INSTITUTION.—The term ''qualified financial institution'' means any person authorized to be a trustee of any individual retirement account under section 408(a)(2) of the Internal Revenue Code of 1986.

(5) QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM.—The term ''qualified individual development account program'' means a program established upon approval of the Secretary under section 504 after December 31, 2002, under which—

(A) Individual Development Accounts and parallel accounts are held in trust by a qualified financial institution, and

(B) additional activities determined by the Secretary, in consultation with the Secretary of Health and Human Services, as necessary to responsibly develop and administer accounts, including recruiting, providing financial education and other training to Account owners, and regular program monitoring, are carried out by the qualified financial institution.

(6) QUALIFIED EXPENSE DISTRIBUTION.—

(A) IN GENERAL.—The term ''qualified expense distribution'' means any amount paid (including through electronic payments) or distributed out of an Individual Development Account or a parallel account established for an eligible individual if such amount—

(i) is used exclusively to pay the qualified expenses of the Individual Development Account owner or such owner's spouse or dependents,

(ii) is paid by the qualified financial institution—

(I) except as otherwise provided in this clause, directly to the unrelated third party to whom the amount is due,

(II) in the case of any qualified rollover, directly to another Individual Development Account and parallel account, or

(III) in the case of a qualified final distribution, directly to the spouse, dependent, or other named beneficiary of the deceased Account owner, and

(iii) is paid after the Account owner has completed a financial education course if required under section 505(b).

(B) QUALIFIED EXPENSES.—

(i) IN GENERAL.—The term ''qualified expenses'' means any of the following expenses approved by the qualified financial institution:

(I) Qualified higher education expenses.

(II) Qualified first-time homebuyer costs.

(III) Qualified business capitalization or expansion costs.

(IV) Qualified rollovers.

(V) Qualified final distribution.

(ii) QUALIFIED HIGHER EDUCATION EXPENSES.—

(I) IN GENERAL.—The term ''qualified higher education expenses'' has the meaning given such term by section 529(e)(3) of the Internal Revenue Code of 1986, determined by treating the Account owner, the owner's spouse, or one or more of the owner's dependents as a designated beneficiary, and reduced as provided in section 25A(g)(2) of such Code.

(II) COORDINATION WITH OTHER BENEFITS.—The amount of expenses which may be taken into account for purposes of section 135, 529, or 530 of such Code for any taxable year shall be reduced by the amount of any qualified higher education expenses taken into account as qualified expense distributions during such taxable year.

(iii) QUALIFIED FIRST-TIME HOMEBUYER COSTS.—The term ''qualified first-time homebuyer costs'' means qualified acquisition costs (as defined in section 72(t)(8)(C) of the Internal Revenue Code of 1986) with respect to a principal residence (within the meaning of section 121 of such Code) for a qualified first-time homebuyer (as defined in section 72(t)(8)(D)(i) of such Code).

(iv) QUALIFIED BUSINESS CAPITALIZATION OR EXPANSION COSTS.—

(I) IN GENERAL.—The term ''qualified business capitalization or expansion costs'' means qualified expenditures for the capitalization or expansion of a qualified business pursuant to a qualified business plan.

(II) QUALIFIED EXPENDITURES.—The term ''qualified expenditures'' means expenditures normally associated with starting or expanding a business and included in a qualified business plan, including costs for capital, plant, and equipment, inventory expenses, and attorney and accounting fees.

(III) QUALIFIED BUSINESS.—The term ''qualified business'' means any business that does not contravene any law.

(IV) QUALIFIED BUSINESS PLAN.—The term ''qualified business plan'' means a business plan which has been approved by the qualified financial institution and which meets such requirements as the Secretary may specify.

(v) QUALIFIED ROLLOVERS.—The term ''qualified rollover'' means the complete distribution of the amounts in an Individual Development Account and parallel account to another Individual Development Account and parallel account established in another qualified financial institution for the benefit of the Account owner.

(vi) QUALIFIED FINAL DISTRIBUTION.—The term ''qualified final distribution'' means, in the case of a deceased Account owner, the complete distribution of the amounts in the Individual Development Account and parallel account directly to the spouse, any dependent, or other named beneficiary of the deceased.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

SEC. 504. STRUCTURE AND ADMINISTRATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) ESTABLISHMENT OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.—Any qualified financial institution may apply to the Secretary for approval to establish 1 or more qualified individual development account programs which meet the requirements of this title and for an allocation of the Individual Development Account limitation under section 45G(i)(3) of the Internal Revenue Code of 1986 with respect to such programs.

(b) BASIC PROGRAM STRUCTURE.—

(1) IN GENERAL.—All qualified individual development account programs shall consist of the following 2 components for each participant:

(A) An Individual Development Account to which an eligible individual may contribute cash in accordance with section 505.

(B) A parallel account to which all matching funds shall be deposited in accordance with section 506.

(2) TAILORED IDA PROGRAMS.—A qualified financial institution may tailor its qualified individual development account program to allow matching funds to be spent on 1 or more of the categories of qualified expenses.

(3) NO FEES MAY BE CHARGED TO IDAS.—A qualified financial institution may not charge any fees to any Individual Development Account or parallel account under a qualified individual development account program.

(c) COORDINATION WITH PUBLIC HOUSING AGENCY INDIVIDUAL SAVINGS ACCOUNTS.—Section 3(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(e)(2)) is amended by inserting ''or in any Individual Development Account established under the Savings for Working Families Act of 2004'' after ''subsection''.

(d) TAX TREATMENT OF PARALLEL ACCOUNTS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7528. TAX INCENTIVES FOR INDIVIDUAL DEVELOPMENT PARALLEL ACCOUNTS.

''For purposes of this title—

''(1) any account described in section 504(b)(1)(B) of the Savings for Working Families Act of 2004 shall be exempt from taxation,

''(2) except as provided in section 45G, no item of income, expense, basis, gain, or loss with respect to such an account may be taken into account, and

''(3) any amount withdrawn from such an account shall not be includible in gross income.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7528. Tax incentives for individual development parallel accounts.''.

(e) COORDINATION OF CERTAIN EXPENSES.—Section 25A(g)(2) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) a qualified expense distribution with respect to qualified higher education expenses from an Individual Development Account or a parallel account under section 507(a) of the Savings for Working Families Act of 2004.''.

SEC. 505. PROCEDURES FOR OPENING AND MAINTAINING AN INDIVIDUAL DEVELOPMENT ACCOUNT AND QUALIFYING FOR MATCHING FUNDS.

(a) OPENING AN ACCOUNT.—An eligible individual may open an Individual Development Account with a qualified financial institution upon certification that such individual has never maintained any other Individual Development Account (other than an Individual Development Account to be terminated by a qualified rollover).

(b) REQUIRED COMPLETION OF FINANCIAL EDUCATION COURSE.—

(1) IN GENERAL.—Before becoming eligible to withdraw funds to pay for qualified expenses, owners of Individual Development Accounts must complete 1 or more financial education courses specified in the qualified individual development account program.

(2) STANDARD AND APPLICABILITY OF COURSE.—The Secretary, in consultation with representatives of qualified individual development account programs and financial educators, shall not later than January 1, 2004, establish minimum quality standards for the contents of financial education courses and providers of such courses described in paragraph (1) and a protocol to exempt individuals from the requirement under paragraph (1) in the case of hardship, lack of need, the attainment of age 65, or a qualified final distribution.

(c) PROOF OF STATUS AS AN ELIGIBLE INDIVIDUAL.—Federal income tax forms for the immediately preceding taxable year and any other evidence of eligibility which may be required by a qualified financial institution shall be presented to such institution at the time of the establishment of the Individual

Development Account and in any taxable year in which contributions are made to the Account to qualify for matching funds under section 506(b)(1)(A).

(d) SPECIAL RULE IN THE CASE OF MARRIED INDIVIDUALS.—For purposes of this title, if, with respect to any taxable year, 2 married individuals file a Federal joint income tax return, then not more than 1 of such individuals may be treated as an eligible individual with respect to the succeeding taxable year.

SEC. 506. DEPOSITS BY QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) PARALLEL ACCOUNTS.—The qualified financial institution shall deposit all matching funds for each Individual Development Account into a parallel account at a qualified financial institution.

(b) REGULAR DEPOSITS OF MATCHING FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), the qualified financial institution shall deposit into the parallel account with respect to each eligible individual the following amounts:

(A) A dollar-for-dollar match for the first $500 contributed by the eligible individual into an Individual Development Account with respect to any taxable year of such individual.

(B) Any matching funds provided by State, local, or private sources in accordance with the matching ratio set by those sources.

(2) TIMING OF DEPOSITS.—A deposit of the amounts described in paragraph (1) shall be made into a parallel account—

(A) in the case of amounts described in paragraph (1)(A), not later than 30 days after the end of the calendar quarter during which the contribution described in such paragraph was made, and

(B) in the case of amounts described in paragraph (1)(B), not later than 2 business days after such amounts were provided.

(3) CROSS REFERENCE.—

For allowance of tax credit for Individual Development Account subsidies, including matching funds, see section 45G of the Internal Revenue Code of 1986.

(c) DEPOSIT OF MATCHING FUNDS INTO INDIVIDUAL DEVELOPMENT ACCOUNT OF INDIVIDUAL WHO HAS ATTAINED AGE 65.—In the case of an Individual Development Account owner who attains the age of 65, the qualified financial institution shall deposit the funds in the parallel account with respect to such individual into the Individual Development Account of such individual on the later of—

(1) the day which is the 1-year anniversary of the deposit of such funds in the parallel account, or

(2) the first business day of the taxable year of such individual following the taxable year in which such individual attained age 65.

(d) UNIFORM ACCOUNTING REGULATIONS.—To ensure proper recordkeeping and determination of the tax credit under section 45G of the Internal Revenue Code of 1986, the Secretary shall prescribe regulations with respect to accounting for matching funds in the parallel accounts.

(e) REGULAR REPORTING OF ACCOUNTS.—Any qualified financial institution shall report the balances in any Individual Development Account and parallel account of an individual on not less than an annual basis to such individual.

SEC. 507. WITHDRAWAL PROCEDURES.

(a) WITHDRAWALS FOR QUALIFIED EXPENSES.—

(1) IN GENERAL.—An Individual Development Account owner may withdraw funds in order to pay qualified expense distributions from such individual's—

(A) Individual Development Account, but only from funds which have been on deposit in such Account for at least 1 year, and

(B) parallel account, but only—

(i) from matching funds which have been on deposit in such parallel account for at least 1 year,

(ii) from earnings in such parallel account, after all matching funds described in clause (i) have been withdrawn, and

(iii) to the extent such withdrawal does not result in a remaining balance in such parallel account which is less than the remaining balance in the Individual Development Account after such withdrawal.

(2) PROCEDURE.—Upon receipt of a withdrawal request which meets the requirements of paragraph (1), the qualified financial institution shall directly transfer the funds electronically to the distributees described in section 503(6)(A)(ii). If a distributee is not equipped to receive funds electronically, the qualified financial institution may issue such funds by paper check to the distributee.

(b) WITHDRAWALS FOR NONQUALIFIED EXPENSES.—An Individual Development Account owner may withdraw any amount of funds from the Individual Development Account for purposes other than to pay qualified expense distributions, but if, after such withdrawal, the amount in the parallel account of such owner (excluding earnings on matching funds) exceeds the amount remaining in such Individual Development Account, then such owner shall forfeit from the parallel account the lesser of such excess or the amount withdrawn.

(c) WITHDRAWALS FROM ACCOUNTS OF NONELIGIBLE INDIVIDUALS.—If the individual for whose benefit an Individual Development Account is established ceases to be an eligible individual, such account shall remain an Individual Development Account, but such individual shall not be eligible for any further matching funds under section 506(b)(1)(A) for contributions which are made to the Account during any taxable year when such individual is not an eligible individual.

(d) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year of the individual for whose benefit an Individual Development Account is established, that individual uses the Account, the individual's parallel account, or any portion thereof as security for a loan, the portion so used shall be treated as a withdrawal of such portion from the Individual Development Account for purposes other than to pay qualified expenses.

SEC. 508. CERTIFICATION AND TERMINATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) CERTIFICATION PROCEDURES.—Upon establishing a qualified individual development account program under section 504, a qualified financial institution shall certify to the Secretary at such time and in such manner as may be prescribed by the Secretary and accompanied by any documentation required by the Secretary, that—

(1) the accounts described in subparagraphs (A) and (B) of section 504(b)(1) are operating pursuant to all the provisions of this title, and

(2) the qualified financial institution agrees to implement an information system necessary to monitor the cost and outcomes of the qualified individual development account program.

(b) AUTHORITY TO TERMINATE QUALIFIED IDA PROGRAM.—If the Secretary determines that a qualified financial institution under this title is not operating a qualified individual development account program in accordance with the requirements of this title (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such institution's authority to conduct the program. If the Secretary is unable to identify a qualified financial institution to assume the authority to conduct such program, then any funds in a parallel account established for the benefit of any individual under such program shall be deposited into the Individual Development Account of such individual as of the first day of such termination.

SEC. 509. REPORTING, MONITORING, AND EVALUATION.

(a) RESPONSIBILITIES OF QUALIFIED FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Each qualified financial institution that operates a qualified individual development account program under section 504 shall report annually to the Secretary within 90 days after the end of each calendar year on—

(A) the number of individuals making contributions into Individual Development Accounts and the amounts contributed,

(B) the amounts contributed into Individual Development Accounts by eligible individuals and the amounts deposited into parallel accounts for matching funds,

(C) the amounts withdrawn from Individual Development Accounts and parallel accounts, and the purposes for which such amounts were withdrawn,

(D) the balances remaining in Individual Development Accounts and parallel accounts, and

(E) such other information needed to help the Secretary monitor the effectiveness of the qualified individual development account program (provided in a non-individually-identifiable manner).

(2) ADDITIONAL REPORTING REQUIREMENTS.—Each qualified financial institution that operates a qualified individual development account program under section 504 shall report at such time and in such manner as the Secretary may prescribe any additional information that the Secretary requires to be provided for purposes of administering and supervising the qualified individual development account program. This additional data may include, without limitation, identifying information about Individual Development Account owners, their Accounts, additions to the Accounts, and withdrawals from the Accounts.

(b) RESPONSIBILITIES OF THE SECRETARY.—

(1) MONITORING PROTOCOL.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop and implement a protocol and process to monitor the cost and outcomes of the qualified individual development account programs established under section 504.

(2) ANNUAL REPORTS.—For each year after 2004, the Secretary shall submit a progress report to Congress on the status of such qualified individual development account programs. Such report shall, to the extent data are available, include from a representative sample of qualified individual development account programs information on—

(A) the characteristics of participants, including age, gender, race or ethnicity, marital status, number of children, employment status, and monthly income,

(B) deposits, withdrawals, balances, uses of Individual Development Accounts, and participant characteristics,

(C) the characteristics of qualified individual development account programs, including match rate, economic education requirements, permissible uses of accounts, staffing of programs in full time employees, and the total costs of programs, and

(D) process information on program implementation and administration, especially on problems encountered and how problems were solved.

(3) REAUTHORIZATION REPORT ON COST AND OUTCOMES OF IDAS.—

(A) IN GENERAL.—Not later than July 1, 2008, the Secretary of the Treasury shall submit a report to Congress and the chairmen and ranking members of the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means, the Committee on Banking and Financial Services, and the Committee on Education and the Workforce of the House of Representatives, in which the Secretary shall—

(i) summarize the previously submitted annual reports required under paragraph (2),

(ii) from a representative sample of qualified individual development account programs, include an analysis of—

(I) the economic, social, and behavioral outcomes,

(II) the changes in savings rates, asset holdings, and household debt, and overall changes in economic stability,

(III) the changes in outlooks, attitudes, and behavior regarding savings strategies, investment, education, and family,

(IV) the integration into the financial mainstream, including decreased reliance on alternative financial services, and increase in acquisition of mainstream financial products, and

(V) the involvement in civic affairs, including neighborhood schools and associations, associated with participation in qualified individual development account programs,

(iii) from a representative sample of qualified individual development account programs, include a comparison of outcomes associated with such programs with outcomes associated with other Federal Government social and economic development programs, including asset building programs, and

(iv) make recommendations regarding the reauthorization of the qualified individual development account programs, including—

(I) recommendations regarding reforms that will improve the cost and outcomes of the such programs, including the ability to help low income families save and accumulate productive assets,

(II) recommendations regarding the appropriate levels of subsidies to provide effective incentives to financial institutions and Account owners under such programs, and

(III) recommendations regarding how such programs should be integrated into other Federal poverty reduction, asset building, and community development policies and programs.

(B) AUTHORIZATION.—There is authorized to be appropriated $2,500,000, for carrying out the purposes of this paragraph.

(4) USE OF ACCOUNTS IN RURAL AREAS ENCOURAGED.—The Secretary shall develop methods to encourage the use of Individual Development Accounts in rural areas.

SEC. 510. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $1,000,000 for fiscal year 2004 and for each fiscal year through 2012, for the purposes of implementing this title, including the reporting, monitoring, and evaluation required under section 509, to remain available until expended.

SEC. 511. MATCHING FUNDS FOR INDIVIDUAL DEVELOPMENT ACCOUNTS PROVIDED THROUGH A TAX CREDIT FOR QUALIFIED FINANCIAL INSTITUTIONS.

(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. INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT CREDIT.

"(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the individual development account investment credit determined under this section with respect to any eligible entity for any taxable year is an amount equal to the individual development account investment provided by such eligible entity during the taxable year under an individual development account program established under section 504 of the Savings for Working Families Act of 2004.

"(b) APPLICABLE TAX.—For the purposes of this section, the term 'applicable tax' means the excess (if any) of—

"(1) the tax imposed under this chapter (other than the taxes imposed under the provisions described in subparagraphs (C) through (Q) of section 26(b)(2)), over

"(2) the credits allowable under subpart B (other than this section) and subpart D of this part.

"(c) INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT.—For purposes of this section, the term 'individual development account investment' means, with respect to an individual development account program in any taxable year, an amount equal to the sum of—

"(1) the aggregate amount of dollar-for-dollar matches under such program under section 506(b)(1)(A) of the Savings for Working Families Act of 2004 for such taxable year, plus

"(2) $50 with respect to each Individual Development Account maintained—

"(A) as of the end of such taxable year, but only if such taxable year is within the 7-taxable-year period beginning with the taxable year in which such Account is opened, and

"(B) with a balance of not less than $100 (other than the taxable year in which such Account is opened).

"(d) ELIGIBLE ENTITY.—For purposes of this section, except as provided in regulations, the term 'eligible entity' means a qualified financial institution.

"(e) OTHER DEFINITIONS.—For purposes of this section, any term used in this section and also in the Savings for Working Families Act of 2004 shall have the meaning given such term by such Act.

"(f) DENIAL OF DOUBLE BENEFIT.—

"(1) IN GENERAL.—No deduction or credit (other than under this section) shall be allowed under this chapter with respect to any expense which—

"(A) is taken into account under subsection (c)(1)(A) in determining the credit under this section, or

"(B) is attributable to the maintenance of an Individual Development Account.

"(2) DETERMINATION OF AMOUNT.—Solely for purposes of paragraph (1)(B), the amount attributable to the maintenance of an Individual Development Account shall be deemed to be the dollar amount of the credit allowed under subsection (c)(1)(B) for each taxable year such Individual Development Account is maintained.

"(g) CREDIT MAY BE TRANSFERRED.—

"(1) IN GENERAL.—An eligible entity may transfer any credit allowable to the eligible entity under subsection (a) to any person other than to another eligible entity which is exempt from tax under this title. The determination as to whether a credit is allowable shall be made without regard to the tax-exempt status of the eligible entity.

"(2) CONSENT REQUIRED FOR REVOCATION.—Any transfer under paragraph (1) may be revoked only with the consent of the Secretary.

"(h) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including

"(1) such regulations as necessary to insure that any credit described in subsection (g)(1) is claimed once and not retransferred by a transferee, and

"(2) regulations providing for a recapture of the credit allowed under this section (notwithstanding any termination date described in subsection (i)) in cases where there is a forfeiture under section 507(b) of the Savings for Working Families Act of 2004 in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.

"(i) APPLICATION OF SECTION.—

"(1) IN GENERAL.—This section shall apply to any expenditure made in any taxable year ending after December 31, 2004, and beginning on or before January 1, 2012, with respect to any Individual Development Account which—

"(A) is opened before January 1, 2012, and

"(B) as determined by the Secretary, when added to all of the previously opened Individual Development Accounts, does not exceed—

"(i) 100,000 Accounts if opened after December 31, 2004, and before January 1, 2007,

"(ii) an additional 100,000 Accounts if opened after December 31, 2006, and before January 1, 2009, but only if, except as provided in paragraph (4), the total number of Accounts described in clause (i) are opened and the Secretary determines that such Accounts are being reasonably and responsibly administered, and

"(iii) an additional 100,000 Accounts if opened after December 31, 2008, and before January 1, 2012, but only if the total number of Accounts described in clauses (i) and (ii) are opened and the Secretary makes a determination described in paragraph (2).

Notwithstanding the preceding sentence, this section shall apply to amounts which are described in subsection (c)(1)(A) and which are timely deposited into a parallel account during the 30-day period following the end of last taxable year beginning before January 1, 2012.

"(2) DETERMINATION WITH RESPECT TO THIRD GROUP OF ACCOUNTS.—A determination is described in this paragraph if the Secretary determines that—

"(A) substantially all of the previously opened Accounts have been reasonably and responsibly administered prior to the date of the determination,

"(B) the individual development account programs have increased net savings of participants in the programs,

"(C) participants in the individual development account programs have increased Federal income tax liability and decreased utilization of Federal assistance programs relative to similarly situated individuals that did not participate in the individual development account programs, and

"(D) the sum of the estimated increased Federal tax liability and reduction of Federal assistance program benefits to participants in the individual development account programs is greater than the cost of the individual development account programs to the Federal government.

"(3) DETERMINATION OF LIMITATION.—The limitation on the number of Individual Development Accounts under paragraph (1)(B) shall be allocated by the Secretary among qualified individual development account programs selected by the Secretary and, in the case of the limitation under clause (iii) of such paragraph, shall be equally divided among the States.

"(4) SPECIAL RULE IF SMALLER NUMBER OF ACCOUNTS ARE OPENED.—For purposes of paragraph (1)(B)(ii)—

"(i) IN GENERAL.—If less than 100,000 Accounts are opened before January 1, 2007,

such paragraph shall be applied by substituting ''applicable number of Accounts' for '100,000 Accounts'.

''(ii) APPLICABLE NUMBER.—For purposes of clause (i), the applicable number equals the lesser of—

''(I) 75,000, or

''(II) 3 times the number of Accounts opened before January 1, 2007.''.

(b) CREDIT TREATED AS 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 individual development account investment credit determined under section 45G(a).''.

(c) NO CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(11) 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 individual development account investment credit determined under section 45G may be carried back to a taxable year ending before January 1, 2004.''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45G. Individual development account investment credit.''.

(e) REPORT REGARDING ACCOUNT MAINTENANCE FEES.—The Secretary of the Treasury shall study the adequacy of the amount specified in section 45G(c)(2) of the Internal Revenue Code of 1986 (as added by this section). Not later than December 31, 2009, the Secretary of the Treasury shall report the findings of the study described in the preceding sentence to Congress.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2004.

SEC. 512. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN MEANS-TESTED FEDERAL PROGRAMS.

Notwithstanding any other provision of Federal law (other than the Internal Revenue Code of 1986) that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, any amount (including earnings thereon) in any Individual Development Account of such individual and any matching deposit made on behalf of such individual (including earnings thereon) in any parallel account shall be disregarded for such purpose with respect to any period during which such individual maintains or makes contributions into such Individual Development Account.

TITLE VI—MANAGEMENT OF EXEMPT ORGANIZATIONS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Treasury $80,000,000 for each fiscal year to carry out the administration of exempt organizations by the Internal Revenue Service.

(b) IMPLEMENTATION OF SECTION 527.—There is authorized to be appropriated to the Secretary of the Treasury $3,000,000 to carry out the provisions of Public Laws 106–230 and 107–276 relating to section 527 of the Internal Revenue Code of 1986.

TITLE VII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 701. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701, as amended by this Act, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(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 and, if there is any Federal tax effects, also apart from any foreign, State, or local 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.

''(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 subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and 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 15, 2004.

SEC. 702. 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.—The term 'high net worth individual' means, with respect to a 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. 703. 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 COMPROMISE OF PENALTY.—

''(A) 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 paragraph (1) applies, 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 continuing 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. 704. 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 applies.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (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 15, 2004.

SEC. 705. 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. 706. 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. 707. 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, 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) EFFECTIVE DATE.—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.

SEC. 708. 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 reportable 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) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) 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. 709. 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. 710. 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. 711. 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. 712. 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. 713. 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. 714. 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.''.

(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. 715. 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. 716. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) 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 tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 717. 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. 718. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2002, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Provisions

SEC. 721. 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. 722. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 723. SECURITIES CIVIL ENFORCEMENT PROVISIONS.

(a) AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.—

(1) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

''(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

''(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

''(3) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether the penalty is in the public interest. Such evidence may relate to the extent of the person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of that person and the amount of the assets of that person.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(A) in paragraph (4), by striking ''supervision;'' and all that follows through the end of the subsection and inserting ''supervision.'';

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(1) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(3) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(A) in subparagraph (C), by striking ''therein;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(4) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(A) in subparagraph (D), by striking ''supervision;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(B) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(b) INCREASED MAXIMUM CIVIL MONEY PENALTIES.—

(1) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by striking ''$5,000'' and inserting ''$100,000''; and

(ii) by striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B)(i)—

(i) by striking ''$50,000'' and inserting ''$500,000''; and

(ii) by striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C)(i)—

(i) by striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) by striking ''$500,000'' and inserting ''$2,000,000''.

(2) SECURITIES EXCHANGE ACT OF 1934.—

(A) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(i) in subsection (b), by striking ''$100'' and inserting ''$10,000''; and

(ii) in subsection (c)—

(I) in paragraph (1)(B), by striking ''$10,000'' and inserting ''$500,000''; and

(II) in paragraph (2)(B), by striking ''$10,000'' and inserting ''$500,000''.

(B) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is amended by striking ''$1,000,000'' and inserting ''$2,000,000''.

(C) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(i) in paragraph (1)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in paragraph (2)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in paragraph (3)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(D) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(i) in clause (i)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in clause (ii)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in clause (iii)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(3) INVESTMENT COMPANY ACT OF 1940.—

(A) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(B) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(4) INVESTMENT ADVISERS ACT OF 1940.—

(A) REGISTRATION.—Section 203(i)(2) of the Investment advisers Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(B) ENFORCEMENT OF INVESTMENT ADVISERS ACT.—Section 209(e)(2) of the Investment advisers Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(c) AUTHORITY TO OBTAIN FINANCIAL RECORDS.—Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking ''(9)(A)'' and all that follows through ''(B) The'' and inserting ''(3) The'';

(3) by inserting after paragraph (1), the following:

''(2) ACCESS TO FINANCIAL RECORDS.—

''(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

''(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

''(i) result in the transfer of assets or records outside the territorial limits of the United States;

''(ii) result in improper conversion of investor assets;

''(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

''(iv) endanger the life or physical safety of an individual;

''(v) result in flight from prosecution;

''(vi) result in destruction of or tampering with evidence;

''(vii) result in intimidation of potential witnesses; or

''(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.

''(C) TRANSFER OF RECORDS TO GOVERNMENT AUTHORITIES.—The Commission may transfer financial records or the information contained therein to any government authority, if the Commission proceeds as a transferring agency in accordance with section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412), except that a customer notice shall not be required under subsection (b) or (c) of that section 1112, if the Commission determines that there is reason to believe that such notification may result in or lead to any of the factors identified under clauses (i) through (viii) of subparagraph (B) of this paragraph.'';

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

SEC. 724. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

''(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in

connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

''(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

''(i) at least 25 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2004; and

''(ii) at least 50 percent of all such determinations that are made in fiscal year 2005 or thereafter.

''(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.''.

TITLE VIII—COMPASSION CAPITAL FUND

SEC. 801. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Secretary of Health and Human Services (referred to in this section as ''the Secretary'') may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of nonprofit community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) SUPPORT FOR STATES.—The Secretary—

(1) may award grants to and enter into cooperative agreements with States and political subdivisions of States to provide seed money to establish State and local offices of faith-based and community initiatives; and

(2) shall provide technical assistance to States and political subdivisions of States in administering the provisions of this Act.

(c) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $85,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(f) DEFINITION.—In this section, the term ''community-based organization'' means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 802. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Corporation for National and Community Service (referred to in this section as ''the Corporation'') may award grants to and enter into cooperative agreements with nongovernmental organizations and State Commissions on National and Community Service established under section 178 of the National and Community Service Act of 1990 (42 U.S.C. 12638), to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State Commission, State, or political subdivision shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require.

(c) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) DEFINITION.—In this section, the term ''community-based organization'' means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 803. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF JUSTICE.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Attorney General may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of nonprofit community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require.

(c) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Attorney General) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) DEFINITION.—In this section, the term ''community-based organization'' means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 804. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Secretary of Housing and

Urban Development (referred to in this section ''the Secretary'') may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) DEFINITION.—In this section, the term ''community-based organization'' means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 805. COORDINATION.

The Secretary of Health and Human Services, the Corporation for National and Community Service, the Attorney General, and the Secretary of Housing and Urban Development shall coordinate their activities under this title to ensure—

(1) nonduplication of activities under this title; and

(2) an equitable distribution of resources under this title.

TITLE IX—MATERNITY GROUP HOMES

SEC. 901. MATERNITY GROUP HOMES.

(a) PERMISSIBLE USE OF FUNDS.—Section 322 of the Runaway and Homeless Youth Act (42 U.S.C. 5714–2) is amended—

(1) in subsection (a)(1), by inserting ''(including maternity group homes)'' after ''group homes''; and

(2) by adding at the end the following:

''(c) MATERNITY GROUP HOME.—In this part, the term 'maternity group home' means a community-based, adult-supervised group home that provides young mothers and their children with a supportive and supervised living arrangement in which such mothers are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.''.

(b) CONTRACT FOR EVALUATION.—Part B of the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended by adding at the end the following:

''SEC. 323. CONTRACT FOR EVALUATION.

''(a) IN GENERAL.—The Secretary shall enter into a contract with a public or private entity for an evaluation of the maternity group homes that are supported by grant funds under this Act.

''(b) INFORMATION.—The evaluation described in subsection (a) shall include the collection of information about the relevant characteristics of individuals who benefit from maternity group homes such as those that are supported by grant funds under this Act and what services provided by those maternity group homes are most beneficial to such individuals.

''(c) REPORT.—Not later than 2 years after the date on which the Secretary enters into a contract for an evaluation under subsection (a), and biennially thereafter, the entity conducting the evaluation under this section shall submit to Congress a report on the status, activities, and accomplishments of maternity group homes that are supported by grant funds under this Act.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 388 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) in subsection (a)(1)—

(A) by striking ''There'' and inserting the following:

''(A) IN GENERAL.—There'';

(B) in subparagraph (A), as redesignated, by inserting ''and the purpose described in subparagraph (B)'' after ''other than part E''; and

(C) by adding at the end the following:

''(B) MATERNITY GROUP HOMES.—There is authorized to be appropriated, for maternity group homes eligible for assistance under section 322(a)(1)—

''(i) $33,000,000 for fiscal year 2003; and

''(ii) such sums as may be necessary for fiscal year 2004.''; and

(2) in subsection (a)(2)(A), by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''.

SA 3039. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 632 and insert the following:

SEC. 632. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

''SEC. 45H. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—

''(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

''(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reason other than to participate in qualified active duty).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following:

''(17) the Ready Reserve-National Guard employee credit determined under section 45H(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting ''45H(a),'' after ''45A(a),''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45G the following:

''Sec. 45H. Ready Reserve-National Guard employee credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after October 6, 2001, in taxable years ending after such date.

SA 3040. Mr. NICKLES (for himself and Mr. THOMAS) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of the instructions, add the following:

SEC. ___. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property), as amended by this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and by inserting '', and'', and by adding at the end the following new clause:

''(v) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale the original use of which commences with the taxpayer after the date of the enactment of this clause.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iv) the following:

''(E)(v) ..... 30''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 3041. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the instruction, insert:

SEC. ___. MANUFACTURER'S JOBS CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45G. MANUFACTURER'S JOBS CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the manufacturer's jobs credit determined under this section is an amount equal to the lesser of the following:

''(1) The excess of the W–2 wages paid by the taxpayer during the taxable year over the W–2 wages paid by the taxpayer during the preceding taxable year.

''(2) The W–2 wages paid by the taxpayer during the taxable year to any employee who is an eligible TAA recipient (as defined in section 35(c)(2)) for any month during such taxable year.

''(3) 22.4 percent of the W–2 wages paid by the taxpayer during the taxable year.

''(b) LIMITATION.—

''(1) IN GENERAL.—If there is an excess described in paragraph (2)(A) for any taxable year, the amount of credit determined under subsection (a) (without regard to this subsection)—

''(A) if the value of domestic production determined under subsection (g)(2) for the taxable year does not exceed such value for the preceding taxable year, shall be zero, and

''(B) if subparagraph (A) does not apply, shall be reduced (but not below zero) by the applicable percentage of such amount.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any taxable year, the percentage equal to a fraction—

''(A) the numerator of which is the excess (if any) of the modified value of worldwide production of the taxpayer for the taxable year over such modified value for the preceding taxable year, and

''(B) the denominator of which is the excess (if any) of the value of worldwide production of the taxpayer for the taxable year over such value for the preceding taxable year.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) VALUE OF WORLDWIDE PRODUCTION.—The value of worldwide production for any taxable year shall be determined under subsection (g)(4).

''(B) MODIFIED VALUE.—The term 'modified value of worldwide production' means the value of worldwide production determined by not taking into account any item taken into account in determining the value of domestic production under subsection (g)(2).

''(c) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any taxpayer—

''(1) which has domestic production gross receipts for the taxable year and the preceding taxable year, and

''(2) which is not treated at any time during the taxable year as an inverted domestic corporation under section 7874.

''(d) DEFINITIONS.—For purposes of this section—

''(1) IN GENERAL.—Any term used in this section which is also used in section 199 shall have the meaning given such term by section 199.

''(2) SPECIAL RULE FOR W–2 WAGES.—Notwithstanding paragraph (1), the amount of W–2 wages taken into account with respect to any employee for any taxable year shall not exceed $50,000.

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2005.''

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the manufacturer's jobs credit determined under section 45G.''

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45G. Manufacturer's jobs credit.''

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

SA 3042. Mr. WYDEN (for himself, Mr. COLEMAN, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings of the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

TITLE V—TRADE ADJUSTMENT ASSISTANCE

Subtitle A—Service Workers

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance Equity For Service Workers Act of 2004''.

SEC. 512. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking ''firm)'' and inserting ''firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)''.

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (1), by inserting ''or public agency'' after ''of the firm''; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''like or directly competitive with articles produced'' and inserting ''or services like or directly competitive with articles produced or services provided''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided, by such firm, subdivision, or public agency; or

''(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (2), by inserting ''or service'' after ''related to the article''; and

(C) in paragraph (3)(A), by inserting ''or services'' after ''component parts'';

(3) in subsection (c)—

(A) in paragraph (2), by adding at the end the following:

''(C) Taconite pellets produced in the United States shall be considered to be an article that is like or directly competitive with imports of semifinished steel slab.''.

(B) in paragraph (3)—

(i) by inserting ''or services'' after ''value-added production processes'';

(ii) by striking ''or finishing'' and inserting '', finishing, or testing'';

(iii) by inserting ''or services'' after ''for articles''; and

(iv) by inserting ''(or subdivision)'' after ''such other firm''; and

(C) in paragraph (4)—

(i) by striking ''for articles'' and inserting '', or services, used in the production of articles or in the provision of services''; and

(ii) by inserting ''(or subdivision)'' after ''such other firm''; and

(4) by adding at the end the following new subsection:

''(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

''(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a firm in a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

''(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.''.

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking ''$220,000,000'' and inserting ''$440,000,000''.

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting ''or public agency'' after ''of a firm''; and

(B) by inserting ''or public agency'' after ''or subdivision'';

(2) in paragraph (2)(B), by inserting ''or public agency'' after ''the firm'';

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

''(8) The term 'service sector firm' means an entity engaged in the business of providing services.''.

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking '', other than subchapter D''.

SEC. 513. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—

(1) ASSISTANCE.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting ''or service sector firm'' after ''(including any agricultural firm'';

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting ''or service sector firm'' after ''any agricultural firm'';

(ii) in subparagraph (B)(ii), by inserting ''or service'' after ''of an article''; and

(iii) in subparagraph (C), by striking ''articles like or directly competitive with articles which are produced'' and inserting ''articles or services like or directly competitive with articles or services which are produced or provided''; and

(C) by adding at the end the following:

''(e) BASIS FOR SECRETARY DETERMINATION.—

''(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive articles or services exist if customers accounting for not less than 20 percent of the sales of the workers' firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The Secretary may exercise the authority under section 249 in carrying out this subsection.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''$16,000,000'' and inserting ''$32,000,000''.

(3) DEFINITION.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(A) by striking ''For purposes of'' and inserting ''(a) FIRM.—For purposes of''; and

(B) by adding at the end the following:

''(b) SERVICE SECTOR FIRM.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.''.

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting ''or service'' after ''new product''.

SEC. 514. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking ''The Secretary'' and inserting ''(a) MONITORING PROGRAMS.—The Secretary'';

(B) by inserting ''and services'' after ''imports of articles'';

(C) by inserting ''and domestic provision of services'' after ''domestic production'';

(D) by inserting ''or providing services'' after ''producing articles''; and

(E) by inserting '', or provision of services,'' after ''changes in production''; and

(2) by adding at the end the following:

''(b) COLLECTION OF DATA AND REPORTS ON SERVICES SECTOR.—

''(1) SECRETARY OF LABOR.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Equity For Service Workers Act of 2004, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

''(2) SECRETARY OF COMMERCE.—Not later than 6 months after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.''.

SEC. 515. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.

IN GENERAL.—Section 246(a)(3) of the Trade Act of 1974 (19 U.S.C. 2318(a)(3)) is amended to read as follows:

''(3) ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

''(A) is covered by a certification under subchapter A of this chapter;

''(B) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

''(C) is at least 40 years of age;

''(D) earns not more than $50,000 a year in wages from reemployment;

''(E) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

''(F) does not return to the employment from which the worker was separated.''.

(b) CONFORMING AMENDMENTS.—(1) Subparagraphs (A) and (B) of section 246(a)(2) of the Trade Act of 1974 (19 U.S.C. 2318(a)(2) (A) and (B)) are amended by striking ''paragraph (3)(B)'' and inserting ''paragraph (3)'' each place it appears.

(2) Section 246(b)(2) of such Act is amended by striking ''subsection (a)(3)(B)'' and inserting ''subsection (a)(3)''.

SEC. 516. CLARIFICATION OF MARKETING YEAR.

Section 291(5) of the Trade Act of 1974 (19 U.S.C. 2401(5)) is amended by inserting before the end period the following: '', or in the case of an agricultural commodity that has no marketing year, in a 12-month period for which the petitioner provides written justification''.

SEC. 517. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall take effect on October 1, 2004.

(b) SPECIAL RULE FOR CERTAIN SERVICE WORKERS.—A group of workers in a service sector firm, or subdivision of a service sector firm, or public agency (as defined in section 247 (7) and (8) of the Trade Act of 1974, as added by section 512(d) of this Act) who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm or public agency occurred on or after November 4, 2002 and before October 1, 2004.

(c) SPECIAL RULE FOR TACONITE.—A group of workers in a firm, or subdivision of a firm, engaged in the production of taconite pellets who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm occurred on or after November 4, 2002 and before October 1, 2004.

Subtitle B—Data Collection

SEC. 521. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance Accountability Act''.

SEC. 522. DATA COLLECTION; STUDY; INFORMATION TO WORKERS.

(a) DATA COLLECTION; EVALUATIONS.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 249, the following new section:

''SEC. 250. DATA COLLECTION; EVALUATIONS; REPORTS.

''(a) DATA COLLECTION.—The Secretary shall, pursuant to regulations prescribed by the Secretary, collect any data necessary to meet the requirements of this chapter.

''(b) PERFORMANCE EVALUATIONS.—The Secretary shall establish an effective performance measuring system to evaluate the following:

''(1) PROGRAM PERFORMANCE.—A comparison of the trade adjustment assistance program before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002 with respect to—

''(A) the number of workers certified and the number of workers actually participating in the trade adjustment assistance program;

''(B) the time for processing petitions;

''(C) the number of training waivers granted;

''(D) the coordination of programs under this chapter with programs under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

''(E) the effectiveness of individual training providers in providing appropriate information and training;

''(F) the extent to which States have designed and implemented health care coverage options under title II of the Trade Act of 2002, including any difficulties States have encountered in carrying out the provisions of title II;

''(G) how Federal, State, and local officials are implementing the trade adjustment assistance program to ensure that all eligible individuals receive benefits, including providing outreach, rapid response, and other activities; and

''(H) any other data necessary to evaluate how individual States are implementing the requirements of this chapter.

''(2) PROGRAM PARTICIPATION .—The effectiveness of the program relating to—

''(A) the number of workers receiving benefits and the type of benefits being received both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

''(B) the number of workers enrolled in, and the duration of, training by major types of training both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

''(C) earnings history of workers that reflects wages before separation and wages in any job obtained after receiving benefits under this Act;

''(D) reemployment rates and sectors in which dislocated workers have been employed;

''(E) the cause of dislocation identified in each petition that resulted in a certification under this chapter; and

''(F) the number of petitions filed and workers certified in each congressional district of the United States.

''(c) STATE PARTICIPATION.—The Secretary shall ensure, to the extent practicable, through oversight and effective internal control measures the following:

''(1) STATE PARTICIPATION.—Participation by each State in the performance measurement system established under subsection (b).

''(2) MONITORING.—Monitoring by each State of internal control measures with respect to performance measurement data collected by each State.

''(3) RESPONSE.—The quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)).

''(d) REPORTS.—

''(1) REPORTS BY THE SECRETARY.—

''(A) INITIAL REPORT.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Accountability Act, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that—

''(i) describes the performance measurement system established under subsection (b);

''(ii) includes analysis of data collected through the system established under subsection (b); and

''(iii) provides recommendations for program improvements.

''(B) ANNUAL REPORT.—Not later than 1 year after the date the report is submitted under subparagraph (A), and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes the information collected under clause (ii) of subparagraph (A).

''(2) STATE REPORTS.—Pursuant to regulations prescribed by the Secretary, each State shall submit to the Secretary a report that details its participation in the programs established under this chapter, and that contains the data necessary to allow the Secretary to submit the report required under paragraph (1).

''(3) PUBLICATION.—The Secretary shall make available to each State, and other public and private organizations as determined by the Secretary, the data gathered and evaluated through the performance measurement system established under subsection (b).''.

(b) CONFORMING AMENDMENTS.—

(1) COORDINATION.—Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended by striking ''Departments of Labor and Commerce'' and inserting ''Departments of Labor, Commerce, and Agriculture''.

(2) TRADE MONITORING SYSTEM.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended by striking ''The Secretary of Commerce and the Secretary of Labor'' and inserting ''The Secretaries of Commerce, Labor, and Agriculture''.

(3) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 249, the following new item:

''Sec. 250. Data collection; evaluations; reports.''.

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

Subtitle C—Trade Adjustment Assistance for Communities

SEC. 531. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance for Communities Act of 2004''.

SEC. 532. PURPOSE.

The purpose of this subtitle is to assist communities negatively impacted by trade with economic adjustment through the integration of political and economic organizations, the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the provision of economic transition assistance.

SEC. 533. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read as follows:

"CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

"SEC. 271. DEFINITIONS.

''In this chapter:

''(1) AFFECTED DOMESTIC PRODUCER.—The term 'affected domestic producer' means any manufacturer, producer, service provider, farmer, rancher, fisherman or worker representative (including associations of such persons) that was affected by a finding under the Antidumping Act of 1921, or by an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

''(3) COMMUNITY.—The term 'community' means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State that the Secretary certifies as being negatively impacted by trade.

''(4) COMMUNITY NEGATIVELY IMPACTED BY TRADE.—A community negatively impacted by trade means a community with respect to which a determination has been made under section 273.

''(5) ELIGIBLE COMMUNITY.—The term 'eligible community' means a community certified under section 273 for assistance under this chapter.

''(6) FISHERMAN.—

''(A) IN GENERAL.—The term 'fisherman' means any person who—

''(i) is engaged in commercial fishing; or

''(ii) is a United States fish processor.

''(B) COMMERCIAL FISHING, FISH, FISHERY, FISHING, FISHING VESSEL, PERSON, AND UNITED STATES FISH PROCESSOR.—The terms 'commercial fishing', 'fish', 'fishery', 'fishing', 'fishing vessel', 'person', and 'United States fish processor' have the same meanings as such terms have in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(7) JOB LOSS.—The term 'job loss' means the total or partial separation of an individual, as those terms are defined in section 247.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—Within 6 months after the date of enactment of the Trade Adjustment Assistance for Communities Act of 2004, the Secretary shall establish a Trade Adjustment Assistance for Communities Program at the Department of Commerce.

''(b) PERSONNEL.—The Secretary shall designate such staff as may be necessary to carry out the responsibilities described in this chapter.

''(c) COORDINATION OF FEDERAL RESPONSE.—The Secretary shall—

''(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

''(2) coordinate the Federal response to an eligible community—

''(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

''(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

''(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning economic adjustment for an eligible community; and

''(D) by identifying and strengthening existing agency mechanisms designed to assist eligible communities in their efforts to achieve economic adjustment and workforce reemployment;

''(3) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

''(A) identify serious economic problems in the community that are the result of negative impacts from trade;

''(B) integrate the major groups and organizations significantly affected by the economic adjustment;

''(C) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;

''(D) diversify and strengthen the community economy; and

''(E) develop a community-based strategic plan to address economic development and

workforce dislocation, including unemployment among agricultural commodity producers, and fishermen;

''(4) establish specific criteria for submission and evaluation of a strategic plan submitted under section 274(d);

''(5) establish specific criteria for submitting and evaluating applications for grants under section 275;

''(6) administer the grant programs established under sections 274 and 275; and

''(7) establish an interagency Trade Adjustment Assistance for Communities Working Group, consisting of the representatives of any Federal department or agency with responsibility for economic adjustment assistance, including the Department of Agriculture, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the Department of Commerce, and any other Federal, State, or regional department or agency the Secretary determines necessary or appropriate.

''SEC. 273. CERTIFICATION AND NOTIFICATION.

''(a) CERTIFICATION.—Not later than 45 days after an event described in subsection (c)(1), the Secretary of Commerce shall determine if a community described in subsection (b)(1) is negatively impacted by trade, and if a positive determination is made, shall certify the community for assistance under this chapter.

''(b) DETERMINATION THAT COMMUNITY IS ELIGIBLE.—

''(1) COMMUNITY DESCRIBED.—A community described in this paragraph means a community with respect to which on or after October 1, 2004—

''(A) the Secretary of Labor certifies a group of workers (or their authorized representative) in the community as eligible for assistance pursuant to section 223;

''(B) the Secretary of Commerce certifies a firm located in the community as eligible for adjustment assistance under section 251;

''(C) the Secretary of Agriculture certifies a group of agricultural commodity producers (or their authorized representative) in the community as eligible for adjustment assistance under section 293;

''(D) an affected domestic producer is located in the community; or

''(E) the Secretary determines that a significant number of fishermen in the community is negatively impacted by trade.

''(2) NEGATIVELY IMPACTED BY TRADE.—The Secretary shall determine that a community is negatively impacted by trade, after taking into consideration—

''(A) the number of jobs affected compared to the size of workforce in the community;

''(B) the severity of the rates of unemployment in the community and the duration of the unemployment in the community;

''(C) the income levels and the extent of underemployment in the community;

''(D) the outmigration of population from the community and the extent to which the outmigration is causing economic injury in the community; and

''(E) the unique problems and needs of the community.

''(c) DEFINITION AND SPECIAL RULES.—

''(1) EVENT DESCRIBED.—An event described in this paragraph means one of the following:

''(A) A notification described in paragraph (2).

''(B) A certification of a firm under section 251.

''(C) A finding under the Antidumping Act of 1921, or an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(D) A determination by the Secretary that a significant number of fishermen in a community have been negatively impacted by trade.

''(2) NOTIFICATION.—The Secretary of Labor, immediately upon making a determination that a group of workers is eligible for trade adjustment assistance under section 223, (or the Secretary of Agriculture, immediately upon making a determination that a group of agricultural commodity producers is eligible for adjustment assistance under section 293, as the case may be) shall notify the Secretary of Commerce of the determination.

''(d) NOTIFICATION TO ELIGIBLE COMMUNITIES.—Immediately upon certification by the Secretary of Commerce that a community is eligible for assistance under subsection (b), the Secretary shall notify the community—

''(1) of the determination under subsection (b);

''(2) of the provisions of this chapter;

''(3) how to access the clearinghouse established by the Department of Commerce regarding available economic assistance;

''(4) how to obtain technical assistance provided under section 272(c)(3); and

''(5) how to obtain grants, tax credits, low income loans, and other appropriate economic assistance.

''SEC. 274. STRATEGIC PLANS.

''(a) IN GENERAL.—An eligible community may develop a strategic plan for community economic adjustment and diversification.

''(b) REQUIREMENTS FOR STRATEGIC PLAN.—A strategic plan shall contain, at a minimum, the following:

''(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used.

''(2) A description of the commitment of the community to the strategic plan over the long term and the participation and input of groups affected by economic dislocation.

''(3) A description of the projects to be undertaken by the eligible community.

''(4) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.

''(5) A description of how the plan will achieve economic adjustment and diversification.

''(6) A description of how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.

''(7) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.

''(8) A description of how the plan will address the occupational and workforce conditions in the eligible community.

''(9) A description of the educational programs available for workforce training and future employment needs.

''(10) A description of how the plan will adapt to changing markets and business cycles.

''(11) A description and justification for the cost and timing of the total funds required by the community for economic assistance.

''(12) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.

''(c) GRANTS TO DEVELOP STRATEGIC PLANS.—The Secretary, upon receipt of an application from an eligible community, may award a grant to that community to be used to develop the strategic plan.

''(d) SUBMISSION OF PLAN.—A strategic plan developed under subsection (a) shall be submitted to the Secretary for evaluation and approval.

''SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, upon approval of a strategic plan from an eligible community, may award a grant to that community to carry out any project or program that is certified by the Secretary to be included in the strategic plan approved under section 274(d), or consistent with that plan.

''(b) ADDITIONAL GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), in order to assist eligible communities to obtain funds under Federal grant programs, other than the grants provided for in section 274(c) or subsection (a), the Secretary may, on the application of an eligible community, make a supplemental grant to the community if—

''(A) the purpose of the grant program from which the grant is made is to provide technical or other assistance for planning, constructing, or equipping public works facilities or to provide assistance for public service projects; and

''(B) the grant is 1 for which the community is eligible except for the community's inability to meet the non-Federal share requirements of the grant program.

''(2) USE AS NON-FEDERAL SHARE.—A supplemental grant made under this subsection may be used to provide the non-Federal share of a project, unless the total Federal contribution to the project for which the grant is being made exceeds 80 percent and that excess is not permitted by law.

''(c) RURAL COMMUNITY PREFERENCE.—The Secretary shall develop guidelines to ensure that rural communities receive preference in the allocation of resources.

''SEC. 276. GENERAL PROVISIONS.

''(a) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter. Before implementing any regulation or guideline proposed by the Secretary with respect to this chapter, the Secretary shall submit the regulation or guideline to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for approval.

''(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $100,000,000 for each of fiscal years 2005 through 2008, to carry out this chapter. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

SEC. 534. CONFORMING AMENDMENTS.

(a) TERMINATION.—Section 285(b) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by adding at the end the following new paragraph:

''(3) ASSISTANCE FOR COMMUNITIES.—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2008.''.

(b) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting after the items relating to chapter 3 the following new items:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''Sec. 271. Definitions.
''Sec. 272. Community Trade Adjustment Assistance Program.
''Sec. 273. Certification and notification.
''Sec. 274. Strategic plans.
''Sec. 275. Grants for economic development.
''Sec. 276. General provisions.''.

(c) JUDICIAL REVIEW.—Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by striking ''section 271'' and inserting ''section 273''.

SEC. 535. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on October 1, 2004.

Subtitle D—Office of Trade Adjustment Assistance

SEC. 541. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance for Firms Reorganization Act''.

SEC. 542. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following new section:

''SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Trade Adjustment Assistance for Firms Reorganization Act, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance.

''(b) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.

''(c) FUNCTIONS.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following new item:

''Sec. 255A. Office of Trade Adjustment Assistance.''.

SEC. 543. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the earlier of—

(1) the date of the enactment of this Act; or

(2) October 1, 2004.

TITLE VI—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 601. CLARIFICATION OF 3-MONTH REQUIREMENT OF EXISTING COVERAGE.

(a) IN GENERAL.—Clause (i) of section 35(e)(2)(B) of the Internal Revenue Code of 1986 (defining qualifying individual) is amended by inserting ''(prior to the employment separation necessary to attain the status of an eligible individual)'' after ''9801(c)''.

(b) CONFORMING AMENDMENT.—Section 173(f)(2)(B)(ii)(I) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)(ii)(I)) is amended by inserting ''(prior to the employment separation necessary to attain the status of an eligible individual)'' after ''1986''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 602. DISREGARD OF TAA PRE-CERTIFICATION PERIOD FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4)(C).''.

(b) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4)(C).''.

(c) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following:

''(D) TAA-ELIGIBLE INDIVIDUALS.—

''(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary of Labor (or by any person or entity designated by the Secretary of Labor) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 4980B(f)(5)(C)(iv).''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 603. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''75''.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''75''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 604. EXPEDITED REFUND OF CREDIT FOR PRORATED FIRST MONTHLY PREMIUM.

(a) IN GENERAL.—Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following:

''(e) EXPEDITED PAYMENT OF PRORATED FIRST MONTHLY PREMIUM.—The program established under subsection (a) shall provide for payment to a certified individual of an amount equal to the applicable percentage (as defined in section 35(a)(2)) of the prorated first monthly premium for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months upon receipt by the Secretary of evidence of payment of such premium by the certified individual.''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PRODUCTION AND PRICE COMPETITIVENESS

Mr. COCHRAN. Mr. President, I announce that the Subcommittee on Production and Price Competitiveness of the Committee on Agriculture, Nutrition, and Forestry will conduct a field hearing on April 13, 2004 in Smithfield North Carolina at 10 a.m. The purpose of this hearing will be to discuss the necessity of a tobacco quota buyout.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, April 7, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on S. 1529, bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes; and S. 1955, a bill to make technical corrections to laws relating to Native Americans, and for other purposes.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee Committee on Fisheries, Wildlife, and Water be authorized to meet on Tuesday, April 6, 2004 at 9:30 a.m. to conduct a hearing to evaluate chronic wasting and disease in our Nation's water.

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

PRIVILEGES OF THE FLOOR

Mr. CORNYN. Mr. President, I ask unanimous consent that two members of my staff, Adam Aston and Tiffany Kebodeaux, be granted the privilege of the floor for the duration of the debate on S. 2207.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Jarret Heil and Trenton Norman be granted the privilege of the floor during the remainder of the debate on S. 1367.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader,

pursuant to Public Law 108–199, Title VI, Section 637, appoints the following individual to serve as a member of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission: Steve K. Berry of Washington, D.C.

ORDERS FOR WEDNESDAY, APRIL 7, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 in the morning, Wednesday, April 7. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10:45 a.m. with the first half of that time under the control of the Democratic leader or his designee, and the second half of the time under the control of the majority leader or his designee; provided that at 10:45 the Senate resume consideration of the motion to proceed to Calendar No. 462, S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004, and the time until 12:45 be equally divided between the two leaders or their designees.

I further ask unanimous consent that the Senate recess from 12:45 until 2:15 for the weekly party luncheons; provided that at 2:15 the Senate proceed to the cloture vote on the motion to proceed to the consideration of S. 2207 as provided under the previous order; provided further that notwithstanding rule XXII, the mandatory quorum be waived prior to the vote on the motion to invoke cloture on the motion to recommit S. 1637, the FSC/ETI JOBS bill.

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

PROGRAM

Mr. McCONNELL. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the motion to proceed to the consideration of the Pregnancy and Trauma Care Access Protection Act of 2004. At 2:15 the Senate will proceed to two back-to-back rollcall votes. The first vote will be on the motion to invoke cloture on the bill we have been discussing, the Pregnancy and Trauma Care Access Protection Act. That vote, regardless of outcome, will be immediately followed by a vote on the motion to invoke cloture on the motion to recommit S. 1637, the FSC/ETI JOBS bill. These two votes will be the first votes of the day.

In addition to those votes, the majority leader has repeated his desire to consider and complete the pension equity conference report prior to the Easter recess. That conference report is here and is available. We will be seeking an agreement, obviously, to finish that bill.

ADJOURNMENT UNTIL 9:45 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 6:29 p.m., adjourned until Wednesday, April 7, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate April 6, 2004:

THE JUDICIARY

MICHAEL H. WATSON, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO, VICE JAMES L. GRAHAM, RETIRING.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RICHARD J. BURLING JR., 0000
ROBERT L. TULLMAN, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

CRAIG D. HARTRANFT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 531, 624, AND 3064:

To be colonel

WILLIS C. HUNTER, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

DANA R. YETTON, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR ORIGINAL REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

To be captain

TRAVIS R AVENT, 0000
GREGORY R BIEHL, 0000
FRANCIS J BOYER, 0000
DONALD F CARTER JR., 0000
MICHAEL R CIRILLO, 0000
JEFFREY S CLEMONS, 0000
SEAN J COLLINS, 0000
JERRY R COPLEY, 0000
BRIAN J CORRIS, 0000
CHARLES E DANIELS, 0000
RANDALL E DAVIS, 0000
DARREN R DEMYER, 0000
BILLY A DUBOSE, 0000
GREGG R EDWARDS, 0000
LLOYD E EDWARDS JR., 0000
KENNETH M ELIUK, 0000
ROBERT F EMMINGER, 0000
ARMAND J FRAPPIER, 0000
LAWRENCE P GOSHEN, 0000
WARREN A GRAHAM JR., 0000
JAMES E GRIFFITH, 0000
PATRICK T GROSSO, 0000
DANIEL E GUIMOND, 0000
SEAN P HEICHLINGER, 0000
BRUCE D HENDERSON, 0000
JAMES R HUBER III, 0000
STEVEN P HULSE, 0000
KELLY M JONES, 0000
CAMERON D KLUNDER, 0000
DONALD R KNOWLES, 0000
DIRK D KUNTZ, 0000
MICHAEL D LIPSCOMB, 0000
ANTHONY C LYONS, 0000
MICHAEL G MARCHAND, 0000
DAVID A MCCOVERY, 0000
KENNETHE R MCMILLAN, 0000
ROBERT J MEISINGER JR., 0000
CHRISTOPHER K MILLER, 0000
CLIFF D MRKVICKA, 0000
JOHN P MULLERY, 0000
JOHN F REYNOLDS JR., 0000
PAUL E RICHARD, 0000
JOSE L SADA, 0000
WILLIAM H TAPSCOTT, 0000
DOUGLAS M TAYLOR, 0000
WADE E WALLACE, 0000
MARK B WINDHAM, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant

MELISSA A. HARVISON, 0000

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be commander

VICTORIA T CRESCENZI, 0000
MARK A DESJARDINS, 0000
SUSAN L EATON, 0000
PAUL T HORAN, 0000
JACQUELINE KOVACS, 0000
JAMIN T MCMAHON, 0000
FERNANDO MORENO, 0000
THOMAS W SITSCH, 0000
STEVEN F VINCENT, 0000
JOHNNY WON, 0000

To be lieutenant commander

FELIX A BIGBY, 0000
LYNELLE M BOAMAN, 0000
EDWARD A BRADFIELD, 0000
GREGORY R CADLE, 0000
ROY D EVANS, 0000
GREGORY L GRADY, 0000
STELLA M HAYES, 0000
ROBERT L KENDALL, 0000
SUSANNE M LEMAIRE, 0000
JOEL A LOWTHER, 0000
WILLIAM D MAY, 0000
SEAN P MCDERMOTT, 0000
IAN G MCLEOD, 0000
JOHN M MYERS, 0000
TANYA M PONDER, 0000
GEORGE J SEMPLE, 0000
MARTHA L SIRUS, 0000
CHRISTOPHER T SOSA, 0000
ANTONIO TELLADO, 0000
RICHARD W THOMPSON, 0000
GALE R VANDEVENTER JR., 0000
DARREL G VAUGHN, 0000
MICHAEL W WENTWORTH, 0000
DEBORAH J WHITE, 0000

To be lieutenant

JEFFREY J ABBADINI, 0000
JOSEPH P ABBOTT JR., 0000
ROB L ABBOTT, 0000
LILLIAN A ABUAN, 0000
CHARLES F ADAMS, 0000
JASON W ADAMS, 0000
REBECCA M D ADAMS, 0000
TERRI D ADAMS, 0000
RICHARD S ADCOOK, 0000
MONICA AGARWAL, 0000
RYAN P AHLER, 0000
HYO S AHN, 0000
RECO L AIKENS, 0000
JAMES T AIKIN II, 0000
JAY P ALDEA, 0000
STEPHEN W ALDRIDGE, 0000
KENNETH D ALEXANDER, 0000
OSMEL ALFONSO, 0000
GERALD G ALFORD, 0000
JAMES ALGER, 0000
JEROME S ALINA, 0000
RODNEY ALLEN, 0000
TERESA W ALLMAN, 0000
CIELO I ALMANZA, 0000
GERVY J ALOTA, 0000
THOMAS M ALPERS, 0000
GALEN R ALSOP, 0000
LUIS A ALTAMIRANO, 0000
BRIAN S AMADOR, 0000
RICHARD H AMARAL, 0000
PETER AMENDOLARE, 0000
ERIK E ANDERSON, 0000
JOHN A ANDERSON, 0000
JUSTIN W ANDERSON, 0000
MARK A ANDERSON, 0000
MICHAEL R ANDERSON, 0000
SEAN M ANDREWS, 0000
BRADLEY J ANDROS, 0000
MARK A ANGELO, 0000
JAMES M ANSLEY, 0000
BRENDA K ANTHONY, 0000
MARC A ARAGON, 0000
JOHN W ARBUCKLE, 0000
JASON L ARGANBRIGHT, 0000
JOHN M ARMSTRONG, 0000
MATTHEW T ARMSTRONG, 0000
MELODY ARMSTRONG, 0000
JEFFREY C ARNESON, 0000
KEVIN W ARNEY, 0000
CHRISTOPHER W ARTIS, 0000
MARK S ASAHARA, 0000
AARON J ASCHENBRENNER, 0000
JARED T ASMAN, 0000
KENNETH M ATHANS, 0000
MICHAEL L ATWELL, 0000
STEPHEN A AUDELO, 0000
BRIAN L BABIN, 0000
JOHN A BACHMORE, 0000
JOSEPH C BACON, 0000

LUCELINA L BADURA, 0000
SHELBY Y BAECKER, 0000
JOSEPH A BAGGETT, 0000
SCOTT P BAILEY, 0000
CARMEN A BAKER, 0000
CHRISTOPHER P BAKER, 0000
JAMES A BAKER, 0000
JEFFREY D BAKER, 0000
JENNIFER S BAKER, 0000
JONATHAN M BAKER, 0000
WILLIAM C BAKER, 0000
KURT D BALAGNA, 0000
JESSE H BALBOA II, 0000
DEAN R BALCIRAK II, 0000
SUSAN M BALCIRAK, 0000
KATHLEEN M BALDWIN, 0000
JONATHAN R BALL, 0000
MICHAEL W BALL, 0000
THOMAS C BALL, 0000
TRAPPER J BALLARD, 0000
GREGORY BALLENGER, 0000
ANDREW J BALLINGER, 0000
ROLAN T BANGALAN, 0000
ROY L BARBER, 0000
ROBERTO A BARBOSA, 0000
KEVIN J BARCLAY, 0000
MARIA L BAREFIELD, 0000
BJORN S BARJA, 0000
RONNIE M P BARKER, 0000
AUDRA L BARKLEY, 0000
DAVID M BARKSDALE, 0000
ADAM W BARNES, 0000
CHRISTOPHER M BARNES, 0000
CHRISTOPHER R BARNES, 0000
MICHAEL A BARNES, 0000
RYAN C BARNES, 0000
DAVID D BARRINGTON, 0000
CHAN A BARRY, 0000
SCOTT D BARSCZEWSKI, 0000
JOHN R BARTAK, 0000
MICHAEL P BARTRAM, 0000
SCOTT A BARTRAM, 0000
LAURIE E BASABE, 0000
JOHN C BATCHELOR, 0000
KEVIN J BAUER, 0000
JASON M BAUMAN, 0000
ROMEO O BAUTISTA, 0000
JAYE A BAYLES, 0000
ROBERT L BAYLIS, 0000
JONATHAN R BEAR, 0000
QUINCY E BEASLEY, 0000
LOUIS A BECERRA II, 0000
JOHN R BECKER, 0000
TEPORA D BECKMAN, 0000
STEPHEN A BEEDE, 0000
ZACHARY A BEEHNER, 0000
EDWARD A BEHRENS, 0000
STEPHANIE L BELIM, 0000
CHARLES M BELL JR., 0000
KIM A BELLAMA, 0000
CHRISTIAN F BENARD, 0000
GREGORY BENARD, 0000
PAUL R BENISHEK, 0000
LEOPOLDO L BENITES, 0000
TODD H BENKE, 0000
JESSE W BENTON, 0000
LISA M BERBERICH, 0000
TARA A BERGER, 0000
JONATHAN V BERIS, 0000
JEFFREY S BERNHARD, 0000
RAMON J BERROCAL, 0000
WILLIAM J BERRYMAN, 0000
EDWARD P BERTUCCI, 0000
ISMAEL BETANCOURT, 0000
STEVEN M BETTNER JR., 0000
LARA L BEWLEY, 0000
NORMAN J BEZNOSKA III, 0000
MANUEL A BIASCOECHEA, 0000
DANIEL E BIBLE, 0000
JOSHUA D BIGHAM, 0000
BERNARD BILLINGSLEY, 0000
BRYAN J BILLINGTON, 0000
BRIAN A BINDER, 0000
FRANCIS T BISAGNI, 0000
BLAINE S BITTERMAN, 0000
NATHAN R BITZ, 0000
TRACY L BLACKHOWELL, 0000
DERRICK E BLACKSTON, 0000
MICHAEL S BLANKENSHIP, 0000
STEVEN T BLAZEJEWSKI, 0000
AMY L BLEIDORN, 0000
JOHN C BLEIDORN, 0000
R W BLIZZARD, 0000
KELLY M BOARDWAY, 0000
JAMES L BOCCI, 0000
DANIEL W BODEN, 0000
CATHERINE W BOEHME, 0000
TIMOTHY C BOEHME, 0000
JOHN A BOEHNKE, 0000
SHAWN B BOGDAN, 0000
ANDREW D BOGIE, 0000
MATTHEW A BOGUE, 0000
JOSHUA J BOHACH, 0000
RANDALL B BOHANON, 0000
ROBERT J BOLDIN, 0000
DANIEL A BOMAN, 0000
JOHN P BONENFANT, 0000
MATTHEW J BONZELLA, 0000
HASSAN M BOOKER, 0000
REBECCA A BOONE, 0000
CHARLES J BORGES, 0000
MICHAEL P BORRELLI, 0000
BRENDAN A BOSCH, 0000
LISA A BOSEMAN, 0000
PATRICK W BOSSERMAN, 0000
DOMENICA V BOSWELL, 0000
BRYAN J BOUDREAUX SR, 0000
EDWIN W BOUNDS, 0000
LEO S BOURQUE, 0000
SILAS L BOUYER II, 0000
DESOBRY E BOWENS, 0000
ROBERT F BOWLUS, 0000
DAWN M BOWMAN, 0000
JEFFREY M BOWMAN, 0000
JOHN A BOWMAN, 0000
ORLANDO S BOWMAN, 0000
DAVID W BOYANTON, 0000
ROBERT D BOYCE, 0000
STEVEN E BOYCOURT, 0000
SHARON C BOYD, 0000
JARED S BRADEL, 0000
BRIAN A BRADFORD, 0000
MATTHEW BRADSHAW, 0000
CHARLES B BRADY III, 0000
DEREK BRADY, 0000
JOHN C BRADY, 0000
DALLAS E BRAHAM, 0000
SEAN J BRANDES, 0000
VONDA L BRANDT, 0000
KEVIN M BRANSON, 0000
PAUL S BRANTUAS, 0000
THOMAS J BRASHEAR, 0000
KEVIN F BRAVOFERRER, 0000
WILBERT B BREEDEN, 0000
MICHAEL R BREEN, 0000
ANDREW F BRENNAN, 0000
PABLO C BREUER, 0000
MATTHEW J BRICKHAUS, 0000
JAMES F BRIDENSTINE, 0000
ANTHONY W BRINKLEY, 0000
KENNETH J BRITZ, 0000
SLADE R BROCKETT, 0000
JULIE A BROCKMAN, 0000
JOSEPH M BROMLEY, 0000
RANDALL D BROUSSARD, 0000
BRADLEY D BROWN JR., 0000
CHRISTA S BROWN, 0000
CHRISTOPHER A BROWN, 0000
CINDA L BROWN, 0000
EUGENE L BROWN, 0000
JOSEPH W BROWN, 0000
KENNETH R BROWN, 0000
MICHAEL A BROWN, 0000
NATHANIEL T BROWN, 0000
SARA B BROWN, 0000
EDWARD J BROWNE, 0000
MELIAH D BROWNE, 0000
BRIAN L BROWNING, 0000
JEREMY J BRUCH, 0000
TREVOR M BRUNER, 0000
TYSON J BRUNSTETTER, 0000
JAMES S BRUSKE, 0000
JILL N BRYON, 0000
GARLAND M BUCHANAN, 0000
TIMOTHY J BUCKLEY, 0000
JENNIFER J BUECHEL, 0000
THOMAS A BUECKER, 0000
HOMER E BUEN, 0000
THOMAS M BUI, 0000
ADAM K BURCH, 0000
JAY A BURGESS, 0000
CHAD W BURGESSER, 0000
JASON F BURK, 0000
BRYAN T BURKE, 0000
ERIC BURKE, 0000
JENNIFER A BURKE, 0000
MARK C BURKE, 0000
JOSHUA J BURKHOLDER, 0000
MICHAEL J BURKS, 0000
SARA C BURKS, 0000
JOSEPH P BURNEFF, 0000
ROCKY A BURNS, 0000
PATRICK BURRUS, 0000
HEATHER E BURWELL, 0000
ABE A BUSH III, 0000
JOHN R BUSH, 0000
JILLENE M BUSHNELL, 0000
CHRISTOPHER R BUTLER, 0000
DANIEL E BUTLER, 0000
LEBRON I BUTTS, 0000
KIMBERLY D BYNUM, 0000
ROGER L BYRON, 0000
NOEL J CABRAL III, 0000
BERNARD F CALAMUG, 0000
RUSSELL J CALDWELL, 0000
STEVEN C CALHOUN, 0000
JEREMY J CALLAHAN, 0000
JOHN H CALLAHAN, 0000
SHANNON L CALLAHAN, 0000
WILLIAM CALLAHAN, 0000
CLAUDINE CALUORI, 0000
HEATHER D CALVERT, 0000
ROBERT CALZADA, 0000
DAVID R CAMBURN, 0000
KENNETH D CAMERON, 0000
BRIAN M CAMPBELL, 0000
ROBERT A CAMPBELL, 0000
EILIS M CANCEL, 0000
BURT J CANFIELD, 0000
TIMOTHY D CANNADA, 0000
CHRISTOPHER L CANNIFF, 0000
LEO M CANONIZADO, 0000
CRAIG J CANTU, 0000
MARCOS D CANTU, 0000
KEVIN S CANTY, 0000
JING J CAO, 0000
REMIL J CAPILI, 0000
DARREL J CAPO, 0000
GEORGE R CARAMICO, 0000
PAOLO CARCAVALLO JR., 0000
MICHAEL S CARL, 0000
MARC J CARLIN, 0000
KEVIN L CARLISLE, 0000
ANNE E CARLSON, 0000
ANTONIO D CARMICHAEL, 0000
ROBERT C CARNELL, 0000
JESSE E CARPENTER, 0000
RUDY R CARRASCO, 0000
STEPHEN J CARRIER, 0000
JUSTIN M CARSTEN, 0000
CHRISTOPHER D CARTER, 0000
MARK A CARTER, 0000
WILLIAM D CARTER III, 0000
JEREMY T CASELLA, 0000
JORGE C CASTANON, 0000
CAREY F CASTELEIN, 0000
ARMANDO J CASTELLANOS, 0000
JOHN D CASTILLO, 0000
AARON B CASTLE, 0000
JANINE CASTORINA, 0000
ERNESTO CASTRO, 0000
ANDRE R CATALANO, 0000
JAMES A CAUDILL, 0000
GABRIEL B CAVAZOS, 0000
JAMES V CELANI JR., 0000
TULLIO I CELANO, 0000
CYNTHIA C CHAN, 0000
PAUL A CHANDLER, 0000
RONALD R CHAON JR., 0000
ERIC A CHAPMAN, 0000
MATTHEW E CHAPMAN, 0000
THOMAS R CHAPMAN III, 0000
JONATHAN N CHARBONNET, 0000
KEVIN K CHARLES, 0000
CHRISTOPHER CHARLEYSALE, 0000
MATTHEW R CHASTEEN, 0000
JONATHAN B CHAVANNE, 0000
TONY CHAVEZ, 0000
VICTOR C CHAVIS, 0000
ADAM G CHEATHAM, 0000
WARREN CHEN, 0000
JAMES C CHERRY, 0000
CHRISTINE M CHESAREK, 0000
JARED B CHIUROURMAN, 0000
JOON H CHO, 0000
BENJAMIN B CHRISTEN, 0000
ROMY V CHRISTENSEN, 0000
MATTHEW W CIESLUKOWSKI, 0000
SUZANNA G CIGNA, 0000
KYLE C CIPRA, 0000
BENJAMIN N CITTADINO, 0000
RODNEY L CLAGG, 0000
ROBERT A CLARADY, 0000
ANDREW J CLARENDON, 0000
DERRICK L CLARK, 0000
GILBERT E CLARK JR., 0000
KEVIN C CLARK, 0000
SCOTT R CLARK, 0000
TIMOTHY M CLARK, 0000
TYREE N CLARK, 0000
PAUL D CLARKE, 0000
ADAM C CLAYBROOK, 0000
RICHARD W CLEMENT, 0000
JAY W CLEMONS, 0000
MARK A CLOSE, 0000
MICHAEL S CLOUD, 0000
JEREMY L COBB, 0000
CHRISTOPHER A COCHRAN, 0000
SERAPHINE P CODINHA III, 0000
DAVID J COE, 0000
JASON W COFFEY, 0000
JEFFREY S COKER, 0000
JOHN D COKER, 0000
ERIC D COLE, 0000
PATRICK E COLE, 0000
JANY R COLLACO, 0000
JOSHUA J COLLAMER, 0000
PATRCK M COLLETTE, 0000
KRISTIN COLLINS, 0000
TEAGUE L COLLINS, 0000
STEPHEN C COLN, 0000
MATTHEW G COMPTON, 0000
JAMES R CONDINO, 0000
MICHAEL L CONRADY, 0000
ARWEN E CONSAUL, 0000
JOHN P CONZA, 0000
CHARLES O COOK, 0000
DAVID B COOK, 0000
JOSHUA B COOK, 0000
WILLIAM W COOK, 0000
TRAVIS C COOKE, 0000
WILLIAM H COOMBS, 0000
CHRISTOPHER E COOPER, 0000
NAKIA M COOPER, 0000
ALAN M COPELAND, 0000
PETER O COPELAND, 0000
ERIN M CORCORAN, 0000
SAMUEL F CORDERO, 0000
PATRICIA T CORKHILL, 0000
MARTIN W CORNETT, 0000
NOEL M CORPUS, 0000
JOHN C CORRELL, 0000
ANNE E COSSITT, 0000
KEVIN M COUGHLIN, 0000
MICHEL C COULOMBE, 0000
SHAWN M COWAN, 0000
CHRISTIAN B COWDREY, 0000
DAVID S COX, 0000
THORVALD S COX, 0000
TIMOTHY G CRAIG, 0000
BRADFORD P CRAIN, 0000
JASON R CRAIN, 0000
CLARKE S CRAMER, 0000
JAYSON L CRAMER, 0000
MARC D CRAWFORD, 0000
RUSSELL N CRAWFORD JR., 0000
JOHN J CREMINS, 0000
JOSHUA D CRINKLAW, 0000
JOHN R CROES, 0000
JUSTIN S CROSS, 0000
MICHAEL C CROUSE, 0000

KEVIN W CROWDER, 0000
DAVID M CROWE, 0000
CURTIS W CRUTHIRDS, 0000
ANGELA M CRUZ, 0000
DANNY H CRUZ, 0000
DOMINGO C CRUZ, 0000
MATTHEW A CRYER, 0000
JAMES H CULLEN, 0000
HAROLD V CULLY, 0000
ANNA M CULPEPPER, 0000
SEAN T CURTIN, 0000
BRIAN K CUSHMAN, 0000
KERI C CUSICK, 0000
MARK A CUTLER, 0000
CHRISTOPHER J DAHL, 0000
HAAKON B DAHL, 0000
THOMAS J DAIGNAULT, 0000
DONALD B DAILEY, 0000
CHARLES E DALE III, 0000
JASON C DALLEY, 0000
CHRISTINA L DALMAU, 0000
ADAM A DAMBROSIO, 0000
ROBERT B DANBERG JR., 0000
TUAN Q DANG, 0000
WILLIAM G DANIEL, 0000
BRENDAN P DANNA, 0000
BOBBY D DASHER JR., 0000
WESLEY S DAUGHERTY, 0000
WILLIAM A DAVEY, 0000
CARROLL B DAVIS JR., 0000
DWIGHT M DAVIS, 0000
JOSEPH S DAVIS, 0000
MARC E DAVIS, 0000
RYAN C DAVIS, 0000
TIMOTHY P DAVIS II, 0000
TREVOR W DAVIS, 0000
STACEY L DAWSON, 0000
JAMES W DAY, 0000
STUART M DAY, 0000
PHILLIP L DEBOE, 0000
DANIELLE C DEFANT, 0000
SARAH H DEGROOT, 0000
BRIAN S DEJARNETT, 0000
LUC D DELANEY, 0000
ISMAEL DELATEJERA, 0000
CHRISTOPHER H DELGADO, 0000
ARCANGELO P DELLANNO, 0000
WILLIAM G DELMAR, 0000
KRISTIAN F DEMONSI, 0000
MIGUEL M DENOSKYSMART, 0000
KENDRA M DEPPE, 0000
TAI A DESA, 0000
DAVID V DESANTIS, 0000
ANDREA M DESANTO, 0000
MICHAEL P DESMOND, 0000
CHARLES F DETWILER, 0000
TERESA J DEVITT, 0000
DIRK G DEWITT, 0000
PHILIP A DIANA, 0000
PETER J DICARO, 0000
DAMIAN S DICKERSON, 0000
DOUGLAS D DIEHL, 0000
TIMOTHY J DIERKS, 0000
RYAN T DILL, 0000
JOHN J DINH, 0000
TIMOTHY E DINSMORE, 0000
TAI A DO, 0000
KEITH G DOBBINS, 0000
MATTHEW W DODGE, 0000
TODD M DOMBROWSKI, 0000
MARK D DOMENICO, 0000
MICHAEL J DONIGER, 0000
BRIAN M DONOVAN, 0000
JAMES L DONOVAN, 0000
RICHARD A DOOLIN, 0000
MARK C DOREY, 0000
MATTHEW I DORNEY, 0000
JOHN M DOSANTOS, 0000
CHRISTOPHER D DOTSON, 0000
ANGELA M DOUGHERTY, 0000
KEITH P DOUGLAS, 0000
KENNETH S DOUGLAS, 0000
CLINTON L DOWNING, 0000
MICHAEL L DOXEY, 0000
MATTHEW E DOYLE, 0000
BRIAN M DRECHSLER, 0000
ROSS A DRENNING, 0000
TIMOTHY S DRILL, 0000
DERRICK A DUDASH, 0000
JEREMY L DUEHRING, 0000
BENJAMIN P DUELLEY, 0000
WILLARD E DUFF III, 0000
DENNIS M DUFFY II, 0000
DARREN T DUGAN, 0000
DANIEL P DUHAN, 0000
MATTHEW S DUKETTE, 0000
RAYMOND N DUMONT, 0000
PRESTON H DUNLOP, 0000
RYAN W DUPNICK, 0000
LUIS J DURAN, 0000
JOHN R DUTKA, 0000
BRANDON T DYE, 0000
PHILLIP A DYE, 0000
JEFFERSON D DYER, 0000
KATHERINE E DYNAN, 0000
BRENDAN R EAGAN, 0000
JENNIFER L EATON, 0000
LACEY F EDGE, 0000
ROY A EDGE, 0000
DALE J EDGECOMB, 0000
DAVID L EDGERTON, 0000
JAMES A EDMONDS, 0000
MARTIN L EDMONDS, 0000
SHANE J EISENBRAUN, 0000
BRIAN A EISENHUTH, 0000
KRISTOPHER C EISENRIETH, 0000
BRIAN J ELLIS JR., 0000
JASON B ELLIS, 0000
MATTHEW R ELLIS, 0000
STEPHANIE A ELLIS, 0000
TREVOR D ELLIS, 0000
CHRISTOPHER D ENG, 0000
LOUISE M ERB, 0000
RYAN D ERDMAN, 0000
JASON T ERICKSON, 0000
JOANNE M ERNST, 0000
CHRISTOPHER E ESCAJEDA, 0000
MICHAEL A ESPARZA, 0000
PEDRO H ESPINOZA, 0000
THEODORE E ESSENFELD, 0000
JOHN ESTERHAY, 0000
TRAVIS M ESTEVES, 0000
MARLON M ESTRADA, 0000
JOHN E ETHRIDGE II, 0000
RYAN C EUL, 0000
DAVE S EVANS, 0000
ROY C EVANS, 0000
VINSANT D EVANS, 0000
JOHN EVEGES III, 0000
RANDALL E EVERLY, 0000
JENNIFER L EWING, 0000
MELINDA R EWING, 0000
DAVID J EXTEROVICH, 0000
MICHAEL D EYMAN, 0000
MICHAEL J FAGAN, 0000
LOUIS A FAIELLA, 0000
WILLIAM P FALLON, 0000
JEFFREY A FARMER, 0000
MATTHEW T FARRELL, 0000
KELLEY C FARRIS, 0000
RYAN M FARRIS, 0000
ADAM T FAULK, 0000
STEVEN E FAULK, 0000
CHRISTOPHER T FEDOR, 0000
ASHTON F FEEHAN, 0000
JOSE A FELICIANO, 0000
CHAD A FELLA, 0000
RUSSELL N FELTS, 0000
TROY A FENDRICK, 0000
KEITH L FERGUSON, 0000
SEAN M FERGUSON, 0000
RODNEY C FERIOLI, 0000
PATRICE J P FERNANDES, 0000
MICHAEL P FERNS, 0000
ROY A FERREIRA, 0000
DONALD E FIELD, 0000
ARJUNA FIELDS, 0000
LUKAS FILLER, 0000
MICHAEL B FINN, 0000
PAUL F FISCHER, 0000
PHILIP J FISCHER, 0000
CHARLES E FISHER, 0000
STEPHEN E FISHER, 0000
ANDREW P FITZPATRICK, 0000
LYNN N FLEDDERJOHN, 0000
ADAM L FLEMING, 0000
JOHN K FLEMING, 0000
DAVID C FLETCHER, 0000
CYNTHIA A FLUCK, 0000
GRANT W FLYNN, 0000
MATTHEW C FLYNN, 0000
LYNN R FODREA, 0000
STEVEN W FOLEY, 0000
BENJAMIN J FOLKERS JR., 0000
JENNIFER L FORBUS, 0000
TONREY M FORD, 0000
MEGHAN B FOREHAND, 0000
DAVID S FORMAN, 0000
CARRIE M FORRESTER, 0000
PHILIP A FORSGREN, 0000
MARK T FORSTNER, 0000
REBECCA A FOSHA, 0000
BRIAN M FOSS, 0000
HANS A FOSSER, 0000
MICHAEL W FOURTE, 0000
JOEL A FRAGALE, 0000
DOMINIQUE I FRANCIS, 0000
TYLER D FRANCIS, 0000
MATTHEW S FRANK, 0000
JAMES F FRANKLIN, 0000
ARRON R FRANKUM, 0000
SARAH L FRANSON, 0000
LANCE R FREDRICKSON, 0000
MICHAEL E FREED, 0000
LUCAS L FREEMAN, 0000
MARK B FREITAG, 0000
BRIAN D FREMMING, 0000
TIMOTHY E FRENCH, 0000
JONAS FREY, 0000
MATTHEW C FREY, 0000
AARON J FRIEDRICK, 0000
ROSEMARY FRIESON, 0000
DUANE C FRIST, 0000
STEPHEN A FRONCKOWIAK, 0000
JOHN T FRYE, 0000
KIRK A FUGATE, 0000
ROBERT E FULKERSON, 0000
JAMES T FULLER, 0000
LORI A FUTERMAN, 0000
CARTER C GAFFNEY, 0000
STEPHAN K GAFFORD, 0000
DENNIS M GAINES, 0000
STEPHEN A GALAYDA, 0000
VERONICA A GALE, 0000
SEAN J GALLAGHER, 0000
PAUL A GALLOWAY, 0000
MARCUS B GALMAN, 0000
JOHN W GAMBLE, 0000
JOSHUA J GAMEZ, 0000
KELLY GANNON, 0000
NEAL T GARBETT, 0000
DANNY J GARCIA, 0000
MICHAEL J GARCIA, 0000
THOMAS J GARCIA, 0000
LELAND I GARDNER, 0000
SCOTT J GARDNER, 0000
LAURA L G GARLAND, 0000
ALLEN L GARNER, 0000
MARK S GARRETT, 0000
SHAINE L GARRISON, 0000
STEVEN P GARZA, 0000
MICAH J GASPARY, 0000
ERIC C GATLEY, 0000
FRANK L GATTO, 0000
DAVID E GAUGLER, 0000
MICHAEL R GAWLAS, 0000
GILBERT D GAY, 0000
JEFFERY J GAYDASH, 0000
WILLIAM T GEARY JR., 0000
SCOTT R GEBICKE, 0000
SHAWN C GEE, 0000
ALBERT H GEIS JR., 0000
GRANT C GEISEN, 0000
MATTHEW T GEISER, 0000
ROBERT J GELINAS, 0000
JAMES P GENNARI, 0000
CHAD E GEORGE, 0000
DANIEL F GERAGHTY, 0000
CHRISTOPHER M GIACOMARO, 0000
LOUISE J GIANNOTTI, 0000
ROBERT C GIBBS, 0000
ANTHONY A GIBERMAN, 0000
MICHAEL M GIBSON, 0000
CHRISTOPHER M GIGGI, 0000
CHRISTOPHER J GILBERTSON, 0000
MATTHEW J GILBREATH, 0000
TRACEY R GILES, 0000
DANIEL R GILLESKI, 0000
ANDREW J GILLESPY, 0000
CHRISTOPHER N GILMORE, 0000
CHRISTOPHER S GILMORE, 0000
JOHN GIUSEPPE, 0000
KJELL K GJOVIG, 0000
AARON N GLASS, 0000
TYLER J GLEASON, 0000
KATHRYN M GLYNN, 0000
TYLER L GOAD, 0000
ROGER A GOBIN, 0000
CARL W GOFORTH, 0000
TARA S GOLDEN, 0000
SIRARNOLD M GONZALEZ, 0000
JOSEPH A GOODWIN, 0000
PATRICK E GOODWIN, 0000
LEON GORDON, 0000
DEMIAN C GOUGH, 0000
ANTHONY R GRAHAM JR., 0000
CHAD W GRAHAM, 0000
LEIGH C GRAHAM, 0000
WILLIAM N GRANTHAM, 0000
DAVID B GRAY, 0000
DARREN L GRECO, 0000
COLIN W GREEN, 0000
JOHN T GREEN, 0000
WELLS W GREEN, 0000
MATTHEW S GREENAWALT, 0000
MICHAEL K GREGOIRE, 0000
JOHN R GREGORY, 0000
KEVIN M GREY, 0000
JAMES F GRIECO, 0000
EUGENE E GRIFFITH, 0000
ROBERT J GRIFFITH, 0000
ERIKS M GRIFFITHS, 0000
DANITA A GROSS, 0000
SCOTT B GROSSMAN, 0000
CHRISTOPHER C GROVES, 0000
JASON P GUIDRY, 0000
LUCAS B GUNNELS, 0000
CHRISTOPHER M GUOAN, 0000
KAITAN P GUPTA, 0000
JEROME A GUSSOW, 0000
ANDREW J GUSTAFSON, 0000
RICHARD C GUSTAFSON JR., 0000
JASON M GUSTIN, 0000
KORY D HAAG, 0000
ROBERT J HAAG, 0000
RICHARD W HAAS, 0000
DANIEL M HAASE, 0000
AARON R HAGER, 0000
BRIAN J HAGGERTY, 0000
MICHELLE G HAGLE, 0000
ERIC W HAHN, 0000
JOHN W HALE, 0000
ERIK W HALL, 0000
DANIEL H HALLOCK, 0000
PETER F HALVORSEN, 0000
JOHN H HAMILTON IV, 0000
JOHN T HAMITER JR., 0000
JOSHUA A HAMMOND JR., 0000
LAURA L HAMMOND, 0000
CHARLES W HANCOCK, 0000
DAVID J HANEY, 0000
MARK W HANEY, 0000
PATRICK T HANEY, 0000
EDWARD A HANLEY, 0000
JOHN B HANSEN, 0000
PETER L HANSEN, 0000
JOSEPH D HARDER III, 0000
BRENT L HARDGRAVE, 0000
MATTHEW T HARDING, 0000
NICOLE M HARDISTY, 0000
SUZANNE M HARKER, 0000
LARICO T HARLEY, 0000
DETRIK F HARMEYER, 0000
RANDALL E HARMEYER, 0000
GARY A HARRINGTON II, 0000
CHRISTOPHER W HARRIS, 0000
DAVID F HARRIS, 0000
ERIK T HARRIS, 0000
ROBERT HARRIS, 0000
ASHLEY E HARRISON, 0000
ROBERT E HART JR., 0000

STEPHANIE A HARTIN, 0000
STEPHEN D HARTMAN, 0000
MICHAEL P HARVEY II, 0000
WILLIAM W HASEGAWA, 0000
MATTHEW J HASIK, 0000
HEIDI D HASKINS, 0000
MATTHEW A HAUSWIRTH, 0000
AMANDA A HAWKINS, 0000
WILLIAM D HAWTHORNE, 0000
JOSHUA W HAYES, 0000
LYLE M HAYES, 0000
RYAN C HAYES, 0000
MARY K HAYS, 0000
SEAN P HAYS, 0000
CHRISTOPHER N HAYTER, 0000
JOSEPH S HEAL, 0000
DOUGLAS J HEALEY, 0000
GARETH J HEALY, 0000
PRESTON S HEARTLEY, 0000
MICHAEL T HEARY, 0000
STEVEN G HEATH, 0000
ROBERT A HEELY, 0000
TRACY L HEGGLUND, 0000
CRAIG W HEILMAN, 0000
KURT A HELGEMOE, 0000
JOSEPH S HENDERSON, 0000
KEITH A HENDERSON, 0000
KEVIN M HENDRICKS, 0000
JOHN E HENDRICKSON, 0000
MARK R HENDRICKSON, 0000
DUSTIN B HENDRIX, 0000
MATTHEW R HENNESSEY, 0000
NATALIA C HENRIQUEZ, 0000
IAIN D HENRY, 0000
ISAAC P HENRY, 0000
MICHAEL D HENRY, 0000
TIMOTHY S HENRY, 0000
SUSAN D HENSON, 0000
MARK P HENZEL, 0000
NORMAN K HEPLER JR., 0000
KEVIN L HERNANDEZ, 0000
JENNIFER C HERRINGTON, 0000
JON M HERSEY, 0000
EDWARD A HERTY IV, 0000
CHAD A HESTERS, 0000
CLARK H HICKINGBOTTOM, 0000
NATHAN W HICKS, 0000
JOSEPH A HIDALGO JR., 0000
JULIE A HIGGINS, 0000
ERIC P HIGGS, 0000
JEFFREY W HIGHERS, 0000
CHRISTOPHER J HIGHLEY, 0000
CHRISTOPHER G HILL, 0000
JOEL W HILL, 0000
LAWRENCE D HILTON, 0000
DARREN E HINDS, 0000
JUAN E HINES, 0000
SUSAN HLAD, 0000
CHRISTOPHER I HOAG, 0000
EDWARD A HOAK, 0000
CHRISTOPHER R HOBBS, 0000
JEFFREY E HOBERG, 0000
KEITH B HOEKMAN, 0000
KEVIN J HOFFMAN, 0000
SOPHIA S HOFFMAN, 0000
BRIAN P HOGAN, 0000
RONALD HOJNOWSKI, 0000
GEORFFREY D HOLLY, 0000
SEAN M HOLLY, 0000
HOLLY B HOLMBERG, 0000
CHRIS O HOLMES, 0000
PASCAL W HOLMES, 0000
RONALD M HOLMES, 0000
TODD H HOMAN, 0000
MAURICE C HOOD, 0000
STEVEN N HOOD, 0000
ANNE S HOPKINS, 0000
DAVID J HOPKINS, 0000
WILLIAM D HORCHER, 0000
CHRISTOPHER T HORGAN, 0000
KARL G HORNER III, 0000
JAMIE L HORNING, 0000
THOMAS G HOSKINS, 0000
PATRICK W HOURIGAN, 0000
KELLY W HOUSE JR., 0000
ERIC M HOWARD, 0000
MICHAEL P HOWE, 0000
DIANA L HOWELL, 0000
KEITH C HOWLAND, 0000
JAMES M HOYSRADT II, 0000
DAVID S HUGHES, 0000
GEOFFREY D HUGHES, 0000
CHRISTOPHER S HULITT, 0000
DAVID E HULTON, 0000
ROBERT C HUNSINGER, 0000
KEVIN W HUNT, 0000
JACKTHOMAS M HURLEY, 0000
JASON P HURLEY, 0000
DAVID P HURREN, 0000
ROBERT S HUSCHAK, 0000
THERESA A HUTCHINS, 0000
MARY A HUTCHINSON, 0000
ROBERT K HUTCHISON, 0000
SHAE A HUTTO, 0000
JASON HYND, 0000
ROLANDO R IBANEZ, 0000
MUZAFAR B ICSEL, 0000
ALAIN M ILIRIA, 0000
JEFFREY J IMMEL, 0000
JAMES W INGERSOLL, 0000
TRACY R ISAAC, 0000
STEVEN E ISOMURA, 0000
WADE A IVERSON, 0000
DAVID L JACK, 0000
BRANDY T JACKSON, 0000
MATTHEW T JACKSON, 0000
ROGER S JACOBS, 0000
MICHAEL L JACOBSON, 0000
JOHN J JALLETTE, 0000
MICHAEL A JAMES, 0000
CHARLES J JAMESON, 0000
JEFFREY D JASINSKI, 0000
CARLOS A JATIVA, 0000
JONATHAN A JECK, 0000
CHRISTINA M JENKINS, 0000
MICHAEL B JENKINS, 0000
PAUL K JENNINGS, 0000
ERIC J JENSEN, 0000
GORDON E JENSEN, 0000
KENNETH M JENSEN, 0000
IVAN A JIMENEZ, 0000
RAUL D JIMENEZ, 0000
BRANTON M JOAQUIN JR., 0000
CHRISTOPHER T JOHNSEN, 0000
ADAM K JOHNSON, 0000
ADAM L JOHNSON, 0000
CLIFTON D JOHNSON, 0000
FRANK JOHNSON, 0000
GABRIEL Y JOHNSON, 0000
JEFFREY F JOHNSON, 0000
LAWRENCE D JOHNSON, 0000
MARIO B JOHNSON, 0000
MARK A JOHNSON, 0000
MICHAEL R JOHNSON, 0000
ORRIN J JOHNSON, 0000
PATRICIA B JOHNSON, 0000
THEODORE R JOHNSON, 0000
SEBRINA C JOHNSONPOWELL, 0000
ADAM W JOHNSTON, 0000
GARTH A JOHNSTON, 0000
MITCHELL T JOHNSTON, 0000
RICHARD C JOHNSTON, 0000
RICHARD D JOHNSTON JR., 0000
RUSSELL W JOHNSTON, 0000
BRIAN M JONES, 0000
BRYAN H JONES, 0000
HOWARD L JONES, 0000
JAMES R JONES, 0000
JASON C JONES, 0000
JASON D JONES, 0000
KENT D JONES, 0000
STEPHEN L JONES, 0000
STEVEN C JONES, 0000
THOMAS J JONES, 0000
RENE L JULIEN JR., 0000
THOMAS J KAESS, 0000
WILLIAM M KAFKA, 0000
DAVID I KAISER, 0000
MARCUS A KAISER, 0000
MICHAEL E KALINSKI, 0000
MICHAEL D KAMPFE, 0000
JEREMY T KANE, 0000
JASON A KANTOLA, 0000
PETER H KARVOUNIS, 0000
BRANDON S KASER, 0000
QUENTIN R KASUBOSKI, 0000
KEITH C KAUFFMAN, 0000
REGINA P F KAUFFMAN, 0000
STEVEN P KAUFFMANN, 0000
BRIAN C KEARNS, 0000
CYNTHIA P KEATING, 0000
DANIEL J KEELER, 0000
JAMES A KEEN, 0000
PATRICK A KELLER, 0000
SHAWN M KELLEY, 0000
ANDREW P KELLOGG, 0000
DONALD G KEMLER, 0000
PETER K KENDALL, 0000
JOHN E KENNEDY, 0000
JOHN J KERLEE, 0000
KENNETH M KERR, 0000
STEPHEN J KERR, 0000
ROBERT A KERRIGAN, 0000
MARY E KESSLER, 0000
JEROD W KETCHAM, 0000
RYAN S KIGHT, 0000
COLLIN B KIGHTLINGER, 0000
DAVID K KILLIAN, 0000
STEVEN B KILLION, 0000
STEVEN A KIMBALL, 0000
ROBERT B KIMNACH III, 0000
CORLISS A KINARD, 0000
JAMES T KING, 0000
NATHAN J KING, 0000
TERENCE K KING, 0000
MICHAEL J KINSELLA, 0000
JASON D KIPP, 0000
VINCENT W KIRSCH, 0000
JOSEPH P KLAPATCH, 0000
DANIEL C KLEIBOEMER, 0000
THEODORE B KLEINBERG, 0000
KEN J KLEINSCHNITTGER, 0000
MICHAEL J KLEMANN, 0000
MATTHEW B KLOBUKOWSKI, 0000
WILLIAM C KLUTTZ, 0000
THOMAS J KNEALE JR., 0000
DAVID V KNEELAND, 0000
RICHARD A KNIGHT JR., 0000
MATTHEW W KNOWLES, 0000
RAYMOND T KOEMP, 0000
GRANT M KOENIG, 0000
DAVID E KOGER, 0000
WILLIAM D KOONE, 0000
JOHN C KOPPLIN, 0000
JEFFREY R KORZATKOWSKI, 0000
COLLEEN M KOSLOSKI, 0000
SANDRA L KOSLOSKI, 0000
JOSEPH M KOVACOCY, 0000
LINDA R KOWALSKI, 0000
ADAM G KRAUSE, 0000
CHRISTOPHER J KREIER, 0000
ROBERT W KREJCI, 0000
TIMOTHY F KRIPPENDORF, 0000
MICHAEL D KRISMAN, 0000
PAUL J KRUMHOLZ, 0000
WILLIAM C KUEBLER, 0000
STEVEN M KUHL, 0000
JAMES A KUHLMANN, 0000
SUNTI S KUMJIM, 0000
WILLIAM W KURTZ JR., 0000
KENNETH J KURZ, 0000
TODD I LADWIG, 0000
JOSHUA C LAFFERTY, 0000
CHRISTOPHER O LAKE, 0000
WILLIAM LAMPING III, 0000
OCTAVIS D LAMPKIN, 0000
MICHAEL L LANCASTER, 0000
TIFFANY H LANDIS, 0000
WILLIAM G LANE, 0000
JEREMY M LANEY, 0000
JENNA R M LANG, 0000
MARK R LANG, 0000
SYLVESTER E LANG, 0000
PAULA A LANGILLE, 0000
DEDAN C LANGSTON, 0000
MARK R LANSBERRY, 0000
BRIAN LARMON, 0000
SCOTT W LARSON, 0000
PAUL D LASHMET, 0000
TREVOR W LAURIE, 0000
JASON P LAVARIAS, 0000
MICHAEL S LAVIELLE, 0000
BETH A LAWHORN, 0000
MICHAEL C LAWLOR, 0000
RYAN E LAWRENZ, 0000
LAY C LAY, 0000
PATRICK C LAZZARETTI, 0000
THOMAS J LEACH, 0000
DAVID N LEATHER, 0000
MATTHEW J LEDRIDGE, 0000
DUSTIN E LEE, 0000
KIRK A LEE, 0000
MICHAEL W LEE, 0000
PAUL LEE, 0000
SUMNER H LEE, 0000
BRYAN H LEESE, 0000
NICOLETTE A LEFLORE, 0000
JOHN R LEHMANN, 0000
TANYA D LEHMANN, 0000
KRISTI A LEHMKUHLER, 0000
JEREMY L LEIBY, 0000
KATHLEEN A LEMLEY, 0000
JOHN E LENAHAN, 0000
MICAH A LENOX, 0000
RUFUS A LENSEY, 0000
CHARLES LEONARD, 0000
KENT M LEONARD, 0000
JOSEPH P LEPORATI, 0000
JOSEPH L LEPPO, 0000
PATRICK B LESSARD, 0000
JON P LETOURNEAU, 0000
WILLIAM E LEUALLEN JR., 0000
BRETT M LEVANDER, 0000
BRYAN J LEVIN, 0000
SCOTT LEVKULICH, 0000
JOSEPH M LEVY, 0000
BENJAMIN M LEWIS, 0000
GORDON L LEWIS, 0000
KEVIN R LEWIS, 0000
MARY C LEWIS, 0000
MATTHEW C LEWIS, 0000
PAUL M LEWIS, 0000
FREDRICK LICUDINE, 0000
GWEN B LIEGEL, 0000
MATTHEW E LIGON, 0000
CAROLINE A LILL, 0000
TIMOTHY N LIMBERT, 0000
CONNIE E LIMBURG, 0000
HENRY H LIN, 0000
DUANE H LINN, 0000
JESSICA A LIPSKER, 0000
CHAD J LIVINGSTON, 0000
MICHAEL S LLENZA, 0000
KEVIN A LOBO, 0000
MARCUS J LOCKARD JR., 0000
JESSICA A LOCKWOOD, 0000
JAMES P LOMAX, 0000
JOHN M LONG, 0000
TIMOTHY J LONG, 0000
MICHAEL P LONGAZEL, 0000
RYAN LOOKABILL, 0000
DEBORAH M LOOMIS, 0000
MATTHEW F LOPES III, 0000
ANTHONY M LOPEZ, 0000
CHRISTOPHER J LORD, 0000
FERNANDO J LORENTE, 0000
LEE A LORIE, 0000
CHRISTOPHER A LOVELACE, 0000
DANYELLE M LOW, 0000
GABRIEL A LOWE, 0000
GEORGE M LOWE, 0000
STEVEN M LOWE, 0000
PAUL M LUCIA, 0000
WALTER S LUDWIG, 0000
HERNAN B LUISYPRADO, 0000
JOHN A LUKACS, 0000
MARC E LULEY, 0000
ERIC H LULL, 0000
HILARY LUMPKIN, 0000
LAURO LUNA, 0000
BARRY F LYDON, 0000
JOHN W LYNCH, 0000
JOSEPH K LYON, 0000
LAURA F MAASDAM, 0000
BRIAN K MABRY, 0000
NJUGUNA MACARIA, 0000
JAMES P MACDONALD, 0000
ADAM J MACKIE, 0000
DINA MACKINNON, 0000
KENDRICK R MACKLIN, 0000
JOSHUA D MACMURDO, 0000

MICHAEL E MADRID, 0000
ANGELA K MAGANZA, 0000
JOHN J MAGUIRE IV, 0000
MARTIN G MAHER, 0000
BRENDAN M MAHON, 0000
JAMES K MAIN, 0000
DAREN C MAINER, 0000
JAMES I MAIZE, 0000
GEORGE S MAJOR, 0000
GREGORY P MALANDRINO, 0000
SHAWN M MALONE, 0000
CARINA E MALONEY, 0000
MATTHEW J MALONEY, 0000
WILLIAM J MALPASS, 0000
DENNIS N MALZACHER JR., 0000
ANDRE V MANCL, 0000
JEFFERY S MANDREY, 0000
RACHEL S MANGAS, 0000
RICHARD MANGLONA, 0000
LARRY D MANNINGS, 0000
JOHN M MARBURGER, 0000
SHANE T MARCHESI, 0000
JOSEPH J MARCUS, 0000
JEREMY J MARKIN, 0000
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CHARLES P MARRONE, 0000
HARRY L MARSH, 0000
MICHAEL J MARTHALER, 0000
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RONALD R MARTIN, 0000
MIGUEL R MARTINEZ, 0000
RUBEN A MARTINEZ, 0000
STEPHEN A MARTY, 0000
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CHRISTOPHER E MARVIN, 0000
BENJAMIN J MASOG, 0000
CLAYTON E MASON, 0000
YOLANDA K MASON, 0000
BENJAMIN B MASSIGLIA, 0000
TODD M MASSOW, 0000
CHRISTINA E MATERN, 0000
DALE E MATHENY, 0000
CHRISTINA M MATOSBUCHER, 0000
WALLACE M MATTOS, 0000
MICAH D MATTSON, 0000
SCOTT A MATTSON, 0000
GABRIEL A MAULDIN, 0000
TREVOR L MAYNARD, 0000
LINCOLN D MAZZEI, 0000
MARYKAY MCALISTER, 0000
MARY C MCAVOY, 0000
APRIL L MCBRIDE, 0000
SCOTT A MCBRIDE, 0000
GEORGE J MCCAFFREY III, 0000
MITCHELL S MCCALLISTER, 0000
ANCELMO J MCCARTHY, 0000
GILL H MCCARTHY, 0000
MILTON B MCCAULEY, 0000
CARLTON J MCCLAIN, 0000
C MCCONNAUGHAY, 0000
DEREK A MCCONNELL, 0000
JOHN A MCCONNELL, 0000
ASHLEY R MCCREA, 0000
RYAN D MCCRILLIS, 0000
MATTHEW H MCDERMOTT, 0000
JAMES D MCDONALD, 0000
JEFF M MCDONALD, 0000
JONATHAN A MCELLROY, 0000
KALAN M MCEUEN, 0000
MICHAEL P MCFADDEN, 0000
GEOFFREY M MCGARRIGLE, 0000
JOHN E MCGEE III, 0000
KEVIN T MCGEE, 0000
SHANTI H MCGOVERN, 0000
MAUREEN A MCGOWAN, 0000
SAMUEL E MCGOWAN III, 0000
RICHARD S MCGOWEN, 0000
JEFFREY M MCGRADY, 0000
ROBERT A MCGREGOR, 0000
BRIAN S MCKEEVER, 0000
MICHAEL G MCKELVEY, 0000
JAMES F MCKENNA, 0000
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SIMON C MCKEON, 0000
DAVID R MCKINNEY, 0000
ANDREW R MCLEAN, 0000
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MICHAEL L MCMILLAN, 0000
KATHLEEN F K MCMORROW, 0000
MATTHEW R MCNAMARA, 0000
ALLEN R MCNEAL, 0000
ANDREW J MCNIVEN, 0000
MICHAEL A MCPHAIL, 0000
JEFFREY MCQUILLAN, 0000
CLAUDE M MCROBERTS, 0000
JAVIER MEDINAMONTALVO, 0000
KENNETH J MEEHAN, 0000
MICHAEL S MEEKS, 0000
VANESSA S MELOFCHIK, 0000
DANIEL A MENESES, 0000
JOHN R MENTZER, 0000
JOSHUA M MENZEL, 0000
ROBERT A MERCER III, 0000
RONNIE D MERRILL, 0000
MECHELE C MERRITT, 0000
ROBERT S MERTON, 0000
SCOTT D MEUSHAW, 0000
GERALD S MEYER, 0000
SEAN J MICHAELS, 0000
DANIEL P MICKLE, 0000
KELLY R MIDDLETON, 0000
JENNIFER L MILES, 0000
STEVEN F MILGAZO, 0000
GREGORY J MILICIC, 0000
ALAN D MILLER, 0000
BRETT M MILLER, 0000
CASEY J MILLER, 0000
EDWARD B MILLER IV, 0000
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JOHANNA M MILLS, 0000
SCOTT W MILLS, 0000
TAMARA D MILLS, 0000
CHRISTOPHER G MILNER, 0000
KELLY D MINER, 0000
THOMAS D MINER, 0000
RAY W MINIHAN, 0000
ERNUEL MIRANDAROSARIO, 0000
MELANIE D MIRKES, 0000
ALEXANDER J MIRKHANI, 0000
ANDREW B MIROFF, 0000
DAVID P MITCHELL, 0000
SHERRI R MITCHELL, 0000
STEVEN N MITCHELL, 0000
PHILIP R MLYNARSKI, 0000
JAMES M MOBERLY, 0000
RUSS K MOCHIZUKI, 0000
STEVEN A MODREGON, 0000
SATURNINO MOJICA, 0000
MARCELLE L MOLETT, 0000
DANIEL R MOLL, 0000
DENNIS C MONAGLE, 0000
DOUGLAS M MONETTE, 0000
KENNETH E MONFORE III, 0000
JOHN M MONTGOMERY, 0000
JOHN G MONTINOLA, 0000
MARK F MONTURO, 0000
THOMAS F MOONEY III, 0000
DAVID P MOORE, 0000
DIANE R MOORE, 0000
KEVIN F MOORE, 0000
ROBERT A MOORE, 0000
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STEPHANY L MOORE, 0000
TARA K MOORE, 0000
TIMOTHY C MOORE, 0000
ANTHONY MORALES, 0000
JESUS S MORENO, 0000
MARK A MORENO, 0000
MICHAEL M MORGAN, 0000
WILLIAM C MORGAN, 0000
PASCUAL E MORONTA, 0000
EVANGELO MORRIS, 0000
KEVIN B MORRIS, 0000
SHELLEE A MORRIS, 0000
MICHAEL W MORTON, 0000
WALTER B MOWERY, 0000
STACEY R MOY, 0000
ERIC N MOYER, 0000
ARTHUR A MUELLER III, 0000
JUDITH A MULLER, 0000
DAVID R MULLINS, 0000
CHRISTOPHER D MULVEY, 0000
JOSEPH D MURPHY III, 0000
KEITH W MURPHY, 0000
KEVIN P MURPHY, 0000
PATRICK R MURPHY, 0000
MATTHEW A MUSIC, 0000
MARK F MUSKET, 0000
JEFFREY J MYERS, 0000
ROBERT D MYERS, 0000
STACY L MYERS, 0000
SKYLER B MYRICK, 0000
JANET M NAGEL, 0000
DENNIS C NAGLE, 0000
ERIK R NALEY, 0000
BRADLEY R NALITT, 0000
GERALD J NANGLE JR., 0000
JAMES E NATALI, 0000
MARIA V NAVARRO, 0000
JAMES R NEAL III, 0000
THOMAS E NEAL JR., 0000
CHRISTINA J NEEL, 0000
ALAN A NELSON, 0000
DAVID A NELSON, 0000
JOSEPH R NELSON, 0000
SARAH E NEVILLE, 0000
DAVID P NEWMAN, 0000
JAMES A NEWTON, 0000
MICHAEL G NEWTON, 0000
JASON T NICHOLS, 0000
RICHARD H NICHOLS III, 0000
STEVEN A NILES, 0000
DARYL V NISBETT, 0000
CALVIN NOBLES, 0000
KATHERINE E NOEL, 0000
MICHAEL D NORDEEN, 0000
CYNTHIA A NORRIS, 0000
WENDY K NOWAK, 0000
BERNADETTE M NOWINSKI, 0000
BRIAN E NOWITZKI, 0000
JUDAH S NYDEN, 0000
BENJAMIN W OAKES, 0000
MICHAEL C OBERDORF, 0000
MARK J OBERLEY, 0000
CHESTON W OBERT, 0000
SEAN M OCONNOR, 0000
ANDREW R ODEA, 0000
BRIAN P ODONNELL, 0000
JULIE M ODOWD, 0000
DANIEL A OGDEN, 0000
THOMAS M OGDEN, 0000
PHILIP B OHLEMEIER, 0000
JEFFREY M OLD, 0000
KYLE OLECHNOWICZ, 0000
VICTOR D OLIVER, 0000
ERIC C OLSON, 0000
KARY N OLSON, 0000
NIELS H OLSON, 0000
WESLEY A OLSON, 0000
PATRICK H OMAHONEY, 0000
JACK B ONEILL II, 0000
MICHAEL P ONEILL, 0000
ROBERT M ORE, 0000
MANUEL A ORELLANA, 0000
JONATHAN D ORINGDULPH, 0000
SCOTT R ORLOFF, 0000
CHRISTOPHER D ORMSBY, 0000
JAMES J OROURKE III, 0000
MATTHEW H ORT, 0000
CHRISTOPHER M OSBORN, 0000
JENNIFER L OSICK, 0000
BRETT R OSTER, 0000
NEAL T OSTERHAUS, 0000
KNUTE O OSTREM, 0000
DALLAS J OVERALL, 0000
ROBERT B OVERTURF, 0000
BRENDAN J OWENS, 0000
ROBERT A OWNBEY, 0000
JACOB A PADILLA, 0000
JUAN C PALLARES, 0000
BRETT R PANTER, 0000
CHRISTOPHER A PAPAIOANU, 0000
THOMAS A PAPPAS, 0000
GREGORY M PARADIS, 0000
PETER J PARBEL IV, 0000
JAMES M PARK, 0000
MARVIN J PARK, 0000
BRIAN T PARKER, 0000
LEE A PARKER, 0000
AARON M PARKS, 0000
JOHN G PARQUETTE, 0000
CARRIE L PARRISH, 0000
MATT C PARRISH, 0000
KURT R PARSONS, 0000
GONZALO PARTIDA, 0000
BRIAN E PARTON, 0000
CHAD A PARVIN, 0000
JOHN W PATE, 0000
WAYNE A PATRAS, 0000
GEOFFREY A PATTEN, 0000
CHARLES R PATTERSON, 0000
DELIA D PATTERSON, 0000
JASON W PATTERSON, 0000
JOHN C PATTERSON, 0000
JOHN E PATTERSON, 0000
BRIAN M PAUDERT, 0000
NATHAN R PAUKOVITS, 0000
BRENT C PAUL, 0000
JASON C PAULSEN, 0000
MICHAEL S PAYNE, 0000
RICHARD D PAYNE, 0000
STEVEN M PEACE, 0000
NICOLE A PEARCE, 0000
THEODORE W PEARCE JR., 0000
JACOB C PEARSON, 0000
DAVID L PEDERSEN, 0000
BRIAN E PEDROTTY, 0000
DANIEL T PEEFF, 0000
ROBERT V PEELER JR., 0000
DOUGLAS J PEGHER, 0000
BRIAN J PELLETIER, 0000
WILLIAM P PEMBERTON, 0000
DANIEL W PENROD, 0000
NEIL R PENSO, 0000
CHRISTOPHER D PEPPEL, 0000
FABIAN PEREZ, 0000
RAFAEL J PEREZ, 0000
ERIC M PERKINS, 0000
JOHN P PERKINS, 0000
ALBERT D PERRY, 0000
LESTER B PERSON, 0000
JANET L PESANE, 0000
ROBERT J PETAK, 0000
ERIC L PETERSEN, 0000
ERICK A PETERSON, 0000
DAVID C PEYTON, 0000
MATTHEW J PFEFFER, 0000
MINH Q PHAN, 0000
RYAN C PHILLIPS, 0000
MARC A PICARD, 0000
KENNETH S PICKARD, 0000
GLEN L PICKENS, 0000
MATTHEW M PIESTER, 0000
BRADLEY J PILSL, 0000
NICHOLAS A PINSON, 0000
LEIGHTON J PITRE, 0000
JASON C PITTMAN, 0000
JEFFREY D PIZANTI, 0000
MATTHEW R PLAISIER, 0000
JESSICA E PLICHTA, 0000
WILLIAM J PLUMMER III, 0000
JAMES D POE, 0000
JACQUELINE L POLLOCK, 0000
KEVIN R POOLE, 0000
DALLAS L POPE, 0000
SHAWN P POPE, 0000
KEVIN M POPP, 0000
JOHN D PORADO, 0000
WENDELL K PORTER, 0000
MICHAEL M POSEY, 0000
JOHN E POSS, 0000
MARK E POSTILL, 0000
JOSHUA R POTOCKO, 0000
JAMES A POTTER, 0000
KRIST E POTTORFF, 0000
JEREMY C POWELL, 0000
MARK W POWELL, 0000
REUBEN C POWERS, 0000
GARRETT W PREISCH, 0000
LARRY W PREWITT, 0000
THOMAS P PROCTOR, 0000
CHRISTIAN R PRONK, 0000
REBECCA L PROVENCHER, 0000
STEVEN B PROVINCE, 0000
DAN E PRYOR, 0000
ROMMEL R PUCAN, 0000

ROBERT S PUDNEY IV, 0000
MICHAEL T PUFFER, 0000
DANIEL J PUGH JR., 0000
PATRICK D PURCELL, 0000
STEVEN R PUSKAR, 0000
THEODORE M O QUIDEM, 0000
MICHAEL J QUINN, 0000
PETER P QUINN, 0000
JAMES W RACHAL, 0000
LUKE W RADLINSKI, 0000
JOHN E RAEL, 0000
JOSEPH A RAEZ, 0000
ADRIAN D RAGLAND, 0000
VICTORIO A RAMIREZ, 0000
DOUGLAS E RAMSEY, 0000
DANIEL C RAPHAEL, 0000
DAVID E RASH JR., 0000
ABDUL K RASUL, 0000
JOHN C RATH, 0000
DONALD V RAUCH, 0000
SABRA S RAWLINGS, 0000
ALEKSEI RAZSADIN, 0000
JOSEPH E REAUME, 0000
CLAY J REDDING, 0000
CLAYTON T REDINGER, 0000
MICHAEL E REED, 0000
DORA O REID, 0000
ALVIN J REINAUER, 0000
LOREN S REINKE, 0000
DANIEL J REISS, 0000
MATTHEW A RENNER, 0000
MICHAEL F RENY, 0000
RICHARD R REYES, 0000
JAMES REYNOLDS, 0000
JAMES T REYNOLDS, 0000
ROBERT F REYNOLDS, 0000
RYAN I REYNOLDS, 0000
JASON M RHEA, 0000
JEFFREY D RHINEFIELD JR., 0000
DARREN E RICE, 0000
KEVIN S RICE, 0000
NEIL A RICE, 0000
KEITH D RICHARDS, 0000
STEPHEN S RICHARDSON, 0000
DAVID E RICKETSON, 0000
JESSICA A RIDGLEY, 0000
DAVID E RIDINGS, 0000
CHRISTOPHER J RIERSON, 0000
DAYNAN K RIGG, 0000
SETH D RIGGINS, 0000
LESLIE E RIGGS JR., 0000
DAVID C RILEY, 0000
SAMUEL T RISER, 0000
JOSE R RIVERA, 0000
BRANDON J ROACH, 0000
MICHAEL L ROACH, 0000
KENNETH C ROBB, 0000
KEVIN E ROBB, 0000
DARYL ROBBIN, 0000
KELLY M ROBBINS, 0000
CLAYTON L ROBERSON, 0000
REMY P ROBERT, 0000
GARY G ROBERTS, 0000
MICHELLE L ROBERTS, 0000
MARTIN L ROBERTSON, 0000
JASON M ROBINSON, 0000
CAROLINE G RODI, 0000
MICHAEL R RODMAN, 0000
SERGIO G RODRIGUERA, 0000
JOEL RODRIGUEZ, 0000
LUIS A RODRIGUEZ, 0000
NOEL RODRIGUEZ, 0000
DARREN C ROE, 0000
HENRY M ROENKE IV, 0000
ANNE K ROGERS, 0000
DAVID J ROGERS, 0000
OSCAR E ROJAS, 0000
JOEL C ROLLEY, 0000
SARAH E ROLLINGS, 0000
ADAM A ROMAN, 0000
ALEXANDER ROMO, 0000
JOSEPH A ROOT, 0000
SCOTT A ROSCOE, 0000
MICHELLE G ROSEANO, 0000
BRIAN P ROSEMARK, 0000
CRAIG A ROSEN, 0000
MARC S ROSEN, 0000
SCOTT A ROSETTI, 0000
BRYN C ROSKOS, 0000
ANNA A ROSS, 0000
ROBERT A ROSS, 0000
PAUL E ROTSCH, 0000
JOANNIS C ROUSSAKIES, 0000
JOSEPH R ROVITO, 0000
GREGORY L ROWLAND, 0000
MARK C ROWLAND, 0000
JAMES L ROYAL JR., 0000
BRIAN K RUDITSKY, 0000
JASON J RUDRUD, 0000
MALCOLM J RUMPH, 0000
JOSHUA J RUSSELL, 0000
LUKE A RUSSELL, 0000
GEOFFREY G RUTECKI, 0000
CHRISTOPHER D RUTLAND, 0000
JOHN C RUZICKA, 0000
WILLIAM G RYHERD, 0000
BRIAN T SAAL, 0000
ERWIN R SABILE, 0000
CHRISTOPHER J SACRA, 0000
ANDRE T SADOWSKI, 0000
ERIC M SAGER, 0000
DAVID L SAGUNSKY, 0000
BENJAMIN N SALE, 0000
PETER J SALVAGGIO JR., 0000
ANTHONY D SALVATORE, 0000
LENSWORTH A SAMUEL, 0000
ALFREDO J SANCHEZ, 0000
DAVID J SANCHEZ, 0000
FRANK E SANCHEZ, 0000
ROBERTO F SANCHEZ, 0000
KARL S SANDER, 0000
DAMIAN A SANDERS, 0000
ERIC D SANDERS, 0000
GREGG S SANDERS, 0000
KENT L SANDERS, 0000
KEITH C SANDOVAL, 0000
TODD A SANTALA, 0000
JONATHAN P SANTANGELO, 0000
SERGIO T SANTILLAN, 0000
ROLAND T SASAKI, 0000
JOSEPH W SATTERFIELD, 0000
CHRISTOPHER M SAVAGE, 0000
WILLIAM A SAVAGE, 0000
MICHAEL J SAVARESE, 0000
ROBERT W SAVERING, 0000
WILLIAM T SAWHILL, 0000
BRIAN J SAWICKI, 0000
MATTHEW D SCARLETT, 0000
ROBERT J SCAUZILLO, 0000
MARK E SCEPANSKY, 0000
JERRY A SCHAFER JR., 0000
WILLIAM A SCHENCK III, 0000
DONALD W SCHENK JR., 0000
JOHN M SCHILLER, 0000
IAN J SCHILLINGER, 0000
DANIEL G SCHLAFF, 0000
ADAM P SCHLISMANN, 0000
DUSTIN J SCHOUTEN, 0000
TIMOTHY P SCHUBERT, 0000
SETH G SCHUKNECHT, 0000
BRYAN L SCHULTZ, 0000
CORNELIA E SCHULTZ, 0000
RICHARD W SCHULZ, 0000
CHAD C SCHUMACHER, 0000
KENNETH E SCHWALBE, 0000
ANTHONY J SCHWARZ, 0000
STEVEN J SCHWENKLER, 0000
KIMBERLY E SCOTT, 0000
ROSS A SCOTT, 0000
TROY D SCOTT, 0000
WINSTON E SCOTT II, 0000
GREGORY A SCOVEL JR., 0000
MATTHEW W SCROGGINS, 0000
DEAN G SEARS, 0000
JOSEPH M SEEBURGER, 0000
RYAN L SEGGERTY, 0000
JENNIFER L SEGUIN, 0000
PATRICIA R SERRANO, 0000
SHAUN S SERVAES, 0000
JENNIFER L SERVICE, 0000
MATTHEW R SEVERSON, 0000
JEAN P SEVILLA, 0000
CHRISTIAN M SEWELL, 0000
MATTHEW D SEYMOUR, 0000
CLAYTON G SHANE, 0000
ERIC L SHANGLE, 0000
LEE H SHANNON, 0000
MICHAEL E SHANNON, 0000
TERRENCE M SHASHATY, 0000
MICHAEL S SHAW II, 0000
MATTHEW E SHEARIN, 0000
MATHEW T SHEFLIN, 0000
KEITH J SHERER, 0000
COLBY W SHERWOOD, 0000
ELIZABETH H SHIAU, 0000
MATTHEW S SHIELDS, 0000
JAMES E SHIPMAN, 0000
JOSEPH B SHIPP, 0000
DERRIN R SHRINER, 0000
ADRIAN SIEBENHAAR, 0000
JAY E SIEMBIEDA, 0000
BENJAMIN C SIGURDSON, 0000
JAMES D SILCOX, 0000
CHRISTOPHER A SILVA, 0000
RICHARD A SILVA, 0000
DAVID K SILVERMAN, 0000
SEAN M SIMMONS, 0000
ESAN O SIMON, 0000
RISA B SIMON, 0000
DAVID M SIMPRINI, 0000
CHAD E SIMPSON, 0000
BRIAN G SIMS, 0000
JONATHAN W SIMS, 0000
TODD M SINCLAIR, 0000
LEE A SINGLETON, 0000
WILLIAM D SIPPERLY, 0000
EDWARD L SISK, 0000
MAX SISSON, 0000
JULIA L Y SITZMANN, 0000
GREGORY A SIUTA, 0000
DAVID W SKAROSI, 0000
BRIAN L SKUBIN, 0000
MATTHEW C SLADKY, 0000
SEAN L SLAPPY, 0000
MARK J SLEPSKI, 0000
ANDRIA L SLOUGH, 0000
DAMON M SLUTZ, 0000
RALPHAEL U SMALLS, 0000
ALBERT SMITH, 0000
BRITTON D SMITH, 0000
EDWARD A SMITH, 0000
IRVIN D SMITH JR., 0000
JERRY D SMITH, 0000
JOSHUA A SMITH, 0000
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NATHAN C SMITH, 0000
RANDAL C SMITH, 0000
ROBERT E SMITH, 0000
ROBERT K SMITH, 0000
JOSEPH W SMOTHERMAN, 0000
GUY M SNODGRASS, 0000
KATHRYN L SNOOK, 0000
TIMOTHY M SNOWDEN, 0000
KURT R SNYDER, 0000
RYAN S SNYDER, 0000
MATTHEW A SOBECKI, 0000
TABITHA R SOBEL, 0000
GLENN A SOUTHERN, 0000
MARYELIZABTH F SOUTHWELL, 0000
GEORGE T SOUTHWORTH, 0000
JEFFREY R SOWA, 0000
WILLIAM J SPARKOWSKI, 0000
WILLIAM H SPEAKS, 0000
KEMIT W SPEARS, 0000
CHARLES D SPENCELEY, 0000
KARSTEN E SPIES, 0000
PETER J SPITALE, 0000
SINGO S SPRAUVE, 0000
PAUL R SPRINGER, 0000
LANCE A SRP, 0000
SAMANTHA L STAHL, 0000
ARNOLD R STANKUS III, 0000
ROBERT A STANLEY, 0000
ROBERT D STARKS JR., 0000
JACOB P STAUB, 0000
DANIEL V STAUFFER, 0000
GRIFFIN K STAUFFER, 0000
JEFFREY W STEBBINS, 0000
ANDREW T STEELE, 0000
MISTY N STEELE, 0000
LORI L STEEN, 0000
JUSTIN E STEENSON, 0000
MISTY R STEINBERGER, 0000
FREDERICK M STELL, 0000
MELISSA S STEPHENS, 0000
PHILLIP V J STEPHENSON, 0000
JASON T STEPP, 0000
BRADLEY D STEVENS, 0000
MARK S STEVENS, 0000
NATALIE R STEVENS, 0000
FREDERICK W STEVENSON, 0000
CHANET N STEWART, 0000
EDWARD T STICKLE JR., 0000
ADAM C STIEVE, 0000
SARA A STIRES, 0000
JABALI R STJULIEN, 0000
MICHAEL G STOKES, 0000
LUCRETIA STOLL, 0000
BRADLEY J STOREY, 0000
GEOFFREY S STOW, 0000
SCOTT E STRADER, 0000
BRIAN P STRANAHAN, 0000
KAREN A STRANGE, 0000
JOSEPH V STRASSBERGER, 0000
JOEL R STRAUS, 0000
TOWANDA M STREET, 0000
HARRY A STROTHER II, 0000
PATRICK R STUART, 0000
RYAN D STURGILL, 0000
TEAGUE J SUAREZ, 0000
TRAVIS K SUGGS, 0000
BRIAN D SUMMERS, 0000
MELISSA A SUMMERVILLE, 0000
DINYI SUN, 0000
GENE E SUND, 0000
SCOTT T SUNDEM, 0000
ROBERT J SUTTON, 0000
DARREN M SWEENEY, 0000
CRAIG A SYLVESTER, 0000
JOSEPH B SYMMES JR., 0000
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MATTHEW A SZOKA, 0000
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AUGUST J TROTTMAN, 0000
DAVID W TRUMAN, 0000
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BRIAN A TUIN, 0000
WILLIAM J TULL, 0000
PATRICK D TUMY, 0000
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CHARLES W TURNER, 0000
KYLE M TWENTER, 0000
DEVIN R TYLER, 0000
TELICHA M TYLER, 0000
KURT C UHLMANN, 0000
ROBERT L UNDERHILL JR., 0000
GREGGORY M UNGER, 0000
WILLIAM R URBAN, 0000
ANDREW J URBANSKI, 0000
ROGELIO P VALENCIA II, 0000
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MICHAEL A VANCHERI, 0000
NICHOLAS A VANDEGRIEND, 0000
ADRIAN F VANDELLEN, 0000
JONATHAN K VANDERVELDE, 0000
BRIAN E VANDIVER, 0000
THOMAS M VANSCOTEN, 0000
BRIAN C VANYO, 0000
SAMIT K VARMA, 0000
DAVID C VARONA, 0000
RANDALL J VAVRA, 0000
CASE S VERNON, 0000
CODY B VERNON, 0000
TARAIL VERNON, 0000
MORRIS C VERVERS, 0000
DEREK A VESTAL, 0000
MARJORIE E VIGAL, 0000
THOMAS A VILEVAC, 0000
BLANDINO A VILLANUEVA, 0000
DAMIAN K VILTZ, 0000
JOHN W VINYARD III, 0000
MICHAEL A VIOLETTE, 0000
BURR M VOGEL, 0000
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JAMES T WADDELL, 0000
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DAVID B WAIDELICH, 0000
ERIC G WALBORN, 0000
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MARGARET A WALKER, 0000
SHANNON W WALKER, 0000
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CAROL A L WARD, 0000
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CLINTON J WARREN, 0000
PETER W WARREN, 0000
ANNETTE P WASHBURN, 0000
SHONDA D WASHINGTON, 0000
KENNETH D WASSON II, 0000
ARCHIBALD WATKINS, 0000
EDWARD T WATKINS, 0000
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RICHARD A WEBB, 0000
ANGELA M WEBSTER, 0000
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JASON E WEED, 0000
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DAVID W WINN, 0000
CRAIG M WINTERS, 0000
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RICHARD A WISE, 0000
TERRY P WISE JR., 0000
BRIDGET B WISESANANTONIO, 0000
FREDERICK WISSEN, 0000
JONATHAN P WITHAM, 0000
SHAWN D WITHERSPOON, 0000
KIRT J WLASCHIN, 0000
SEAN Z WOJTEK, 0000
JEANINE B WOMBLE, 0000
JOHN I WOOD, 0000
WILLIAM R WOOD II, 0000
SCOTT R WOODEN, 0000
KEITH C WOODLEY, 0000
RENEE M WOODWORTH, 0000
AARON T WORKMAN, 0000
JEFFREY C WORTHLEY, 0000
JAKOB C WRIEDEN, 0000
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GLENN A WRIGHT, 0000
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KEVIN T WRIGHT, 0000
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RAFE K WYSHAM, 0000
TIMOTHY J YANIK, 0000
PETER YAO, 0000
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DAVEY C YU, 0000
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JOHN T ZABLOCKI, 0000
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MICHAEL J ZAIKO, 0000
TODD D ZENTNER, 0000
TRAVIS W ZETTEL, 0000
CHI ZHANG, 0000
AARON J ZIELINSKI, 0000
MATTHEW D ZIELINSKI, 0000
JONAS S ZIKAS, 0000
LUKE P ZIMMER, 0000
GREGORY M ZIMMERMAN, 0000
JOANNA ZUHOSKI, 0000
JOHN R ZURN, 0000

To be lieutenant junior grade

KEITH E CAMPBELL, 0000
JOHN P CARDIN, 0000
ANDREW M CENISEROZ, 0000
PETER P CHRAPKIEWICZ, 0000
BRIAN CONNETT, 0000
CHRISTOPHER M DRAGO, 0000
VINCENT V ERNO, 0000
DANILO S EVANGELISTA, 0000
SEAN M GREENAWAY, 0000
MICHAEL M HARMON, 0000
JASON D HUTCHERSON, 0000
CALVIN P JONES III, 0000
ANTHONY J JUNGBLUT, 0000
PETER T KELLEHER, 0000
SETH A LIEBMAN, 0000
ALLEN L MAXWELL JR., 0000
JEFFREY S MCCAFFREY, 0000
PATRICIA A MCGUIRE, 0000
ROBERT D MCLAUGHLIN, 0000
CRAIG A MIHALIK, 0000
GREGORY R MITCHELL, 0000
JAMES A MURDOCK, 0000
LEE A NICKEL, 0000
GILBERTO P PENSERGA, 0000
MATTHEW L PETTIS, 0000
STIG SANNESS, 0000
REYNALDO C SANTOS, 0000
BLAS A SARAS, 0000
NATHAN W SCHERRY, 0000
JEFFREY R SIMS, 0000
ANDREW J SONIER, 0000
JOSEPH M SPAGNOLI, 0000
HAZELANN K TEAMER, 0000
MARCUS A THIES, 0000
CARL R WARD, 0000
MCKINNYA J WILLIAMS, 0000
JOSEPH ZULIANI, 0000

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S3735–S3868

Measures Introduced: Six bills and one resolution were introduced, as follows: S. 2284–2289, and S. Res. 332. **Page S3791**

Pregnancy and Trauma Care Access Protection Act: Senate resumed consideration of the motion to proceed to consideration of S. 2207, to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services. **Pages S3742–84**

A unanimous-consent agreement was reached providing for further consideration of the motion to proceed to consideration of the bill at 10:45 a.m., on Wednesday, April 7, 2004, with a vote on the motion to invoke cloture thereon, to occur at 2:15 p.m. **Page S3862**

Jumpstart Our Business Strength (JOBS) Act—Agreement: A unanimous-consent agreement was reached providing for further consideration of S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, on Wednesday, April 7, 2004, immediately following and not withstanding the result of the vote on the motion to invoke cloture on the motion to proceed to S. 2207 (listed above). **Page S3862**

Appointments:

HELP Around the Globe Commission: The Chair, on behalf of the Majority Leader, pursuant to Public Law 108–199, Title VI, Section 637, appointed the following individual to serve as a member of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission: Steve K. Berry of Washington, D.C. **Pages S3861–62**

Nominations Received: Senate received the following nominations:

Michael H. Watson, of Ohio, to be United States District Judge for the Southern District of Ohio.

Routine lists in the Air Force, Army, Marine Corps, Navy. **Pages S3862–68**

Executive Communications: **Pages S3789–91**

Additional Cosponsors: **Pages S3791–92**

Statements on Introduced Bills/Resolutions: **Pages S3792–96**

Additional Statements: **Pages S3785–89**

Amendments Submitted: **Pages S3796–S3861**

Notices of Hearings/Meetings: **Page S3861**

Authority for Committees to Meet: **Page S3861**

Privilege of the Floor: **Page S3861**

Adjournment: Senate convened at 10:01 a..m., and adjourned at 6:29 p.m., until 9:45 a.m., on Wednesday, April 7, 2004. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S3862.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: DEPARTMENT OF VETERANS AFFAIRS

Committee on Appropriations: Subcommittee on VA, HUD, and Independent Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2005 for the Department of Veterans Affairs, after receiving testimony from Anthony Principi, Secretary of Veterans Affairs.

CHRONIC WASTING DISEASE

Committee on Environment and Public Works: Subcommittee on Fisheries, Wildlife and Water concluded a hearing to examine S. 1366, to authorize the Secretary of the Interior to make grants to State and tribal governments to assist State and tribal efforts to manage and control the spread of chronic wasting disease in deer and elk herds, after receiving testimony from John Clifford, Associate Deputy Administrator for National Animal Health Policy and Programs, Veterinary Services, Animal and Plant

Health Inspection Services, Department of Agriculture; Charles G. Groat, Director, U.S. Geological Survey, Department of the Interior; Russell George, Colorado Department of Natural Resources, Denver; Gary J. Taylor, International Association of Fish and Wildlife Agencies, Washington, D.C.; Jack Walther, Elko, Nevada, on behalf of the American Veterinary Medical Association; and Gary J. Wolfe, Chronic Wasting Disease Alliance, Missoula, Montana.

House of Representatives

Chamber Action

The House was not in session today. Pursuant to the provisions of H. Con. Res. 361, providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate, it stands adjourned until 2 p.m. on Tuesday, April 20, 2004.

Committee Meetings

No Committee meetings were held.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D347)*

H.R. 254, to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank. Signed on April 5, 2004. (Public Law 108–215).

H.R. 3926, to amend the Public Health Service Act to promote organ donation. Signed on April 5, 2004. (Public Law 108–216).

H.R. 4062, to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004. Signed on April 5, 2004. (Public Law 108–217).

COMMITTEE MEETINGS FOR WEDNESDAY, APRIL 7, 2004

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Defense, to hold hearings to examine proposed budget estimates for fiscal year 2005 for National Guard and Reserve programs, 10 a.m., SD–192.

Subcommittee on Transportation, Treasury and General Government, to hold hearings to examine tax law enforcement and information technology challenges at the Internal Revenue Service, 10 a.m., SD–138.

Subcommittee on Military Construction, to hold hearings to examine proposed budget estimates for fiscal year 2005 for Army and Navy military construction programs, 2:30 p.m., SD–138.

Subcommittee on Agriculture, Rural Development, and Related Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2005 for certain Department of Agriculture programs, 3:30 p.m., SD–192.

Committee on Armed Services: Subcommittee on Strategic Forces, to hold hearings to examine the proposed Defense Authorization Request for fiscal year 2005, focusing on defense intelligence programs and lessons learned in recent military operations, 10 a.m., SR–222.

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine the National Bank Preemption Rules, 2 p.m., SD–538.

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space, to hold hearings to examine near earth objects, 2:30 p.m., SR–253.

Subcommittee on Oceans, Fisheries and Coast Guard, to hold an oversight hearing to examine U.S. Coast Guard activities, 2:30 p.m., SR–428A.

Committee on Environment and Public Works: business meeting to consider S. 1814, to transfer federal lands between the Secretary of Agriculture and the Secretary of the Interior, S. 441, to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouses in that county, proposed legislation, to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia, and the nominations of Stephen L. Johnson, of Maryland, to be Deputy Administrator, Ann R. Klee, of Virginia, and Benjamin Grumbles, of Virginia, each to be an Assistant Administrator of the Environmental Protection Agency, Charles Johnson, of Utah, to be Chief Financial Officer, all of the Environmental Protection Agency, and Gary Lee Visscher, of Maryland, to be a Member of the Chemical Safety and Hazard Investigation Board, 2 p.m., S–128, Capitol.

Subcommittee on Fisheries, Wildlife, and Water, to hold an oversight hearing to examine the detection of lead in District of Columbia drinking water, focusing on needed improvements in public communications and the status of short- and long-term solutions, 2:30 p.m., SD–406.

Committee on Finance: to hold hearings to examine strategies to improve access to Medicaid home and community based services, 10 a.m., SD–215.

Committee on Foreign Relations: to hold hearings to examine the United Nations oil-for-food program, 9:30 a.m., SD–419.

Subcommittee on African Affairs, to hold hearings to examine fighting HIV/AIDS in Africa; to be followed by a nominations hearing, 2:30 p.m., SD–419.

Committee on Governmental Affairs: to resume hearings to examine U.S. Postal Service reform issues, focusing on the chairmen's perspective on governance and rate-setting, 10 a.m., SD–342.

Financial Management, the Budget, and International Security, to hold hearings to examine S. 346, to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements, 2 p.m., SD–342.

Committee on Indian Affairs: business meeting to consider S. 1955, to make technical corrections to laws relating to Native Americans, and S. 1529, to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, 10 a.m., SR–485.

Committee on the Judiciary: Subcommittee on Administrative Oversight and the Courts, to hold hearings to examine a proposal to split the Ninth Circuit, 10 a.m., SD–226.

Subcommittee on Antitrust, Competition Policy and Consumer Rights, to hold hearings to examine crude oil relating to higher gas prices, 2:30 p.m., SD–226.

Select Committee on Intelligence: to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

House

No Committee meetings are scheduled.

Next Meeting of the **SENATE**

9:45 a.m., Wednesday, April 7

Senate Chamber

Program for Wednesday: After the transaction of any morning business (not to extend beyond 10:45 a.m.), Senate will continue consideration of the motion to proceed to consideration of S. 2207, Pregnancy and Trauma Care Protection Act, with a vote on the motion to invoke cloture thereon to occur at 2:15 p.m.; following which, Senate will resume consideration of S. 1637, Jumpstart Our Business Strength (JOBS) Act, with a vote on the motion to invoke cloture on the Frist Motion to Recommit the bill to the Committee on Finance, with instructions.

(On Wednesday, Senate will recess from 12:45 p.m. until 2:15 p.m. for their respective party conferences.)

Next Meeting of the **HOUSE OF REPRESENTATIVES**

2 p.m., Tuesday, April 20

House Chamber

Program for Tuesday: To be announced.

Congressional Record

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