

SA 4718. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4719. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4720. Mr. EDWARDS (for himself, Mr. SCHUMER, and Mr. HATCH) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4721. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4722. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4723. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4724. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4725. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4726. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4727. Mrs. CARNAHAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4728. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4729. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2995, to improve economic opportunity and development in communities that are dependent on tobacco production, and for other purposes; which was referred to the Committee on Agriculture, Nutrition, and Forestry.

SA 4730. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4731. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA. 4699.** Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ EXCLUSION OF UNITED STATES PERSONS FROM DEFINITION OF FOREIGN POWER IN FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 RELATING TO INTERNATIONAL TERRORISM.

Paragraph (4) of section 101(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a)) is amended to read as follows:

“(4) any person, other than a United States person, or group that is engaged in international terrorism or activities in preparation therefor;”.

**SA 4700.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, strike line 17 and all that follows through page 112, line 4, and insert the following:

#### SEC. 137. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) **ESTABLISHMENT.**—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to be headed by a director, which shall oversee and coordinate departmental programs for and relationships with State and local governments.

(b) **RESPONSIBILITIES.**—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland;

(4) develop a process for receiving meaningful input from State and local government to assist the development of the Strategy and other homeland security activities; and

(5) prepare an annual report, that contains—

(A) a description of the State and local priorities in each of the 50 States based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(B) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(C) recommendations to Congress regarding the creation, expansion, or elimination of any program to assist State and local entities to carry out their respective functions under the Department; and

(D) proposals to increase the coordination of Department priorities within each State and between the States.

(c) **HOMELAND SECURITY LIAISON OFFICERS.**—

(1) **DESIGNATION.**—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to serve as the Homeland Security Liaison Officer in that State or District.

(2) **DUTIES.**—Each Homeland Security Liaison Officer designated under paragraph (1) shall—

(A) provide State and local government officials with regular information, research,

and technical support to assist local efforts at securing the homeland;

(B) provide coordination between the Department and State and local first responders, including—

- (i) law enforcement agencies;
- (ii) fire and rescue agencies;
- (iii) medical providers;
- (iv) emergency service providers; and
- (v) relief agencies;

(C) notify the Department of the State and local areas requiring additional information, training, resources, and security;

(D) provide training, information, and education regarding homeland security for State and local entities;

(E) identify homeland security functions in which the Federal role is duplicative of the State or local role, and recommend ways to decrease or eliminate inefficiencies;

(F) assist State and local entities in priority setting based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(G) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner;

(H) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security;

(I) consult with State and local government officials, including emergency managers, to coordinate efforts and avoid duplication; and

(J) coordinate with Homeland Security Liaison Officers in neighboring States to—

- (i) address shared vulnerabilities; and
- (ii) identify opportunities to achieve efficiencies through interstate activities.

(d) **FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS AND STATE, LOCAL, AND CROSS-JURISDICTIONAL ISSUES.**—

(1) **IN GENERAL.**—There is established an Interagency Committee on First Responders and State, Local, and Cross-jurisdictional Issues (in this section referred to as the “Interagency Committee”, that shall—

(A) ensure coordination, with respect to homeland security functions, among the Federal agencies involved with—

- (i) State, local, and regional governments;
- (ii) State, local, and community-based law enforcement;
- (iii) fire and rescue operations; and
- (iv) medical and emergency relief services;

(B) identify community-based law enforcement, fire and rescue, and medical and emergency relief services needs;

(C) recommend new or expanded grant programs to improve community-based law enforcement, fire and rescue, and medical and emergency relief services;

(D) identify ways to streamline the process through which Federal agencies support community-based law enforcement, fire and rescue, and medical and emergency relief services; and

(E) assist in priority setting based on discovered needs.

(2) **MEMBERSHIP.**—The Interagency Committee shall be composed of—

(A) a representative of the Office for State and Local Government Coordination;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) a representative of the Federal Bureau of Investigation of the Department of Justice; and

(K) representatives of any other Federal agency identified by the President as having a significant role in the purposes of the Interagency Committee.

(3) **ADMINISTRATION.**—The Department shall provide administrative support to the Interagency Committee and the Advisory Council, which shall include—

(A) scheduling meetings;

(B) preparing agenda;

(C) maintaining minutes and records;

(D) producing reports; and

(E) reimbursing Advisory Council members.

(4) **LEADERSHIP.**—The members of the Interagency Committee shall select annually a chairperson.

(5) **MEETINGS.**—The Interagency Committee shall meet—

(A) at the call of the Secretary; or

(B) not less frequently than once every 3 months.

(e) **ADVISORY COUNCIL FOR THE INTERAGENCY COMMITTEE.**—

(1) **ESTABLISHMENT.**—There is established an Advisory Council for the Interagency Committee (in this section referred to as the “Advisory Council”).

(2) **MEMBERSHIP.**—

(A) **IN GENERAL.**—The Advisory Council shall be composed of not more than 13 members, selected by the Interagency Committee.

(B) **DUTIES.**—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the latest technological advances in the field of first response;

(iii) identify probable emerging threats to first responders;

(iv) identify needed improvements to first response techniques and training;

(v) identify efficient means of communication and coordination between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) evaluate the adequacy and timeliness of resources being made available to local first responders.

(C) **REPRESENTATION.**—The Interagency Committee shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations;

(iii) medical and emergency relief services; and

(iv) both urban and rural communities.

(3) **CHAIRPERSON.**—The Advisory Council shall select annually a chairperson from among its members.

(4) **COMPENSATION OF MEMBERS.**—The members of the Advisory Council shall serve without compensation, but shall be eligible for reimbursement of necessary expenses connected with their service to the Advisory Council.

(5) **MEETINGS.**—The Advisory Council shall meet with the Interagency Committee not less frequently than once every 3 months.

**SA 4701.** Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to es-

tablish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 131, between lines 2 and 3, insert the following:

(d) **REDUCTION OF AUTHORIZATIONS.**—Each amount authorized by subsection (a)(1) shall be reduced by any appropriated amount used by Amtrak for the activity for which the amount is authorized.

**SA 4702.** Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, line 20, strike “locomotives.” and insert “locomotives, upon a determination by the Secretary of Transportation that such emergency repairs are necessary for safety and security purposes.”

**SA 4703.** Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, strike lines 18 through 20.

**SA 4704.** Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, beginning with line 3, strike through line 2 on page 131.

**SA 4705.** Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.**

(a) **INVESTIGATION AND SURVEILLANCE ACTIVITIES.**—Section 20105 of title 49, United States Code, is amended—

(1) by striking “Secretary of Transportation” in the first sentence of subsection (a) and inserting “Secretary concerned”;

(2) by striking “Secretary” each place it appears (except the first sentence of subsection (a)) and inserting “Secretary concerned”;

(3) by striking “Secretary’s duties under chapters 203–213 of this title” in subsection (d) and inserting “duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)”;

(4) by striking “chapter.” in subsection (f) and inserting “chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)”;

(5) by adding at the end the following new subsection:

“(g) **DEFINITIONS.**—In this section—

“(1) the term ‘safety’ includes security; and

“(2) the term ‘Secretary concerned’ means—

“(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

“(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.”.

(b) **REGULATIONS AND ORDERS.**—Section 20103(a) of such title is amended by inserting after “1970,” the following: “When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.”.

(c) **NATIONAL UNIFORMITY OF REGULATION.**—Section 20106 of such title is amended—

(1) by inserting “and laws, regulations, and orders related to railroad security” after “safety” in the first sentence;

(2) by inserting “or security” after “safety” each place it appears after the first sentence; and

(3) by striking “Transportation” in the second sentence and inserting “Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters).”.

**SEC. . HAZMAT SAFETY TO INCLUDE HAZMAT SECURITY.**

(a) **GENERAL REGULATORY AUTHORITY.**—Section 5103 of title 49, United States Code, is amended—

(1) by striking “transportation” the first place it appears in subsection (b)(1) and inserting “transportation, including security.”;

(2) by striking “aspects” in subsection (b)(1)(B) and inserting “aspects, including security.”; and

(3) by adding at the end the following:

“(c) **CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.**—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.”.

(b) **PREEMPTION.**—Section 5125 of that title is amended—

(1) by striking “chapter or a regulation prescribed under this chapter” in subsection (a)(1) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security”;

(2) by striking “chapter or a regulation prescribed under this chapter.” in subsection (a)(2) inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.”; and

(3) by striking “chapter or a regulation prescribed under this chapter,” in subsection (b)(1) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.”.

**SA 4706.** Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, beginning with line 3, strike through line 2 on page 131, and insert the following:

**SEC. 168. RAIL SECURITY ENHANCEMENTS.****(a) EMERGENCY AMTRAK ASSISTANCE.—**

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak—

(A) \$375,000,000 for systemwide security upgrades, including the reimbursement of extraordinary security-related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, and including the hiring and training additional police officers, canine-assisted security units, and surveillance equipment;

(B) \$778,000,000 to be used to complete New York tunnel life safety projects and rehabilitate tunnels in Washington, D.C., and Baltimore, Maryland; and

(C) \$55,000,000 for the emergency repair, and returning to service, of Amtrak passenger cars and locomotives, upon a determination by the Secretary of Transportation that such emergency repairs are necessary for safety and security purposes.

(2) **AVAILABILITY OF APPROPRIATED FUNDS.**—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) **PLAN REQUIRED.**—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under paragraph (1)—

(A) for implementing systemwide security upgrades, including the emergency repair of passenger cars and locomotives, until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, after consultation with the Secretary of Homeland Security, a plan for such upgrades;

(B) for completing the tunnel life safety and rehabilitation projects until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, an engineering and financial plan for such projects; and

(C) Amtrak has submitted to the Secretary of Transportation such additional information as the Secretary may require in order to ensure full accountability for the obligation or expenditure of amounts made available to Amtrak for the purpose for which the funds are provided.

(4) **FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.**—The Secretary of Transportation shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in paragraph (3)(B)—

(A) consider the extent to which rail carriers other than Amtrak use the tunnels;

(B) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(C) obtain financial contributions or commitments from such other rail carriers if feasible.

(5) **50-PERCENT TO BE SPENT OUTSIDE THE NORTHEAST CORRIDOR.**—The Secretary of Transportation shall ensure that up to 50 percent of the amounts appropriated pursuant to paragraph (1)(A) is obligated or expended for projects outside the Northeast Corridor.

(6) **ASSESSMENT BY DOT INSPECTOR GENERAL.**—

(A) **INITIAL ASSESSMENT.**—Within 60 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report—

(i) identifying any overlap between capital projects for which funds are provided under such funding documents, procedures, or arrangements and capital projects included in Amtrak's 20-year capital plan; and

(ii) indicating any adjustments that need to be made in that plan to exclude projects for which funds are appropriated pursuant to paragraph (1).

(B) **OVERLAP REVIEW.**—The Inspector General shall, as part of the Department's annual assessment of Amtrak's financial status and capital funding requirements review the obligation and expenditure of funds under each such funding document, procedure, or arrangement to ensure that the expenditure and obligation of those funds are consistent with the purposes for which they are provided under this Act.

(7) **COORDINATION WITH EXISTING LAW.**—Amounts made available to Amtrak under this subsection shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

(8) **REDUCTION OF AUTHORIZATIONS.**—Each amount authorized by paragraph (1) shall be reduced by any appropriated amount used by Amtrak for the activity for which the amount is authorized

**SA 4707.** Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, beginning with line 8, strike through line 2 on page 131, and insert the following:

**SEC. 168. RAIL SECURITY ENHANCEMENTS.****(a) EMERGENCY AMTRAK ASSISTANCE.—**

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak—

(A) \$375,000,000 for systemwide security upgrades, including the reimbursement of extraordinary security-related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, and including the hiring and training additional police officers, canine-assisted security units, and surveillance equipment;

(B) \$778,000,000 to be used to complete New York tunnel life safety projects and rehabilitate tunnels in Washington, D.C., and Baltimore, Maryland; and

(C) \$55,000,000 for the emergency repair, and returning to service, of Amtrak passenger cars and locomotives, upon a determination by the Secretary of Transportation that such emergency repairs are necessary for safety and security purposes.

(2) **AVAILABILITY OF APPROPRIATED FUNDS.**—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) **PLAN REQUIRED.**—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under paragraph (1)—

(A) for implementing systemwide security upgrades, including the emergency repair of passenger cars and locomotives, until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, after consultation with the Secretary of Homeland Security, a plan for such upgrades;

(B) for completing the tunnel life safety and rehabilitation projects until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, an engineering and financial plan for such projects; and

(C) Amtrak has submitted to the Secretary of Transportation such additional information as the Secretary may require in order to ensure full accountability for the obligation or expenditure of amounts made available to

Amtrak for the purpose for which the funds are provided.

(4) **FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.**—The Secretary of Transportation shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in paragraph (3)(B)—

(A) consider the extent to which rail carriers other than Amtrak use the tunnels;

(B) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(C) obtain financial contributions or commitments from such other rail carriers if feasible.

(5) **REVIEW OF PLAN.**—The Secretary of Transportation shall complete the review of the plan required by paragraph (3) and approve or disapprove the plan within 45 days after the date on which the plan is submitted by Amtrak. If the Secretary determines that the plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving a modified plan from Amtrak, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall approve the portions of the plan that are complete and sufficient, release associated funds, and Amtrak shall execute an agreement with the Secretary within 15 days thereafter on a process for completing the remaining portions of the plan.

(6) **50-PERCENT TO BE SPENT OUTSIDE THE NORTHEAST CORRIDOR.**—The Secretary of Transportation shall ensure that up to 50 percent of the amounts appropriated pursuant to paragraph (1)(A) is obligated or expended for projects outside the Northeast Corridor.

(7) **ASSESSMENTS BY DOT INSPECTOR GENERAL.**—

(A) **INITIAL ASSESSMENT.**—Within 60 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report—

(i) identifying any overlap between capital projects for which funds are provided under such funding documents, procedures, or arrangements and capital projects included in Amtrak's 20-year capital plan; and

(ii) indicating any adjustments that need to be made in that plan to exclude projects for which funds are appropriated pursuant to paragraph (1).

(B) **OVERLAP REVIEW.**—The Inspector General shall, as part of the Department's annual assessment of Amtrak's financial status and capital funding requirements review the obligation and expenditure of funds under each such funding document, procedure, or arrangement to ensure that the expenditure and obligation of those funds are consistent with the purposes for which they are provided under this Act.

(8) **COORDINATION WITH EXISTING LAW.**—Amounts made available to Amtrak under this subsection shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

(9) **REDUCTION OF AUTHORIZATIONS.**—Each amount authorized by paragraph (1) shall be reduced by any appropriated amount used by Amtrak for the activity for which the amount is authorized.

**SA. 4708.** Mr. SANTORUM submitted an amendment intended to be proposed

by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —BAN ON PARTIAL-BIRTH ABORTIONS**

**SEC. 01. SHORT TITLE.**

This title may be cited as the “Partial-Birth Abortion Ban Act of 2002”.

**SEC. 02. FINDINGS.**

Congress finds the following:

(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician delivers an unborn child’s body until only the head remains inside the womb, punctures the back of the child’s skull with a sharp instrument, and sucks the child’s brains out before completing delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women, and, in some circumstances, their lives. As a result, at least 27 States banned the procedure as did Congress, which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In *Stenberg v. Carhart*, 530 U.S. 914, 932 (2000), the Supreme Court opined “that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure” for pregnant women who wish to undergo an abortion. Thus, the Supreme Court struck down Nebraska’s ban on partial-birth abortion procedures, concluding that it placed an “undue burden” on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the “health” of the mother.

(4) In reaching this conclusion, the Supreme Court deferred to the Federal district court’s findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

(5) However, the great weight of evidence presented at the Stenberg trial and other trials challenging partial-birth abortion bans, as well as at extensive congressional hearings, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court’s findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court’s findings because, under the applicable standard of appellate review, they were not “clearly erroneous”. A finding of fact is clearly erroneous “when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed”. *Anderson v. City of Bessemer City*, North Carolina, 470 U.S. 564, 573 (1985) (quoting *United States v. U.S. Gypsum Co.* 333 U.S. 364, 395 (1948)). Under this standard, “if the district court’s account of the evidence is plausible in light of the record viewed in its entirety, the court of ap-

peals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently”. *Id.* at 573-74.

(7) Thus, in *Stenberg*, the Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned findings and policy determinations of Congress and at least 27 State legislatures.

(8) However, under well-settled Supreme Court jurisprudence, Congress is not bound to accept the same findings as the Supreme Court was bound to accept in *Stenberg* under the “clearly erroneous” standard. Rather, Congress is entitled to reach its own findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

(9) In *Katzenbach v. Morgan*, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential standard of review of congressional findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress’ finding that such section 4(e) would assist the Puerto Rican community in “gaining nondiscriminatory treatment in public services”, the Supreme Court stated that “[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations . . . . It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case.”. *Id.* at 653.

(10) *Katzenbach*’s highly deferential standard of review of Congress’ findings was relied upon by the United States District Court for the District of Columbia when it upheld the “bail-out” provisions of the Voting Rights Act of 1965, stating that “congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose”. *City of Rome, Georgia v. United States*, 472 F. Supp. 221 (D. D. C. 1979) *aff’d* *City of Rome, Georgia v. United States*, 446 U.S. 156 (1980).

(11) The Supreme Court continued its practice of deferring to findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. See *Turner Broad. Sys., Inc. v. Fed. Communications Comm’n*, 512 U.S. 622 (1994) (referred to in this section as “*Turner I*”) and *Turner Broad. Sys., Inc. v. Fed. Communications Comm’n*, 520 U.S. 180 (1997) (referred to in this section as “*Turner II*”). At issue in the *Turner* cases was Congress’ finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be “seriously jeopardized”. In *Turner I*, the Supreme Court recognized that, as an institution, “Congress is far better equipped than the judiciary to ‘amass and evaluate the vast amounts of data’ bearing upon an issue as complex and dynamic as that presented here”. 512 U.S. at 665-66. Although the Supreme Court recognized that “the deference afforded to legislative findings does ‘not foreclose our independent judgment of the facts bearing on an issue of constitutional law’”, its “obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence *de novo*, or to replace Congress’ factual predictions with our own.

Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.”. *Id.* at 666.

(12) Three years later in *Turner II*, the Supreme Court upheld the “must-carry” provisions based upon Congress’ findings, stating the Supreme Court’s “sole obligation is ‘to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.’”. 520 U.S. at 195. Citing its ruling in *Turner I*, the Supreme Court reiterated that “[w]e owe Congress’ findings deference in part because the institution ‘is far better equipped than the judiciary to ‘amass and evaluate the vast amounts of data’ bearing upon’ legislative questions” *Id.* at 195, and added that it “owe[d] Congress’ findings an additional measure of deference out of respect for its authority to exercise the legislative power”. *Id.* at 196.

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a “health” exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman’s health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th and 105th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. The findings of these hearings reflect the very informed judgment of Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman’s health, lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th and 105th Congresses, Congress finds and declares that:

(A)(i) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure.

(ii) Those risks include, among other things—

(I) an increased risk of suffering from cervical incompetence, a result of cervical dilation, making it difficult or impossible for a woman successfully to carry a subsequent pregnancy to term;

(II) an increased risk of uterine rupture, abortion, amniotic fluid embolus, and trauma to the uterus as a result of converting a child to a footling breech position, a procedure which, according to a leading obstetrics textbook, “there are very few, if any, indications for . . . other than for delivery of a second twin”; and

(III) a risk of lacerations and secondary hemorrhaging due to a doctor blindly forcing a sharp instrument into the base of the unborn child’s skull while the child is lodged in the birth canal, an act that could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortion have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortion is superior in any way to established abortion procedures. Indeed, there are

currently no medical schools that provide instruction on abortions that include instruction on partial-birth abortion in their curriculum, unlike other more commonly used abortion procedures.

(C) A prominent medical association has concluded that partial-birth abortion is "not an accepted medical practice", that it has "never been subject to even a minimal amount of the normal medical practice development", that "the relative advantages and disadvantages of the procedure in specific circumstances remain unknown", and that "there is no consensus among obstetricians about its use". The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is "ethically wrong", and "is never the only appropriate procedure".

(D) Neither the plaintiff in *Stenberg v. Carhart*, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that the physician has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, that partial-birth abortion is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in *Roe* when the Supreme Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child "in a state of being born and before actual birth", was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a "person" under the Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a "person". Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This interest, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortion is "ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb". According to this medical association, the "partial birth" gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body".

(J) Partial-birth abortion also causes confusion among the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom the physician had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the ter-

minology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and the child—and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in a manner that purposefully seeks to kill the child after a child has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, a child will fully experience the pain associated with piercing the child's skull and sucking out the child's brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further make society indifferent to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

(O) For these reasons, partial-birth abortion is never medically indicated to preserve the health of the mother, is in fact unrecognized as a valid abortion procedure by the mainstream medical community, poses additional health risks to the mother, blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth, causes confusion of the role of the physician in childbirth, and should, therefore, be banned.

#### SEC. 403. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

#### "CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.

"1531. Partial-birth abortions prohibited.

#### "§ 1531. Partial-birth abortions prohibited

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the date of enactment of the Partial-Birth Abortion Ban Act of 2002.

"(b) As used in this section—

"(1) the term 'partial-birth abortion' means an abortion in which—

"(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head

is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

"(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

"(2) the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

"(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

"(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

"(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section."

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"74. Partial-birth abortions ..... 1531".

SA 4709. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 8 and 9, insert the following:

#### SEC. 172. REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES.

(a) REQUIREMENT.—Except as provided in subsections (c) through (g), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;  
 (B) clothing;  
 (C) tents, tarpaulins, or covers;  
 (D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Specialty metals, including stainless steel flatware.

(3) Hand or measuring tools.

(c) **AVAILABILITY EXCEPTION.**—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

(d) **EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.**—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations.

(2) Procurements by vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

(e) **EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.**—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of title 10, United States Code.

(f) **EXCEPTION FOR CERTAIN FOODS.**—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

(g) **EXCEPTION FOR SMALL PURCHASES.**—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(h) **APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.**—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(i) **GEOGRAPHIC COVERAGE.**—In this section, the term “United States” includes the possessions of the United States.

**SA 4710.** Mr. GREGG (for himself Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr.

STEVENS, Mr. INOUE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. ALLEN, Mr. DOMENICI, Mrs. HUTCHISON, Mr. KOHL, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.**

(a) **ESTABLISHMENT.**—

(1) **DIRECTORATE.**—There is established within the Department the Directorate of Emergency Preparedness and Response.

(2) **UNDER SECRETARY.**—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) **RESPONSIBILITIES.**—The Directorate of Emergency Preparedness and Response shall be responsible for the following:

(1) Carrying out all nonterrorism emergency preparedness activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(2) Carrying out all terrorism and other hazard response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(3) Creating a National Crisis Action Center to act as the focal point for—

(A) monitoring emergencies;

(B) notifying affected agencies and State and local governments; and

(C) coordinating Federal support for State and local governments and the private sector in crises.

(4) Managing and updating the Federal response plan to ensure the appropriate integration of operational activities of the Department of Defense, the National Guard, and other agencies, to respond to acts of terrorism and other disasters.

(5) Coordinating activities among private sector entities, including entities within the medical community, and animal health and plant disease communities, with respect to recovery, consequence management, and planning for continuity of services.

(6) Developing and managing a single response system for national incidents in coordination with all appropriate agencies.

(7) Coordinating with other agencies necessary to carry out the functions of the Office of Emergency Preparedness.

(8) Collaborating with, and transferring funds to, the Centers for Disease Control and Prevention or other agencies for administration of the Strategic National Stockpile transferred under subsection (c)(6).

(9) Consulting with the Under Secretary for Science and Technology, Secretary of Agriculture, and the Director of the Centers for Disease Control and Prevention in establishing and updating the list of potential threat agents or toxins relating to the functions of the Select Agent Registration Program transferred under subsection (c)(7).

(10) Developing a plan to address the interface of medical informatics and the medical response to terrorism that address—

(A) standards for interoperability;

(B) real-time data collection;

(C) ease of use for health care providers;

(D) epidemiological surveillance of disease outbreaks in human health and agriculture;

(E) integration of telemedicine networks and standards;

(F) patient confidentiality; and

(G) other topics pertinent to the mission of the Department.

(11) Activate and coordinate the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188).

(12) Performing such other duties as assigned by the Secretary.

(c) **TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.**—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department, which shall be maintained as a distinct entity within the Department, except that those elements of the Office of National Preparedness of the Federal Emergency Management Agency that relate to terrorism shall be transferred to the Office of Domestic Preparedness established under this section.

(2) The National Office of Domestic Preparedness of the Federal Bureau of Investigation of the Department of Justice.

(3) The Office of Domestic Preparedness of the Department of Justice.

(4) Those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(5) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(6) The Strategic National Stockpile of the Department of Health and Human Services including all functions and assets under sections 121 and 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188).

(7) The functions of the Select Agent Registration Program of the Department of Health and Human Services and the United States Department of Agriculture, including all functions of the Secretary of Health and Human Services and the Secretary of Agriculture under sections 201 through 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188).

(d) **OFFICE FOR DOMESTIC PREPAREDNESS.**—

(1) **ESTABLISHMENT.**—There is established within the Directorate of Emergency Preparedness and Response the Office for Domestic Preparedness.

(2) **DIRECTOR.**—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Emergency Preparedness and Response.

(3) **RESPONSIBILITIES.**—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—



(A) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(B) in keeping with intelligence estimates, working to ensure adequate strategic and operational planning, equipment, training, and exercise activities at all levels of government;

(C) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(D) directing and supervising terrorism preparedness grant programs of the Federal Government for all emergency response providers;

(E) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(F) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(G) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States; and

(H) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(4) FISCAL YEARS 2003 AND 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

(5) REPORT.—Not later than the submission of the fiscal year 2005 budget request, the Secretary shall submit to Congress a detailed report containing a comprehensive, independent analysis, and recommendations addressing whether there should be a single office within the Department responsible for the domestic preparedness of the United States for all hazards, including terrorism and natural disasters. The analysis shall include an examination of the advantages, disadvantages, costs, and benefits of creating a single office for all hazards preparedness within the Department.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the status of a national medical informatics system and an agricultural disease surveillance system, and the capacity of such systems to meet the goals under subsection (b)(12) in responding to a terrorist attack.

(f) PREEMPTED PROVISIONS.—Notwithstanding any other provision of this Act, including any effective date provision, section 134 shall not take effect.

**SA 4711.** Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to es-

tablish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 9 through 13, and insert the following:  
homeland threats;

(D) minimize the damage, and assist in the recovery, from terrorist attacks or other natural or man-made crises that occur within the United States; and

(E) to the extent practicable, ensure the speedy, orderly, safe, and efficient flow of lawful traffic, travel, and commerce.

**SA 4712.** Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 25, between lines 11 and 12, insert the following:

(e) SPECIAL ASSISTANT TO THE SECRETARY.—

(1) RESPONSIBILITIES.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(A) creating and fostering strategic communications with the private sector to enhance the primary mission of the Department to protect the American homeland;

(B) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions on the private sector;

(C) interfacing with other relevant Federal agencies with homeland security missions to assess the impact of these agencies' actions on the private sector;

(D) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations;

(E) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges; and

(F) assisting in the development and promotion of private sector best practices to secure critical infrastructure.

(2) DUPLICATION OF FUNCTIONS.—The Special Assistant to the Secretary shall avoid duplication of functions performed by the Directorate of Science of Technology in accordance with section 135.

**SA 4713.** Mr. JEFFORDS (for himself, Mr. SMITH of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

#### **Subtitle G—First Responder Terrorism Preparedness**

##### **SEC. 199A. SHORT TITLE.**

This subtitle may be cited as the “First Responder Terrorism Preparedness Act of 2002”.

##### **SEC. 199B. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the Federal Government must enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(2) as a result of the events of September 11, 2001, it is necessary to clarify and consolidate the authority of the Federal Emergency Management Agency to support first responders.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish within the Federal Emergency Management Agency the Office of National Preparedness;

(2) to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(3) to address issues relating to urban search and rescue task forces.

##### **SEC. 199C. DEFINITIONS.**

(a) MAJOR DISASTER.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting “incident of terrorism,” after “drought,”.

(b) WEAPON OF MASS DESTRUCTION.—Section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(a)) is amended by adding at the end the following:

“(11) WEAPON OF MASS DESTRUCTION.—The term ‘weapon of mass destruction’ has the meaning given the term in section 2302 of title 50, United States Code.”.

##### **SEC. 199D. ESTABLISHMENT OF OFFICE OF NATIONAL PREPAREDNESS.**

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

##### **“SEC. 616. OFFICE OF NATIONAL PREPAREDNESS.**

“(a) IN GENERAL.—There is established in the Federal Emergency Management Agency an office to be known as the ‘Office of National Preparedness’ (referred to in this section as the ‘Office’).

“(b) APPOINTMENT OF ASSOCIATE DIRECTOR.—

“(1) IN GENERAL.—The Office shall be headed by an Associate Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) COMPENSATION.—The Associate Director shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(c) DUTIES.—The Office shall—

“(1) lead a coordinated and integrated overall effort to build, exercise, and ensure viable terrorism preparedness and response capability at all levels of government;

“(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response;

“(3) establish and coordinate an integrated capability for Federal, State, tribal, and local governments and emergency responders to plan for and address potential consequences of terrorism;

“(4) coordinate provision of Federal terrorism preparedness assistance to State, tribal, and local governments;

“(5) establish standards for a national, interoperable emergency communications and warning system;

“(6) establish standards for training of first responders (as defined in section 630(a)), and for equipment to be used by first responders, to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

“(7) carry out such other related activities as are approved by the Director.

“(d) DESIGNATION OF REGIONAL CONTACTS.—The Associate Director shall designate an officer or employee of the Federal Emergency

Management Agency in each of the 10 regions of the Agency to serve as the Office contact for the States in that region.

“(e) USE OF EXISTING RESOURCES.—In carrying out this section, the Associate Director shall—

“(1) to the maximum extent practicable, use existing resources, including planning documents, equipment lists, and program inventories; and

“(2) consult with and use—

“(A) existing Federal interagency boards and committees;

“(B) existing government agencies; and

“(C) nongovernmental organizations.”.

#### **SEC. 199E. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.**

(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:

#### **“SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.**

“(a) DEFINITIONS.—In this section:

“(1) FIRST RESPONDER.—The term ‘first responder’ means—

“(A) fire, emergency medical service, and law enforcement personnel; and

“(B) such other personnel as are identified by the Director.

“(2) LOCAL ENTITY.—The term ‘local entity’ has the meaning given the term by regulation promulgated by the Director.

“(3) PROGRAM.—The term ‘program’ means the program established under subsection (b).

“(b) PROGRAM TO PROVIDE ASSISTANCE.—

“(1) IN GENERAL.—The Director shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.

“(2) FEDERAL SHARE.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Director.

“(3) FORMS OF ASSISTANCE.—Assistance provided under paragraph (1) may consist of—

“(A) grants; and

“(B) such other forms of assistance as the Director determines to be appropriate.

“(c) USES OF ASSISTANCE.—Assistance provided under subsection (b)—

“(1) shall be used—

“(A) to purchase, to the maximum extent practicable, interoperable equipment that is necessary to respond to incidents of terrorism, including incidents involving weapons of mass destruction;

“(B) to train first responders, consistent with guidelines and standards developed by the Director;

“(C) in consultation with the Director, to develop, construct, or upgrade terrorism preparedness training facilities;

“(D) to develop, construct, or upgrade emergency operating centers;

“(E) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Director;

“(F) to provide systems and equipment to meet communication needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;

“(G) to conduct exercises; and

“(H) to carry out such other related activities as are approved by the Director; and

“(2) shall not be used to provide compensation to first responders (including payment for overtime).

“(d) ALLOCATION OF FUNDS.—For each fiscal year, in providing assistance under sub-

section (b), the Director shall make available—

“(1) to each of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, \$3,000,000; and

“(2) to each State (other than a State specified in paragraph (1))—

“(A) a base amount of \$15,000,000; and

“(B) a percentage of the total remaining funds made available for the fiscal year based on criteria established by the Director, such as—

“(i) population;

“(ii) location of vital infrastructure, including—

“(I) military installations;

“(II) public buildings (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612));

“(III) nuclear power plants;

“(IV) chemical plants; and

“(V) national landmarks; and

“(iii) proximity to international borders.

“(e) PROVISION OF FUNDS TO LOCAL GOVERNMENTS AND LOCAL ENTITIES.—

“(1) IN GENERAL.—For each fiscal year, not less than 75 percent of the assistance provided to each State under this section shall be provided to local governments and local entities within the State.

“(2) ALLOCATION OF FUNDS.—Under paragraph (1), a State shall allocate assistance to local governments and local entities within the State in accordance with criteria established by the Director, such as the criteria specified in subsection (d)(2)(B).

“(3) DEADLINE FOR PROVISION OF FUNDS.—Under paragraph (1), a State shall provide all assistance to local government and local entities not later than 45 days after the date on which the State receives the assistance.

“(4) COORDINATION.—Each State shall coordinate with local governments and local entities concerning the use of assistance provided to local governments and local entities under paragraph (1).

“(f) ADMINISTRATIVE EXPENSES.—

“(1) DIRECTOR.—For each fiscal year, the Director may use to pay salaries and other administrative expenses incurred in administering the program not more than the lesser of—

“(A) 5 percent of the funds made available to carry out this section for the fiscal year; or

“(B)(i) for fiscal year 2003, \$75,000,000; and

“(ii) for each of fiscal years 2004 through 2006, \$50,000,000.

“(2) RECIPIENTS OF ASSISTANCE.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (e) may be used to pay salaries and other administrative expenses incurred in administering the program.

“(g) MAINTENANCE OF EXPENDITURES.—The Director may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (e) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

“(h) REPORTS.—

“(1) ANNUAL REPORT TO THE DIRECTOR.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Director, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

“(2) EXERCISE AND REPORT TO CONGRESS.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

“(i) conduct an exercise, or participate in a regional exercise, approved by the Director, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

“(B) submit a report on the results of the exercise to—

“(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

“(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

“(i) COORDINATION.—

“(1) WITH FEDERAL AGENCIES.—The Director shall, as necessary, coordinate the provision of assistance under this section with activities carried out by—

“(A) the Administrator of the United States Fire Administration in connection with the implementation by the Administrator of the assistance to firefighters grant program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) (as added by section 1701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654, 1654A–360));

“(B) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 1701(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)); and

“(C) other appropriate Federal agencies.

“(2) WITH INDIAN TRIBES.—In providing and using assistance under this section, the Director and the States shall, as appropriate, coordinate with—

“(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and other tribal organizations; and

“(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.”.

(b) COST SHARING FOR EMERGENCY OPERATING CENTERS.—Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended—

(1) by inserting “(other than section 630)” after “carry out this title”; and

(2) by inserting “(other than section 630)” after “under this title”.

#### **SEC. 199F. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.**

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199E(a)) is amended by adding at the end the following:

#### **“SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.**

“(a) DEFINITIONS.—In this section:

“(1) FIRST RESPONDER.—The term ‘first responder’ has the meaning given the term in section 630(a).

“(2) HARMFUL SUBSTANCE.—The term ‘harmful substance’ means a substance that the President determines may be harmful to human health.

“(3) PROGRAM.—The term ‘program’ means a program described in subsection (b)(1).

“(b) PROGRAM.—

“(1) IN GENERAL.—If the President determines that 1 or more harmful substances are being, or have been, released in an area that the President has declared to be a major disaster area under this Act, the President shall



carry out a program with respect to the area for the protection, assessment, monitoring, and study of the health and safety of first responders.

“(2) ACTIVITIES.—A program shall include—

“(A) collection and analysis of environmental and exposure data;

“(B) development and dissemination of educational materials;

“(C) provision of information on releases of a harmful substance;

“(D) identification of, performance of baseline health assessments on, taking biological samples from, and establishment of an exposure registry of first responders exposed to a harmful substance;

“(E) study of the long-term health impacts of any exposures of first responders to a harmful substance through epidemiological studies; and

“(F) provision of assistance to participants in registries and studies under subparagraphs (D) and (E) in determining eligibility for health coverage and identifying appropriate health services.

“(3) PARTICIPATION IN REGISTRIES AND STUDIES.—

“(A) IN GENERAL.—Participation in any registry or study under subparagraph (D) or (E) of paragraph (2) shall be voluntary.

“(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

“(4) COOPERATIVE AGREEMENTS.—The President may carry out a program through a cooperative agreement with a medical or academic institution, or a consortium of such institutions, that is—

“(A) located in close proximity to the major disaster area with respect to which the program is carried out; and

“(B) experienced in the area of environmental or occupational health and safety, including experience in—

“(i) conducting long-term epidemiological studies;

“(ii) conducting long-term mental health studies; and

“(iii) establishing and maintaining environmental exposure or disease registries.

“(c) REPORTS AND RESPONSES TO STUDIES.—

“(1) REPORTS.—Not later than 1 year after the date of completion of a study under subsection (b)(2)(E), the President, or the medical or academic institution or consortium of such institutions that entered into the cooperative agreement under subsection (b)(4), shall submit to the Director, the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Environmental Protection Agency a report on the study.

“(2) CHANGES IN PROCEDURES.—To protect the health and safety of first responders, the President shall make such changes in procedures as the President determines to be necessary based on the findings of a report submitted under paragraph (1).”.

#### SEC. 199G. URBAN SEARCH AND RESCUE TASK FORCES.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199F) is amended by adding at the end the following:

#### “SEC. 632. URBAN SEARCH AND RESCUE TASK FORCES.

“(a) DEFINITIONS.—In this section:

“(1) URBAN SEARCH AND RESCUE EQUIPMENT.—The term ‘urban search and rescue equipment’ means any equipment that the Director determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

“(2) URBAN SEARCH AND RESCUE TASK FORCE.—The term ‘urban search and rescue

task force’ means any of the 28 urban search and rescue task forces designated by the Director as of the date of enactment of this section.

“(b) ASSISTANCE.—

“(1) MANDATORY GRANTS FOR COSTS OF OPERATIONS.—For each fiscal year, of the amounts made available to carry out this section, the Director shall provide to each urban search and rescue task force a grant of not less than \$1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

“(2) DISCRETIONARY GRANTS.—The Director may provide to any urban search and rescue task force a grant, in such amount as the Director determines to be appropriate, to pay the costs of—

“(A) operations in excess of the funds provided under paragraph (1);

“(B) urban search and rescue equipment;

“(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

“(D) training, including training for operating in an environment described in subparagraph (C);

“(E) transportation;

“(F) expansion of the urban search and rescue task force; and

“(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

“(3) PRIORITY FOR FUNDING.—The Director shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

“(c) GRANT REQUIREMENTS.—The Director shall establish such requirements as are necessary to provide grants under this section.

“(d) ESTABLISHMENT OF ADDITIONAL URBAN SEARCH AND RESCUE TASK FORCES.—

“(1) IN GENERAL.—Subject to paragraph (2), the Director may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

“(2) REQUIREMENT OF FULL FUNDING OF EXISTING URBAN SEARCH AND RESCUE TASK FORCES.—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task force that withdraws or is otherwise no longer considered to be an urban search and rescue task force designated by the Director, no additional urban search and rescue task forces may be designated or funded until the 28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.”.

#### SEC. 199H. AUTHORIZATION OF APPROPRIATIONS.

Section 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197e) is amended by striking subsection (a) and inserting the following:

“(a) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title (other than sections 630 and 632).

“(2) PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.—There are authorized to be appropriated to carry out section 630—

“(A) \$3,340,000,000 for fiscal year 2003; and

“(B) \$3,458,000,000 for each of fiscal years 2004 through 2006.

“(3) URBAN SEARCH AND RESCUE TASK FORCES.—

“(A) IN GENERAL.—There are authorized to be appropriated to carry out section 632—

“(i) \$160,000,000 for fiscal year 2003; and

“(ii) \$42,000,000 for each of fiscal years 2004 through 2006.

“(B) AVAILABILITY OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.”.

**SA 4714.** Mr. JEFFORDS (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, line 8, strike “terrorism, natural disasters,” and insert “terrorism”.

On page 11, strike lines 6 through 13 and insert the following:

homeland threats within the United States; and

(C) reduce the vulnerability of the United States to terrorism and other homeland threats.

On page 12, line 23, strike “emergency preparedness and response.”.

On page 13, strike lines 3 through 5 and insert the following:

transportation security and critical infrastructure protection.

On page 15, line 14, insert “and the Director of the Federal Emergency Management Agency” after “Defense”.

On page 16, strike lines 13 through 16.

On page 16, line 17, strike “(15)” and insert “(14)”.

On page 16, line 20, strike “(16)” and insert “(15)”.

On page 16, line 24, strike “(17)” and insert “(16)”.

On page 17, line 4, strike “(18)” and insert “(17)”.

On page 17, line 8, strike “(19)” and insert “(18)”.

Beginning on page 68, strike line 14 and all that follows through page 75, line 3.

On page 75, line 3, strike “135” and insert “134”.

On page 103, line 13, strike “136” and insert “135”.

On page 103, line 17, strike “137” and insert “136”.

On page 109, line 10, strike “of the Department”.

On page 112, line 5, strike “138” and insert “137”.

On page 112, line 10, strike “139” and insert “138”.

On page 112, between lines 4 and 5, insert the following:

(f) COORDINATION WITH FEDERAL EMERGENCY MANAGEMENT AGENCY.—

(1) IN GENERAL.—In carrying out all responsibilities of the Secretary under this section, the Secretary shall coordinate with the Director of the Federal Emergency Management Agency.

(2) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting “incident of terrorism,” after “drought,”.

On page 114, line 6, strike “140” and insert “139”.

On page 114, strike lines 13 and 14.

On page 115, line 3, strike “in the Department” and insert “within the Federal Emergency Management Agency”.

On page 116, line 21, strike “Department” and insert “Federal Emergency Management Agency”.

Beginning on page 128, strike line 22 and all that follows through page 129, line 5, and insert the following:

(a) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this section.

(b) PUBLIC HEALTH EMERGENCY.—During the

On page 129, strike lines 15 and 16 and insert the following:

(c) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving,

On page 186, line 25, and page 187, line 1, strike “emergency preparation and response.”

On page 187, insert “emergency preparedness and response,” after “assets.”

Beginning on page 161, strike line 19 and all that follows through page 162, line 2, and insert the following:

(b) BIENNIAL REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall submit to Congress a report assessing the resources and requirements of executive agencies relating to border security.

**SA 4715.** Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, strike lines 14 through 23 and insert the following:

**SEC. 134. FEDERAL EMERGENCY MANAGEMENT AGENCY.**

(a) HOMELAND SECURITY DUTIES.—

(1) IN GENERAL.—The Federal Emergency Management Agency shall be responsible for the emergency preparedness and response functions of the Department.

(2) FUNCTION.—Except as provided in paragraph (3) and subsections (b) through (e), nothing in this Act affects the administration or administrative jurisdiction of the Federal Emergency Management Agency as in existence on the day before the date of enactment of this Act.

(3) DIRECTOR.—In carrying out responsibilities of the Federal Emergency Management Agency under all applicable law, the Director of the Federal Emergency Management Agency shall report—

(A) to the President directly, with respect to all matters relating to a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) to the Secretary, with respect to all other matters.

On page 69, strike lines 1 through 7 and insert the following:

(b) SPECIFIC RESPONSIBILITIES.—The Director of the Federal Emergency Management Agency shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities of the Department.

On page 69, line 23, strike “Creating a National Crisis Action Center to act” and inserting “Acting”.

On page 72, line 4, strike “other”.

On page 72, line 14, strike “Department” and insert “Federal Emergency Management Agency”.

On page 72, strike lines 15 through 19.

On page 72, line 20, strike “(2)” and insert “(1)”.

On page 72, line 23, strike “(3)” and insert “(2)”.

On page 73, line 1, strike “(4)” and insert “(3)”.

On page 73, line 17, strike “(5)” and insert “(4)”.

On page 73, line 23, strike “(6)” and insert “(5)”.

On page 74, strike lines 7 through 22 and insert the following:

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report.

On page 75, between lines 2 and 3, insert the following:

(f) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting “incident of terrorism,” after “drought.”.

On page 114, strike lines 13 and 14.

On page 128, line 24, strike “134(b)(7)” and insert “134(b)”.

**SA 4716.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

[Data not available at time of printing.]

**SA 4717.** Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 156, line 8, strike all through page 158, line 18, and insert the following:

**SEC. 189. USE OF APPROPRIATED FUNDS.**

(a) APPLICABILITY OF THIS SECTION.—Notwithstanding any other provision of this Act or any other law, this section shall apply to the use of any funds, disposal of property, and acceptance, use, and disposal of gifts, or donations of services or property, of, for, or by the Department, including any agencies, entities, or other organizations transferred to the Department under this Act.

(b) AUTHORIZATION OF APPROPRIATIONS TO CREATE DEPARTMENT.—There is authorized to be appropriated \$160,000,000 for the Office of Homeland Security in the Executive Office of the President to be transferred without delay to the Department upon its creation by enactment of this Act, notwithstanding subsection (c)(1)(C) such funds shall be available only for the payment of necessary salaries and expenses associated with the initiation of operations of the Department.

(c) USE OF TRANSFERRED FUNDS.—

(1) IN GENERAL.—Except as may be provided in this subsection or in an appropriations Act in accordance with subsection (e), balances of appropriations and any other funds or assets transferred under this Act—

(A) shall be available only for the purposes for which they were originally available;

(B) shall remain subject to the same conditions and limitations provided by the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; and

(C) shall not be used to fund any new position established under this Act.

(2) TRANSFER OF FUNDS.—

(A) IN GENERAL.—After the creation of the Department and the swearing in of its Secretary, and upon determination by the Secretary that such action is necessary in the national interest, the Secretary is authorized to transfer, with the approval of the Office of Management and Budget, not to exceed \$140,000,000 of unobligated funds from organizations and entities transferred to the new Department by this Act.

(B) LIMITATION.—Notwithstanding paragraph (1)(C), funds authorized to be trans-

ferred by subparagraph (A) shall be available only for payment of necessary costs, including funding of new positions, for the initiation of operations of the Department and may not be transferred unless the Committees on Appropriations are notified at least 15 days in advance of any proposed transfer and have approved such transfer in advance.

(C) NOTIFICATION.—The notification required in subparagraph (B) shall include a detailed justification of the purposes for which the funds are to be used and a detailed statement of the impact on the program or organization that is the source of the funds, and shall be submitted in accordance with reprogramming procedures to be established by the Committees on Appropriations.

(D) USE FOR OTHER ITEMS.—The authority to transfer funds established in this section may not be used unless for higher priority items, based on demonstrated homeland security requirements, than those for which funds originally were appropriated and in no case where the item for which funds are requested has been denied by Congress.

(d) NOTIFICATION REGARDING TRANSFERS.—The President shall notify Congress not less than 15 days before any transfer of appropriations balances, other funds, or assets under this Act.

(e) ADDITIONAL USES OF FUNDS DURING TRANSITION.—Subject to subsections (c) and (d), amounts transferred to, or otherwise made available to, the Department may be used during the transition period, as defined in section 801(2), for purposes in addition to those for which such amounts were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(f) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(g) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(h) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

**SA 4718.** Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, between lines 20 and 21, insert the following:

(14) On behalf of the Secretary, subject to disapproval by the President, directing the agencies described under subsection (a)(1)(B) to provide intelligence information, analyses of intelligence information, and such other intelligence-related information as the Under Secretary for Intelligence determines necessary.

**SA 4719.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

#### **DIVISION D—CARE**

##### **SECTION 1. SHORT TITLE; ETC.**

(a) **SHORT TITLE.**—This division may be cited as the “CARE Act of 2002”.

(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.

##### **TITLE II—DISCLOSURE OF INFORMATION RELATING TO 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.

##### **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. Charitable contribution deduction for certain expenses incurred in support of Native Alaskan subsistence whaling.

Sec. 309. Payments by charitable organizations to victims of war on terrorism.

Sec. 310. Treatment of bonds issued to acquire standing timber on land subject to conservation easement.

Sec. 311. Exemption from income tax for State-created organizations providing property and casualty insurance for property for which such coverage is otherwise unavailable.

Sec. 312. Modification of special arbitrage rule for certain funds.

Sec. 313. Matching grants to low-income taxpayer clinics for return preparation.

Sec. 314. Modification of scholarship foundation rules.

Sec. 315. Treatment of certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness.

Sec. 316. 10-year divestiture period for certain excess business holdings of private foundations.

##### **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.

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##### **TITLE VI—REVENUE PROVISIONS**

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###### **PART I—TAXPAYER-RELATED PROVISIONS**

Sec. 601. Penalty for failing to disclose reportable transaction.

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###### **PART III—OTHER PROVISIONS**

Sec. 631. Affirmation of consolidated return regulation authority.

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Sec. 641. Tax treatment of inverted corporate entities.

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Sec. 651. Reinsurance of United States risks in foreign jurisdictions.

###### **Subtitle D—Extension of Internal Revenue Service User Fees**

Sec. 661. Extension of Internal Revenue Service user fees.

###### **Subtitle E—Imposition of Customs User Fees**

Sec. 671. Customs user fees.

##### **TITLE VII—EQUAL TREATMENT FOR NONGOVERNMENTAL PROVIDERS**

Sec. 701. Nongovernmental organizations.

##### **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 X—STATE AND LOCAL POLITICAL COMMITTEES**

Sec. 1001. Exemption for certain State and local political committees from notification requirements.

- Sec. 1002. Exemption for certain State and local political committees from reporting requirements.
- Sec. 1003. Exemption from annual return requirements.
- Sec. 1004. Notification of interaction of reporting requirements.
- Sec. 1005. Waiver.
- Sec. 1006. Modifications to section 527 organization disclosure provisions.
- Sec. 1007. Effect of amendments on existing disclosures.

#### 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, but only with respect to such contributions which 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 by those who itemize their charitable contributions with those who claim a direct charitable deduction.

(2) REPORT.—By not later than December 31, 2003, 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, 2001, and before January 1, 2004.

##### 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 the date that the individual for whose benefit the account is maintained has attained—

“(I) in the case of any distribution described in clause (i)(I), age 70½, and

“(II) in the case of any distribution described in clause (i)(II), 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 be so includible if all amounts were distributed from all individual retirement accounts otherwise taken into account in 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 charitable, etc., 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 charitable, etc., deduction taken under section 642(c) within such year,

“(B) the amount paid out within such year which represents amounts for which charitable, etc., deductions under section 642(c) have been taken in prior years,

“(C) the amount for which charitable, etc., 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 charitable, etc., purposes,

“(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 in the case of a taxable year if 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. Paragraph (1) shall not apply in the case of a trust 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 taxable years beginning after December 31, 2002.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2002.

#### 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.—

“(i) FOR TAXABLE YEARS 2009, 2010, AND 2011.—With respect to taxable years beginning after December 31, 2008, and before January 1, 2012, 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 greater of—

“(I) 25 percent of the fair market value of the contributed property, or

“(II) the amount by which the fair market value of such property exceeds twice the basis of such property.

“(ii) FOR TAXABLE YEARS AFTER 2011.—With respect to taxable years beginning after December 31, 2011, 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 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 taxable years beginning after December 31, 2002.

#### 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 (using the same printing and edition) published within 7 years preceding the contribution) 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.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

#### 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) 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, 2001.

#### 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 percentage 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 made by an eligible farmer or rancher—

“(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).

“(i) 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.”.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2002.

**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) 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 December 31, 2003, in taxable years ending after such date.

#### 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 in taxable years beginning after December 31, 2002.

#### 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 in taxable years beginning after December 31, 2002.

#### 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 December 31, 2002, in taxable years ending after such date.

#### 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 such reimbursement 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 and inserting 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.

### TITLE II—DISCLOSURE OF INFORMATION RELATING TO 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 the tax-exempt status of an organization described under subsection (c) or (d) of section 501 (including any organization that has applied for tax-exempt status under such subsection) which is not required to be disclosed by section 6104(a)(1)(A) but which is within the scope of section 6104.

“(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 December 31, 2002.

#### 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, 2002.

**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 property 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 sentences: “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 property 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 property 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, 2002.

**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 independent contractor.

“(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 independent contractor.

“(4) **USE IN JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.**—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and 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 tax-exempt status of such organizations.”

(b) **CONFORMING AMENDMENTS.**—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting “or 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) is amended—

(A) in the matter preceding subparagraph (A), by striking “(16) or any other person described in subsection (1)(16)” and inserting “(16), any other person described in subsection (1)(16), or any appropriate State officer (as defined in section 6104(c))”, and

(B) in subparagraph (F), by striking “or any other person described in subsection (1)(16)” and inserting “any other person described in subsection (1)(16), 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.

**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, 2001.

**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 non-taxable 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, 2001.

### 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, 2002, 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)) 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 made after December 31, 2001.

### 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. 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 \$7,500 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 expenses paid after December 31, 2002, in taxable years ending after such date.

#### SEC. 309. PAYMENTS BY CHARITABLE ORGANIZATIONS TO VICTIMS OF WAR ON TERRORISM.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code to 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, 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 payments are 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 DATE.—This section shall apply to payments made after the date of the enactment of this Act and before September 11, 2003.

#### SEC. 310. TREATMENT OF BONDS ISSUED TO ACQUIRE STANDING TIMBER ON LAND SUBJECT TO CONSERVATION EASEMENT.

(a) IN GENERAL.—Section 145 (defining qualified 501(c)(3) bond) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) BONDS ISSUED TO ACQUIRE STANDING TIMBER ON LAND SUBJECT TO CONSERVATION EASEMENT.—

“(1) IN GENERAL.—A bond to which this subsection applies shall not fail to be a qualified 501(c)(3) bond by reason of the sale, lease, or other use of standing timber if—

“(A) such sale, lease, or other use does not constitute an unrelated trade or business (determined by applying section 513(a)),

“(B) the bond is designated by the Secretary for purposes of this subsection, and

“(C) the bond otherwise meets the requirements of this subsection.

“(2) BONDS TO WHICH SUBSECTION APPLIES.—This subsection applies to bonds the proceeds of which are used to acquire both land and any standing timber associated with such land from an unrelated person if—

“(A) such land is subject to a conservation restriction which—

“(i) is granted in perpetuity to an unrelated person which is a qualified organization (as defined in section 170(h)(3)),

“(ii) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A), and

“(iii) obligates the owner of such land to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

“(B) the seller irrevocably elects not to exclude from income any gain on the sale under section 121A.

“(3) TREATMENT OF TIMBER, ETC.—

“(A) IN GENERAL.—For purposes of subsection (a), the cost of any standing timber acquired with proceeds of such bonds shall be treated as a cost of acquiring the land associated with the standing timber and such land shall not be treated as used for a private business use because of the sale or lease of the standing timber to, or other use of the standing timber by, an unrelated person to the extent that such sale, lease, or other use does not constitute an unrelated trade or business, determined by applying section 513(a).

“(B) APPLICATION OF BOND MATURITY LIMITATION.—For purposes of section 147(b), the land or standing timber acquired with proceeds of such bonds shall have an economic life of 35 years.

“(C) UNRELATED PERSON.—For purposes of this subsection, a person shall be treated as unrelated to—

“(i) an organization to which section 501 applies, if such person (or, if such person is an individual, a member of such person's family) controls directly or indirectly less than 20 percent of the governing body of such organization,

“(ii) a corporation, if such person owns directly or indirectly less than 20 percent of the value of the outstanding stock of such corporation, or

“(iii) a partnership, if such person owns directly or indirectly less than 20 percent of the capital interests or profit interests of such partnership.

“(4) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

“(A) IN GENERAL.—The aggregate amount of bonds (including any bond (or series of bonds) used to advance refund such bonds) which may be designated for purposes of this subsection under paragraph (1)(B) shall not exceed \$2,000,000,000.

“(B) NO DESIGNATION AFTER 2005.—No bonds may be so designated after 2005.

“(C) ALLOCATION OF LIMITATION.—The limitation described in subparagraph (A) shall be allocated by the Secretary among 501(c)(3) organizations based on criteria established by the Secretary after consultation with appropriate Federal, State, and local officials.

“(D) TREATMENT OF CURRENT REFUNDING BONDS.—Any bond (or series of bonds) issued to refund a bond designated and issued before January 1, 2006, shall be treated as designated for purposes of this subsection under paragraph (1)(B) and shall not be taken into account in applying subparagraph (A) or (B) of this paragraph if—

“(i) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

“(ii) 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.

“(5) TERMINATION.—This subsection shall not apply to any bond (other than a refunding bond described in paragraph (4)(D)) issued after December 31, 2005.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to bonds issued after September 30, 2002.

#### SEC. 311. EXEMPTION FROM INCOME TAX FOR STATE-CREATED ORGANIZATIONS PROVIDING PROPERTY AND CASUALTY INSURANCE FOR PROPERTY FOR WHICH SUCH COVERAGE IS OTHERWISE UNAVAILABLE.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end the following new paragraph:

“(29)(A) Any association created before January 1, 1999, by State law and organized and operated exclusively to provide property and casualty insurance coverage for windstorm, hail, and fire damage to property located within the State for which the State determines, through appropriate State action, that such coverage in the authorized insurance market is not reasonably available to a substantial number of insurable real properties (and any successor association) if—

“(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual,

“(ii) except as provided in clause (v), no part of the assets of which may be used for, or diverted to, any purpose other than—

“(I) to satisfy, in whole or in part, the liability of the association for, or with respect to, claims made on policies written by the association,

“(II) to invest in investments authorized by applicable law,

“(III) to pay reasonable and necessary administration expenses in connection with the establishment and operation of the association and the processing of claims against the association, or

“(IV) to make remittances pursuant to State law to be used by the State to provide for the payment of claims on policies written by the association, purchase reinsurance covering losses under such policies, or to support governmental programs to prepare for or mitigate the effects of natural catastrophic events,

“(iii) the State law governing the association permits the association to levy assessments on insurance companies authorized to sell property and casualty insurance in the State, or on property and casualty insurance policyholders with insurable interests in property located in the State to fund deficits of the association, including the creation of reserves,

“(iv) the plan of operation of the association is subject to approval by the chief executive officer or other official of the State, by the State legislature, or both, and

“(v) the assets of the association revert upon dissolution to the State, the State's designee, or an entity designated by the State law governing the association, or State law does not permit the dissolution of the association.

“(B)(i) An entity described in clause (ii) (and any successor entity) shall be disregarded as a separate entity and treated as part of the association described in subparagraph (A) from which it receives remittances described in clause (ii) if an election is made within 30 days after the date that such association is determined to be exempt from tax.

“(ii) An entity is described in this clause if it is an entity or fund created before January 1, 1999, pursuant to State law and organized and operated exclusively to receive, hold, and invest remittances from an association described in subparagraph (A) and exempt from tax under subsection (a), to make disbursements to pay claims on insurance contracts issued by such association, and to make disbursements to support governmental programs to prepare for or mitigate the effects of natural catastrophic events.”

(b) UNRELATED BUSINESS TAXABLE INCOME.—Subsection (a) of section 512 (relating

to unrelated business taxable income) is amended by adding at the end the following new paragraph:

“(6) SPECIAL RULE APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(c)(29).—In the case of an organization described in section 501(c)(29), the term ‘unrelated business taxable income’ means taxable income for a taxable year computed without the application of section 501(c)(29) if at the end of the immediately preceding taxable year the organization’s net equity exceeded 15 percent of the total coverage in force under insurance contracts issued by the organization and outstanding at the end of such preceding year.”.

(c) TRANSITIONAL RULE.—No income or gain shall be recognized by an association as a result of a change in status to that of an association described by section 501(c)(29) of the Internal Revenue Code of 1986, as amended by subsection (a).

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

#### SEC. 312. MODIFICATION OF SPECIAL ARBITRAGE RULE FOR CERTAIN FUNDS.

(a) IN GENERAL.—Paragraph (1) of section 648 of the Deficit Reduction Act of 1984 is amended to read as follows:

“(1) such securities or obligations are held in a fund—

“(A) which, except to the extent of the investment earnings on such securities or obligations, cannot be used, under State constitutional or statutory restrictions continuously in effect since October 9, 1969, through the date of issue of the bond issue, to pay debt service on the bond issue or to finance the facilities that are to be financed with the proceeds of the bonds, or

“(B) the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue.”.

(b) CONFORMING AMENDMENT.—Section 648(3) of such Act is amended by striking “the investment earnings of” and inserting “distributions from”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

#### SEC. 313. MATCHING GRANTS TO LOW-INCOME TAXPAYER CLINICS FOR RETURN PREPARATION.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

##### “SEC. 7527. ASSISTANCE FOR RETURN PREPARATION FOR LOW-INCOME TAXPAYERS.

“(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds to not-for-profit organizations described in section 501(c) and exempt from taxation under section 501(a) which assist low-income taxpayers in tax return preparation.

“(b) 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.

“(c) REQUIREMENT OF MATCHING FUNDS.—A not-for-profit organization must provide matching funds on a dollar-for-dollar basis for all grants provided under this section. Matching funds may include—

“(1) the salary (including fringe benefits) of individuals performing tax return preparation services for the organization; and

“(2) the cost of equipment used by the organization.

Indirect expenses, including general overhead of the organization, shall not be counted as matching funds.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

“Sec. 7527. Assistance for return preparation for low-income taxpayers.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

#### SEC. 314. MODIFICATION OF SCHOLARSHIP FOUNDATION RULES.

In applying the limitations on the percentage of scholarship grants which may be awarded after December 31, 2002, to children of 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 children who are not children of current or former employees.

#### SEC. 315. 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 its 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. 316. 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.—Upon the election of a private foundation (at such time and in such form and manner as the Secretary may prescribe), paragraph (6) shall be applied by substituting ‘10-year period’ for ‘5-year period’ if—

“(i) 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 is the result of a gift or bequest the value of which exceeds \$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, and

“(ii) not later than the end of the taxable year following the taxable year during which such gift or bequest was made, the private foundation submits to the Secretary a reasonable plan for disposing of all of the excess business holdings related to such gift or bequest.

“(B) 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 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 2003, the amount shall be \$1,975,000,000, and with respect to fiscal year 2004, 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 2003 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 2002 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 2002”.

**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 2002” 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. 7525. 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 2002 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. 7525. 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 2002.

**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 NON-ELIGIBLE 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 2003, 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 2003 and for each fiscal year through 2010, 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 2002.

“(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 2002 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 2002 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 2002 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, 2003, and beginning on or before January 1, 2011, with respect to any Individual Development Account which—

“(A) is opened before January 1, 2011, 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, 2003, 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, 2011, 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, 2011.

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

#### 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—REVENUE PROVISIONS

#### Subtitle A—Tax Shelter Transparency Requirements

#### PART I—TAXPAYER-RELATED PROVISIONS

##### SEC. 601. 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 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 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 his 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 reasons for the rescission, and

“(B) 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, or

“(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c),

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 section 6662.”

(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. 602. 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 PENALTIES FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—If the requirement of section 6664(d)(2)(A) is not met with respect to any portion of any reportable transaction understatement, then subsection (a) shall be applied by substituting—

“(1) ‘30 percent’ for ‘20 percent’ if such understatement is attributable to a listed transaction, and

“(2) ‘25 percent’ for ‘20 percent’ in the case of any other understatement.

“(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 for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), but

“(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.

“(2) COORDINATION WITH FRAUD PENALTY.—

“(A) IN GENERAL.—References to an underpayment in section 6663 shall be treated as including references to a reportable 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 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 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.”

(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.”

(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 is a material advisor (within the meaning of section 6111(b)(1)) who—

“(I) participates in the organization, management, promotion, or sale of the transaction or is related (within the meaning of section 267 or 707) to any person who so participates,

“(II) is compensated by another 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 “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. 603. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NON-REPORTABLE 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.”

(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. 604. 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.

#### **PART II—PROMOTER AND PREPARER RELATED PROVISIONS**

##### **Subpart A—Provisions Relating to Reportable Transactions**

#### **SEC. 611. 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 advice or assistance.

“(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 regard 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. 612. 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) **REPORTABLE AND LISTED TRANSACTIONS.**—The terms ‘reportable transaction’ and ‘listed transaction’ have the respective meanings given to such terms by section 6707A(c).

“(d) **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.”

(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 due the date for which is after the date of the enactment of this Act.

**SEC. 613. 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 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. 614. 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.

**Subpart B—Other Promoter and Preparer Provisions**

**SEC. 621. 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. 622. 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 TRANS-ACTION 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. 623. 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. 624. 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. 625. 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.

### PART III—OTHER PROVISIONS

#### SEC. 631. 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 *Rite Aid Corporation v. United States*, 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.

#### Subtitle B—Tax Treatment of Inversion Transactions

#### SEC. 641. 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.

“(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, 2002.

“(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).

The credit allowed by section 901 may be taken into account under the preceding sentence only to the extent of the product of such highest rate and the amount of taxable income from sources without the United States that is not inversion gain.

“(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 RELATED PARTY TRANSACTIONS.—

“(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

“(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

“(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

“(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

“(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

“(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this

paragraph as having received notice under clause (ii).

“(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

“(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

“(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

“(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

“(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term ‘approval agreement’ means a prefilling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

“(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 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, 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), 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.—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) a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly substantially all of the properties of an acquired entity,

“(B) before such acquisition such 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 such entity, or any member of an expanded affiliated group including such entity, and

“(C) after such acquisition such acquired entity does not have such a relationship and was not under such common control with any member of the expanded affiliated group which before such acquisition included such entity, then this section shall cease to apply to 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-through 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) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking “and” at the end of subparagraph (C), by inserting “and” at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

“(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement.”

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking “or (D)” and inserting “(D), or (E)”.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of

1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) 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.

(d) 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.”

#### Subtitle C—Reinsurance Agreements

#### SEC. 651. 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.

#### Subtitle D—Extension of Internal Revenue Service User Fees

#### SEC. 661. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

#### “SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

“(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

“(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

“(2) other similar requests.

“(b) PROGRAM CRITERIA.—

“(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

“(A) shall vary according to categories (or subcategories) established by the Secretary,

“(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

“(C) shall be payable in advance.

“(2) EXEMPTIONS, ETC.—

“(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

“(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

“(i) made after the later of—

“(I) the fifth plan year the pension benefit plan is in existence, or

“(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

“(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

“(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

“(i) PENSION BENEFIT PLAN.—The term ‘pension benefit plan’ means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

“(ii) ELIGIBLE EMPLOYER.—The term ‘eligible employer’ means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

“(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

“(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion ..	\$250
Exempt organization ruling .....	\$350
Employee plan determination .....	\$300
Exempt organization determination .....	\$275
Chief counsel ruling .....	\$200.

“(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after June 30, 2008.”

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

“Sec. 7527. Internal Revenue Service user fees.”.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

#### Subtitle E—Imposition of Customs User Fees

#### SEC. 671. 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 “September 30, 2003” and inserting “October 31, 2008”.

#### TITLE VII—EQUAL TREATMENT FOR NONGOVERNMENTAL PROVIDERS

#### SEC. 701. NONGOVERNMENTAL ORGANIZATIONS.

(a) GENERAL AUTHORITY.—For any social service program, a nongovernmental organization that is (or is applying to be) involved in the delivery of social services for the program shall not be required—

(1) to alter or remove art, icons, scripture, or other symbols, or to alter its name, because the symbols or name are religious;

(2) to alter or remove provisions in its chartering documents because the provisions are religious, except that no such charter provisions shall affect the application to a nongovernmental organization of any law that would (notwithstanding this paragraph) apply to the nongovernmental organization; or

(3) to alter or remove religious qualifications for membership on its governing boards.

(b) **PRIOR EXPERIENCE.**—A nongovernmental organization that has not previously been awarded a contract, grant, or cooperative agreement from an agency shall not, for that reason, be disadvantaged in a competition to secure a contract, grant, or cooperative agreement to deliver services under a social service program from the agency administering the program.

(c) **INTERMEDIATE GRANTORS.**—

(1) **IN GENERAL.**—An agency that administers a social service program, and that is authorized to award grants or cooperative agreements to nongovernmental organizations under the program, may award to a nongovernmental organization (referred to in this subsection as an “intermediate grantor”) a grant or cooperative agreement, the terms of which authorize the intermediate grantor—

(A) to provide subgrants or subagreements to nongovernmental providers (referred to individually in this subsection as a “subrecipient”), to deliver social services for the program; and

(B) to manage the subgrants or subagreements.

(2) **RESPONSIBILITIES AND RIGHTS OF SUBRECIPIENTS.**—

(A) **RESPONSIBILITIES.**—Except for those administrative responsibilities that the intermediate grantor fully performs on behalf of the subrecipient, the subrecipient shall have the same responsibilities or duties with respect to the program as the subrecipient would have if it were the intermediate grantor.

(B) **RIGHTS.**—The subrecipient shall have the same rights or authorities under this section as the subrecipient would have if it were the intermediate grantor.

(3) **RESPONSIBILITIES AND RIGHTS OF AGENCIES.**—

(A) **RESPONSIBILITIES.**—Nothing in this subsection shall alter any of an agency’s responsibilities or duties with respect to the program, the intermediate grantor, or the subrecipient.

(B) **RIGHTS.**—Nothing in this subsection shall alter any of an agency’s rights or authorities with respect to the program, the intermediate grantor, or the subrecipient.

(d) **COMPLIANCE.**—To enforce the provisions of this section against a Federal agency or official, a nongovernmental organization may bring an action for injunctive relief in an appropriate United States district court. To enforce the provisions of this section against a State or local agency or official, a nongovernmental organization may bring an action for injunctive relief in an appropriate State court of general jurisdiction.

(e) **DEFINITIONS.**—In this section:

(1) **FEDERAL FINANCIAL ASSISTANCE.**—The term “Federal financial assistance” does not include a tax credit, deduction, or exemption.

(2) **SOCIAL SERVICE PROGRAM.**—

(A) **IN GENERAL.**—The term “social service program” means a program that—

(i) is administered by the Federal Government, or by a State or local government using Federal financial assistance; and

(ii) provides 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—

(I) 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 indi-

viduals with disabilities (including physical, mental, or emotional disabilities);

(II) transportation services;

(III) job training and related services, and employment services;

(IV) information, referral, and counseling services;

(V) the preparation and delivery of meals, and services related to soup kitchens or food banks;

(VI) health support services;

(VII) literacy and mentoring programs;

(VIII) 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

(IX) services related to the provision of assistance for housing under Federal law.

(B) **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.).

## 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 con-

taining 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)”.

#### TITLE X—STATE AND LOCAL POLITICAL COMMITTEES

##### SEC. 1001. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM NOTIFICATION REQUIREMENTS.

(a) EXEMPTION FROM NOTIFICATION REQUIREMENTS.—Paragraph (5) of section 527(i) (relating to organizations must notify Secretary that they are section 527 organizations) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, or”, and by adding at the end the following:

“(C) which is a political committee of a State or local candidate or which is a State or local committee of a political party.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as if included in the amendments made by Public Law 106-230.

**SEC. 1002. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM REPORTING REQUIREMENTS.**

(a) **IN GENERAL.**—Section 527(j)(5) (relating to coordination with other requirements) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

“(C) to any organization which is a qualified State or local political organization.”.

(b) **QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION.**—Subsection (e) of section 527 (relating to other definitions) is amended by adding at the end the following new paragraph:

“(5) **QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION.**—

“(A) **IN GENERAL.**—The term ‘qualified State or local political organization’ means a political organization which—

“(i) does not engage in any exempt function other than solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization,

“(ii) is subject to State law which requires the organization to report (and it so reports)—

“(I) information regarding each separate expenditure from and contribution to such organization, and

“(II) information regarding the person who makes such contribution or receives such expenditure,

which would otherwise be required to be reported under this section, and

“(iii) with respect to which the reports referred to in clause (ii) are made public by the agency with which such reports are filed and are publicly available for inspection in a manner similar to that required by section 6104(d)(1).

“(B) **CERTAIN DIFFERENCES DISREGARDED.**—An organization shall not be treated as failing to meet the requirements of subparagraph (A)(ii) solely by reason of 1 or more of the following:

“(i) The minimum amount of any expenditure or contribution required to be reported under State law is not more than \$300 greater than the minimum amount required to be reported under subsection (j).

“(ii) The State law does not require the organization to identify 1 or more of the following:

“(I) The employer of any person who makes contributions to the organization.

“(II) The occupation of any person who makes contributions to the organization.

“(III) The employer of any person who receives expenditures from the organization.

“(IV) The occupation of any person who receives expenditures from the organization.

“(V) The purpose of any expenditure of the organization.

“(VI) The date any contribution was made to the organization.

“(VII) The date of any expenditure of the organization.

“(iii) The organization makes de minimis errors in complying with State law requirements as long as the organization corrects the errors within a reasonable period after becoming aware of such errors.

“(C) **PARTICIPATION OF FEDERAL CANDIDATE OR OFFICE HOLDER.**—The term ‘qualified State or local political organization’ shall not include any organization otherwise described in subparagraph (A) if a candidate for

nomination or election to Federal elective public office or an individual who holds such office—

“(i) controls or materially participates in the direction of the organization,

“(ii) solicits contributions to the organization (unless the Secretary determines that such solicitations resulted in de minimis contributions and were made without the prior knowledge and consent, whether explicit or implicit, of the organization or its officers, directors, agents, or employees), or

“(iii) directs, in whole or in part, disbursements by the organization.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the amendments made by Public Law 106-230.

**SEC. 1003. EXEMPTION FROM ANNUAL RETURN REQUIREMENTS.**

(a) **INCOME TAX RETURNS REQUIRED ONLY FOR POLITICAL ORGANIZATION TAXABLE INCOME.**—Paragraph (6) of section 6012(a) (relating to persons required to make returns of income) is amended by striking “or which has” and all that follows through “section”).

(b) **INFORMATION RETURNS.**—Subsection (g) of section 6033 (relating to returns required by political organizations) is amended to read as follows:

“(g) **RETURNS REQUIRED BY POLITICAL ORGANIZATIONS.**—

“(1) **IN GENERAL.**—This section shall apply to a political organization—

“(A) as defined by section 527(e)(1) which has gross receipts of \$25,000 or more for the taxable year, or

“(B) as defined by section 527(e)(5) which has gross receipts of \$100,000 or more for the taxable year.

“(2) **ANNUAL RETURNS.**—Political organizations described in paragraph (1) shall file an annual return—

“(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate so that only information which is necessary to carry out the purposes of section 527 is required, and

“(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

“(3) **MANDATORY EXCEPTIONS FROM FILING.**—Paragraph (2) shall not apply to an organization—

“(A) which is a State or local committee of a political party, or political committee of a State or local candidate,

“(B) which is a caucus or association of State or local officials,

“(C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

“(D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,

“(E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,

“(F) which is required to report under the Federal Election Campaign Act of 1971 as a political committee, or

“(G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

“(4) **DISCRETIONARY EXCEPTION.**—The Secretary may relieve any organization required under paragraph (2) to file an information return from filing such a return where the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the amendments made by Public Law 106-230.

**SEC. 1004. NOTIFICATION OF INTERACTION OF REPORTING REQUIREMENTS.**

(a) **IN GENERAL.**—The Secretary of the Treasury, in consultation with the Federal Election Commission, shall publicize—

(1) the effect of the amendments made by this Act, and

(2) the interaction of requirements to file a notification or report under section 527 of the Internal Revenue Code of 1986 and reports under the Federal Election Campaign Act of 1971.

(b) **INFORMATION.**—Information provided under subsection (a) shall be included in any appropriate form, instruction, notice, or other guidance issued to the public by the Secretary of the Treasury or the Federal Election Commission regarding reporting requirements of political organizations (as defined in section 527 of the Internal Revenue Code of 1986) or reporting requirements under the Federal Election Campaign Act of 1971.

**SEC. 1005. WAIVER.**

(a) **IN GENERAL.**—Section 527 is amended by adding at the end the following:

“(k) **AUTHORITY TO WAIVE.**—The Secretary may waive all or any portion of the—

“(1) tax assessed on an organization by reason of the failure to comply with the requirements imposed by subsection (i), or

“(2) amount imposed under subsection (j) for the failure to comply with the requirements imposed by such subsection, on a showing that such failure was due to reasonable cause and not due to willful neglect.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to any tax assessed or amount imposed after June 30, 2000.

**SEC. 1006. MODIFICATIONS TO SECTION 527 ORGANIZATION DISCLOSURE PROVISIONS.**

(a) **UNSEGREGATED FUNDS NOT TO AVOID TAX.**—Paragraph (4) of section 527(i) (relating to failure to notify) is amended by adding at the end the following new sentence: “For purposes of the preceding sentence, the term ‘exempt function income’ means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.”.

(b) **PROCEDURES FOR ASSESSMENT AND COLLECTION.**—Paragraph (1) of section 527(j) (relating to required disclosure of expenditures and contributions) is amended by adding at the end the following new sentence: “For purposes of subtitle F, the amount imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).”.

(c) **DUPLICATE WRITTEN FILINGS NOT REQUIRED.**—Subparagraph (A) of section 527(i)(1) is amended by striking “, electronically and in writing,” and inserting “electronically”.

(d) **APPLICATION OF FRAUD PENALTY.**—Section 7207 (relating to fraudulent returns, statements, and other documents) is amended by striking “pursuant to subsection (b) of section 6047 or pursuant to subsection (d) of section 6104” and inserting “pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527”.

(e) **CONTENTS AND FILING OF REPORT.**—

(1) **CONTENTS.**—Section 527(j)(3) (relating to contents of report) is amended—

(A) by inserting “, date, and purpose” after “The amount” in subparagraph (A), and

(B) by inserting “and date” after “the amount” in subparagraph (B).

(2) **ELECTRONIC FILING REQUIRED.**—Section 527(j) is amended by adding at the end the following new paragraph:



“(7) ELECTRONIC FILING.—Any report required under paragraph (2) with respect to any calendar year shall be filed in electronic form if the organization has, or has reason to expect to have, contributions or expenditures exceeding \$50,000 in such calendar year.”.

(3) ELECTRONIC FILING AND ACCESS OF REQUIRED DISCLOSURES.—Section 527, as amended by section 1005(a), is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) PUBLIC ACCESSIBILITY TO NOTICES AND REPORTS.—

“(1) IN GENERAL.—The Secretary shall make any notice described in subsection (i)(1) or report described in subsection (j)(7) available for public inspection on the Internet not later than 48 hours after such notice or report has been filed (in addition to such public availability as may be made under section 6104(d)(7)).

“(2) ACCESS TO NOTICES AND REPORTS.—The Secretary shall make all notices and reports which are made available to the public under paragraph (1) searchable by the following items, to the extent such an item is required to be included in such notices or reports:

“(A) Name, State, zip code, custodian of records, directors, and general purpose of the organizations.

“(B) Entities related to the organizations.

“(C) Contributors to the organizations.

“(D) Employers of such contributors.

“(E) Recipients of expenditures by the organizations.

“(F) Ranges of contributions and expenditures.

“(G) Time period of the notices or reports.”.

(f) CONTENTS OF NOTICE.—Section 527(i)(3) (relating to contents of notice) is amended by striking “and” at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

“(E) whether the organization intends to claim an exemption from the requirements of subsection (j) or section 6033, and”.

(g) TIMING OF NOTICE.—Section 527(i)(2) (relating to time to give notice) is amended by inserting “or, in the case of any material change in the information required under paragraph (3), not later than 30 days after such material change” after “established”.

(h) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to failures occurring on or after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect as if included in the amendments made by Public Law 106-230.

(3) SUBSECTIONS (d), (e)(1), AND (f).—The amendments made by subsections (d), (e)(1), and (f) shall apply to reports or notices filed on or after the date of the enactment of this Act.

(4) SUBSECTIONS (e)(2) AND (e)(3).—The amendments made by subsections (e)(2) and (e)(3) shall apply to reports filed on or after 60 days after the date of the enactment of this Act.

(5) SUBSECTION (g).—The amendments made by subsection (g) shall apply to material changes on or after the date of the enactment of this Act.

#### SEC. 1007. EFFECT OF AMENDMENTS ON EXISTING DISCLOSURES.

Notices, reports, or returns that were required to be filed with the Secretary of the Treasury before the date of the enactment of the amendments made by this title and that were disclosed by the Secretary of the Treasury consistent with the law in effect at the

time of disclosure shall remain subject on and after such date to the disclosure provisions of section 6104 of the Internal Revenue Code of 1986.

**SA 4720.** Mr. EDWARDS (for himself, Mr. SCHUMER, and Mr. HATCH) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, between lines 9 and 10, insert the following:

#### TITLE VI—COMMISSION ON ENHANCING SECURITY AND PRESERVING FREEDOM SEC. 601. FINDINGS.

Congress makes the following findings:

(1) The terrorist attacks of September 11, 2001, and the continuing threat of further attacks, are an assault on the safety and security of all Americans.

(2) The threat of further acts of terrorism has necessitated an expansion of the authority of government to conduct surveillance and collect data.

(3) While recognizing the need for additional security measures, Americans remain deeply committed to the individual dignity, liberty, and privacy rooted in United States history and protected by the Constitution of the United States.

(4) Different investigative technologies and methods can achieve the same security goals in ways that have substantially different impacts on individual rights.

(5) The government should conduct investigations and surveillance in a manner that fully addresses law enforcement and national security needs in the manner that best preserves the personal dignity, liberty, and privacy of individuals within the United States.

#### SEC. 602. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the Commission on Enhancing Security and Preserving Freedom (in this title referred to as the “Commission”).

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 17 members of whom—

(A) five shall be representatives of the Federal Government, including—

(i) the Attorney General, or the Attorney General’s designee;

(ii) the Secretary of the Treasury, or the Secretary’s designee;

(iii) the Secretary of Commerce, or the Secretary’s designee;

(iv) the Director of Central Intelligence, or the Director’s designee; and

(v) the Secretary of Homeland Security, or the Secretary’s designee;

(B) four shall be appointed by the Majority Leader of the Senate;

(C) two shall be appointed by the Minority Leader of the Senate;

(D) four shall be appointed by the Speaker of the House of Representatives; and

(E) two shall be appointed by the Minority Leader of the House of Representatives.

(2) LIMITATION ON DESIGNEES.—An individual may not be designated for membership on the Commission under paragraph (1)(A) unless the individual holds a position in the United States Government by appointment of the President, by and with the advice and consent of the Senate.

(3) APPOINTMENTS BY CONGRESSIONAL LEADERSHIP.—

(A) REQUIREMENTS.—(i) One of the individuals appointed under subparagraph (B) of paragraph (1) shall be an officer or employee of a State law enforcement agency.

(ii) One of the individuals appointed under subparagraph (D) of paragraph (1) shall be an

officer or employee of a local law enforcement agency.

(B) LIMITATION.—No individual may be appointed under subparagraphs (B) through (E) of paragraph (1) if the individual is an officer or employee of the Federal Government or an active member of the uniformed services.

(C) SENSE OF CONGRESS.—It is the sense of Congress that in making appointments to the Commission under subparagraphs (B) through (E) of paragraph (1) the Members of Congress referred to in such subparagraphs should seek to appoint individuals with varying viewpoints on and areas of expertise in the matters to be covered by the Commission, including individuals from the technology industry, non-profit entities, and academia.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) SECURITY CLEARANCES.—

(1) IN GENERAL.—Each individual appointed to the Commission under subparagraphs (B) through (E) of subsection (b)(1) shall possess a security clearance appropriate for the work of the Commission under this title.

(2) FAILURE TO SECURE CLEARANCE.—

(A) INITIAL APPOINTMENTS.—If an individual initially appointed under subparagraphs (B) through (E) of subsection (b)(1) without a security clearance does not secure a security clearance by the commencement of the work of the Commission, the appointment shall be deemed vacant.

(B) APPOINTMENTS TO VACANCIES.—If an individual appointed to a vacancy in a position under subparagraphs (B) through (E) of subsection (b)(1) without a security clearance does not secure a security clearance within a reasonable period (as determined by the Commission), the appointment shall be deemed vacant.

(3) PROCESSING OF CLEARANCES.—The Attorney General shall seek to ensure the timely processing of any applications for security clearances for purposes of this subsection.

(e) CHAIRMAN.—The Commission shall select a Chairman from among its members.

(f) INITIAL MEETING.—Not later than 30 days after the date on which nine members of the Commission have been appointed, the Commission shall hold its first meeting.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman.

(h) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

#### SEC. 603. DUTIES OF COMMISSION.

(a) INVESTIGATION.—The Commission shall conduct a thorough investigation of the following:

(1) Standards for using, selecting, and operating investigative and surveillance technologies to meet law enforcement and national security needs in the manner that best preserves the personal dignity, liberty, and privacy of individuals within the United States.

(2) The advisability of establishing within the Government one or more entities or procedures to ensure that the Government uses investigative and surveillance technologies to meet law enforcement and national security needs in the manner that best preserves the personal dignity, liberty, and privacy of individuals within the United States.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of the initial meeting of the Commission, the Commission shall submit to the President and Congress a report which shall contain a detailed statement of the

findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) **FORM OF REPORT.**—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) **INVESTIGATIVE AND SURVEILLANCE TECHNOLOGIES DEFINED.**—In this section, the term “investigative and surveillance technologies” means technologies that may be used by the Federal Government, and by State and local governments, to monitor and collect information about individuals in the absence of reasonable, articulable suspicion of criminal activity, including—

- (1) Internet surveillance technologies;
- (2) data mining technologies;
- (3) surveillance camera technologies;
- (4) x-ray body scan technologies;
- (5) biometric technologies; and
- (6) other technologies identified by the Commission for purposes of this title.

#### **SEC. 604. POWERS OF COMMISSION.**

(a) **HEARINGS.**—

(1) **IN GENERAL.**—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this title—

(A) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials, as the Commission or such subcommittee or member considers advisable.

(2) **PUBLIC MEETINGS.**—To the maximum extent practicable, the meetings of the Commission shall be open to the public.

(3) **CLOSED MEETINGS.**—

(A) **IN GENERAL.**—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(B) **ADDITIONAL AUTHORITY.**—In addition to the authority under subparagraph (A), paragraphs (1) and (3) of section 10(a) of the Federal Advisory Committee Act shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(4) **PUBLIC SUMMARY OF CLOSED PROCEEDINGS.**—Whenever practicable, the Commission shall maintain and make available for public inspection an unclassified summary of any classified information considered by the Commission and of any classified meeting or proceeding conducted by the Commission.

(b) **ISSUANCE AND ENFORCEMENT OF SUBPOENAS.**—

(1) **ISSUANCE.**—Subpoenas issued under subsection (a) shall bear the signature of the Chairman of the Commission and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) **ENFORCEMENT.**—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of court.

(c) **WITNESS ALLOWANCES AND FEES.**—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(d) **PROCEDURES.**—The Commission may adopt procedures for the work of the Commission under this title. Any portion of such procedures relating to the treatment of confidential or classified information shall not go into effect until jointly approved by the Attorney General and the Director of Central Intelligence.

(e) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(g) **GIFTS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

#### **SEC. 605. COMMISSION PERSONNEL MATTERS.**

(a) **COMPENSATION OF MEMBERS.**—Members of the Commission shall serve without compensation for their service as members of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **STAFF.**—

(1) **IN GENERAL.**—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) **COMPENSATION.**—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) **SECURITY CLEARANCES.**—The executive director and any other personnel of the Commission shall possess security clearances appropriate for the work of the Commission.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay pre-

scribed for level V of the Executive Schedule under section 5316 of such title.

#### **SEC. 606. TERMINATION OF COMMISSION.**

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 603(b).

#### **SEC. 607. FUNDING.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for each of fiscal years 2003, 2004, and 2005 such sums as may be necessary for the Commission to carry out this title in such fiscal year.

(b) **TRANSFER OF FUNDS.**—If no funds are appropriated to the Commission by the end of the session of Congress ending in a fiscal year specified in subsection (a), the Secretary of Commerce shall, from amounts appropriated or otherwise available to the Secretary for such fiscal year, transfer to the Commission an amount necessary to permit the Commission to carry out this title in such fiscal year.

(c) **AVAILABILITY.**—Any amounts appropriated to the Commission under subsection (a), or transferred to the Commission under subsection (b), shall remain available, without fiscal year limitation, until expended.

**SA 4721.** Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **TITLE \_\_\_\_ . TRANSFER OF THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS TO THE DEPARTMENT OF JUSTICE**

#### **SEC. \_\_\_\_ 01. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS.**

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—There is established within the Department of Justice the Bureau of Alcohol, Tobacco, and Firearms (in this title referred to as the “Bureau”).

(2) **DIRECTOR.**—The Bureau shall be headed by the Director, Bureau of Alcohol, Tobacco, and Firearms (in this title referred to as the “Director”), who shall perform such duties as assigned by the Attorney General. The Director shall occupy a career-reserved position within the Senior Executive Service.

(3) **CHIEF COUNSEL.**—The Bureau shall have as its chief legal officer a Chief Counsel, who shall occupy a career-reserved position within the Senior Executive Service.

(b) **RESPONSIBILITIES.**—Subject to the direction of the Attorney General, the Bureau shall be the primary agency within the Department of Justice for—

(1) the criminal enforcement of the Federal firearms, explosives, arson, alcohol, and tobacco laws;

(2) the regulatory enforcement and revenue collections functions of the firearms, explosives, alcohol, and tobacco laws;

(3) the functions transferred by subsection (c); any

(4) any other function related to the investigation of violent crime that is delegated to the Bureau by the Attorney General.

(c) **TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT OF JUSTICE.**—Notwithstanding any other provision of law, there are transferred to the Department of Justice the authorities, functions, personnel (including all Senior Executive Positions), and assets of the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury, which shall be maintained as a distinct entity within the Department of Justice, including the related functions of the Secretary of the Treasury.

**SEC. —02. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) Chapter 40 of title 18, United States Code, is amended—

(1) by striking section 841(k) and inserting the following:

“(k) ‘Attorney General’ means the Attorney General of the United States.”; and

(2) by striking “Secretary” each place it appears and inserting “Attorney General”.

(b) Chapter 44 of title 18, United States Code, is amended—

(1) in section 921(a)(4)(B), by striking “Secretary” and inserting “Attorney General”; and

(2) in the undesignated clause following section 921(a)(4)(C), by striking “Secretary of the Treasury” and inserting “Attorney General”;

(3) in section 921(a)(18), by striking “The term ‘Secretary’ or ‘Secretary of the Treasury’ means the Secretary of the Treasury or his delegate” and inserting “The term ‘Attorney General’ means the Attorney General of the United States”;

(4) in section 923(1), by striking “Secretary of the Treasury” and inserting “Attorney General”; and

(5) except in sections 921(a)(4) and 922(p)(5), by striking the term “Secretary” each place it appears, and inserting the term “Attorney General”.

(c) Section 1261(a) of title 18, United States Code, is amended to read as follows:

“(a) The Attorney General—

“(1) shall enforce the provisions of this chapter; and

“(2) has the authority to issue regulations to carry out the provisions of this chapter.”.

(d) Section 1952(c) of title 18, United States Code, is amended by striking “Secretary of the Treasury” and inserting “Attorney General”.

(e) Chapter 114 of title 18, United States Code, is amended—

(1) by striking section 2341(5), and inserting the following:

“(5) the term ‘Attorney General’ means the Attorney General of the United States”; and

(2) by striking “Secretary” each place it appears and inserting “Attorney General”.

(f) Section 7801(a) of the Internal Revenue Code of 1986 (relating to the authority of the Department of the Treasury) is amended—

(1) by striking “SECRETARY.—Except” and inserting “SECRETARY.—

“(1) IN GENERAL.—Except”; and

(2) by adding at the end the following:

“(2) ADMINISTRATION AND ENFORCEMENT OF CERTAIN PROVISIONS BY ATTORNEY GENERAL.—

“(A) IN GENERAL.—The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the term ‘Secretary’ or ‘Secretary of the Treasury’ shall, when applied to those provisions, means the Attorney General; and the term ‘internal revenue officer’ shall, when applied to those provisions, means any officer of the Bureau of Alcohol, Tobacco, and Firearms so designated by the Attorney General:

“(i) Sections 4181 and 4182.

“(ii) Subchapters F and G of chapter 32, to the extent such subchapters relate to sections 4181 and 4182.

“(iii) Chapters 51, 52, and 53.

“(iv) Chapters 61 through 80, to the extent such chapters relate to the enforcement and administration of the provisions referred to in clauses (i), (ii), and (iii).

“(B) USE OF EXISTING RULINGS AND INTERPRETATIONS.—The Attorney General shall adopt all rulings and interpretations of the Bureau of Alcohol, Tobacco, and Firearms in effect on the effective date of the Homeland Security Act of 2002 which concern the provisions of this title referred to in subparagraph (A) and shall consult with the Secretary to achieve uniformity and consistency in administering such provisions.

(g) Chapter 1 of title 27, United States Code, is amended by adding a new section 1 to read as follows:

**“§ 1. Administration**

“The administration and enforcement of this title shall be performed by or under the supervision of the Attorney General; and the term ‘Secretary’ or ‘Secretary of the Treasury’ shall, when applied to those provisions, mean the Attorney General.”.

(h) Section 2006 of title 28, United States Code, is amended by inserting “, the Attorney General,” after “the Secretary of the Treasury”.

(i) Section 9703 of title 31, United States Code, is amended—

(1) in subsection (a)(2)(B)—

(A) in clause (iii)(III), by inserting “and” before the semicolon;

(B) in clause (iv), by striking “; and” and inserting a period; and

(C) by striking clause (v);

(2) by striking subsection (o);

(3) by redesignating existing subsection (p) as subsection (o); and

(4) in subsection (o)(1), as redesignated by paragraph (3), by striking “, the Bureau of Alcohol, Tobacco, and Firearms”.

(j) Section 32401(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13921(a)) is amended by striking “Secretary of the Treasury” each place it appears and inserting “Attorney General”.

(k) Section 80303 of title 49, United States Code, is amended—

(1) by inserting “or, when the violation of this chapter involves contraband described in paragraph (2) or (5) of section 80302(a), the Attorney General” after section 80304 of this title.”; and

(2) by inserting “, the Attorney General,” after “by the Secretary”.

(l) Section 80304 of title 49, United States Code, is amended—

(1) in subsection (a), by striking “(b) and (c)” and inserting “(b), (c), and (d)”;

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c), the following:

“(d) ATTORNEY GENERAL.—The Attorney General, or officers, employees, or agents of the Bureau of Alcohol, Tobacco, and Firearms, Department of Justice designated by the Attorney General, shall carry out the laws referred to in section 80306(b) of this title to the extent that the violation of this chapter involves contraband described in section 80302 (a)(2) or (a)(5).”.

(m) Section 103 of the Gun Control Act of 1968 (Public Law 90-618; 82 Stat. 1226) is amended by striking “Secretary of the Treasury” and inserting “Attorney General”.

**SEC. —03. POWERS OF AGENTS OF THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS.**

Chapter 203 of title 18, United States Code, is amended by adding the following new section:

**“§ 3051. Powers of Agents of the Bureau of Alcohol, Tobacco, and Firearms.**

“(a) Special agents of the Bureau of Alcohol, Tobacco, and Firearms whom the Attorney General charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws of the United States, may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make attestations without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

“(b) Any special agent of the Bureau of Alcohol, Tobacco, and Firearms may, in respect to the performance of his or her duties, make seizures of property subject to forfeiture to the United States.

“(c)(1) Except as provided in paragraphs (2) and (3), and except to the extent that such provisions conflict with the provisions of section 983 of title 18, United States Code, insofar as section 983 applies, the provisions of the Customs laws relating to—

“(A) the seizure, summary and judicial forfeiture, and condemnation of property;

“(B) the disposition of such property;

“(C) the remission or mitigation of such forfeiture; and

“(D) the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable provision of law enforced or administered by the Bureau of Alcohol, Tobacco, and Firearms.

“(2) For purposes of paragraph (1), duties that are imposed upon a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Attorney General.

“(3) Notwithstanding any other provision of law, the disposition of firearms forfeited by reason of a violation of any law of the United States shall be governed by the provisions of section 5872(b) of the Internal Revenue Code of 1986.”.

**SEC. —04. EXPLOSIVES TRAINING AND RESEARCH FACILITY.**

(a) ESTABLISHMENT.—There is established within the Bureau an Explosives Training and Research Facility at Fort AP Hill, Fredericksburg, Virginia.

(b) PURPOSE.—The facility established under subsection (a) shall be utilized to train Federal, State, and local law enforcement officers to—

(1) investigate bombings and arsons;

(2) properly handle, utilize, and dispose of explosive materials and devices;

(3) train canines on explosive detection; and

(4) conduct research on explosives and arson.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to establish and maintain the facility established under subsection (a).

(2) AVAILABILITY OF FUNDS.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

**SEC. —05. PERSONAL PAY MANAGEMENT SYSTEM.**

Notwithstanding any other provision of law, the Personal Pay Management System Program established under section 102 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Public Law 105-277; 122 Stat. 2681) shall be transferred to the Attorney General of the United States for the Bureau of Alcohol, Tobacco, and Firearms.

**TITLE —EXPLOSIVES****SEC. —01. SHORT TITLE.**

This title may be referred to as the “Safe Explosives Act”.

**SEC. —02. PERMITS FOR PURCHASERS OF EXPLOSIVES.**

(a) DEFINITIONS.—Section 841 of title 18, United States Code, is amended—

(1) by striking subsection (j) and inserting the following:

“(j) ‘Permittee’ means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited user permit under the provisions of this chapter.”; and

(2) by adding at the end the following:

“(r) ‘Alien’ means any person who is not a citizen or national of the United States.

“(s) ‘Intimate partner’ means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabits or has cohabited with the person.

“(t)(1) Except as provided in paragraph (2), ‘misdemeanor crime of domestic violence’ means an offense that—

“(A) is a misdemeanor under Federal or State law; and

“(B) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

“(2) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

“(A) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

“(B) in the case of a prosecution for an offense described in this subsection for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either—

“(i) the case was tried by a jury; or

“(ii) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

“(u) ‘Responsible person’ means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.”

(b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Section 842 of title 18, United States Code, is amended—

(1) in subsection (a)(2), by striking “and” at the end;

(2) by striking subsection (a)(3) and inserting the following:

“(3) other than a licensee or permittee knowingly—

“(A) to transport, ship, cause to be transported, or receive any explosive materials; or

“(B) to distribute explosive materials to any person other than a licensee or permittee; or

“(4) who is a holder of a limited user permit—

“(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

“(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited user permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited user permit holder.”; and

(3) by striking subsection (b) and inserting the following:

“(b) It shall be unlawful for any licensee or permittee knowingly to distribute any explosive materials to any person other than—

“(1) a licensee;

“(2) a holder of a user permit; or

“(3) a holder of a limited user permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.”.

(c) LICENSES AND USER PERMITS.—Section 843(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting “or limited user permit” after “user permit”; and

(B) by inserting before the period at the end the following: “, including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person”;

(2) in the second sentence, by striking “\$200” and inserting “\$50”; and

(3) by striking the third sentence and inserting “Each license or user permit shall be valid for no longer than 3 years from the date of issuance and each limited user permit shall be valid for no longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.”.

(d) CRITERIA FOR APPROVING LICENSES AND PERMITS.—Section 843(b) of title 18, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person who is prohibited from receiving, distributing, transporting, or possessing explosive materials under subsection (d) or (i) of section 842;”;

(2) by striking paragraph (4) and inserting the following:

“(4) the applicant has a place of storage for explosive materials that meets such standards of public safety and security against theft as the Secretary shall prescribe by regulations, which the Secretary may verify by inspection or such other means as the Secretary determines to be appropriate, and no license or permit shall remain valid for more than 3 years without an inspection;”

(3) in paragraph (5), by striking the period at the end; and

(4) by adding at the end the following:

“(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is a person whose possession of explosives would be unlawful under section 842(i); and

“(7) in the case of a limited user permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited user permit is valid.”.

(e) APPLICATION APPROVAL.—Section 843(c) of title 18, United States Code, is amended by striking “forty-five days” and inserting “45 days for limited user permits and 90 days for licenses and user permits.”.

(f) INSPECTION AUTHORITY.—Section 843(f) of title 18, United States Code, is amended in the second sentence, by striking “permittee” the first time it appears and inserting “holder of a user permit”.

(g) POSTING OF PERMITS.—Section 843(g) of title 18, United States Code, is amended by inserting “user” before “permits”.

(h) BACKGROUND CHECKS; CLEARANCES.—Section 843 of title 18, United States Code, is amended by adding at the end the following:

“(h)(1) If the Secretary receives from an employer the name and other identifying information with respect to a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether possession of explosives by the responsible person or the employee, as the case may be, would be unlawful under section 842(i). In making the determination, the Secretary may take into account a letter or document issued under paragraph (2).

“(2)(A) If the Secretary determines that possession of explosives by the responsible

person or the employee would not be unlawful under section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a letter of clearance which confirms the determination.

“(B) If the Secretary determines that possession of explosives by the responsible person or the employee would be unlawful under section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

“(i) confirms the determination;

“(ii) explains the grounds for the determination;

“(iii) provides information on how the disability may be relieved; and

“(iv) explains how the determination may be appealed.”.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

(2) EXCEPTION.—Notwithstanding any provision of this title, a license or permit issued under section 843 of title 18, United States Code, before the date of enactment of this Act, shall remain valid until that license or permit is revoked under section 843(d) or expires, or until a timely application for renewal is acted upon.

#### SEC. 3. PERSONS PROHIBITED FROM RECEIVING OR POSSESSING EXPLOSIVE MATERIALS.

(a) DISTRIBUTION OF EXPLOSIVES.—Section 842(d) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking “or” at the end;

(2) in paragraph (6), by striking the period at the end and inserting “or who has been committed to a mental institution;”;

(3) by adding at the end the following:

“(7) is an alien, other than an alien who—

“(A) is lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act); or

“(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

“(i) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement;

“(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

“(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

“(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence;

“(8) has been discharged from the armed forces under dishonorable conditions;

“(9) having been a citizen of the United States, has renounced the citizenship of that person;

“(10) is subject to a court order that—

“(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

“(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

“(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

“(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

“(11) has been convicted in any court of a misdemeanor crime of domestic violence.”.

(b) **POSSESSION OF EXPLOSIVE MATERIALS.**—Section 842(i) of title 18, United States Code, is amended—

(1) in paragraph (3), by striking “or” at the end;

(2) by inserting after paragraph (4) the following:

“(5) who is an alien, other than an alien who—

“(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act); or

“(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

“(i) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement; and

“(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

“(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

“(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence;

“(6) who has been discharged from the armed forces under dishonorable conditions;

“(7) who, having been a citizen of the United States, has renounced the citizenship of that person;

“(8) who is subject to a court order that—

“(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

“(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

“(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

“(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

“(9) who has been convicted in any court of a misdemeanor crime of domestic violence.”; and

(3) by inserting “or affecting” before “interstate” each place that term appears..

#### **SEC. 404. REQUIREMENT TO PROVIDE SAMPLES OF EXPLOSIVE MATERIALS AND AMMONIUM NITRATE.**

Section 843 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

“(1) **FURNISHING OF SAMPLES.**—

“(1) **IN GENERAL.**—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

“(A) samples of such explosive materials or ammonium nitrate;

“(B) information on chemical composition of those products; and

“(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

“(2) **REIMBURSEMENT.**—The Secretary may, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.”.

#### **SEC. 405. DESTRUCTION OF PROPERTY OF INSTITUTIONS RECEIVING FEDERAL FINANCIAL ASSISTANCE.**

Section 844(f)(1) of title 18, United States Code, is amended by inserting before the word “shall” the following: “or any institution or organization receiving Federal financial assistance.”.

#### **SEC. 406. RELIEF FROM DISABILITIES.**

Section 845(b) of title 18, United States Code, is amended to read as follows:

“(b) **RELIEF FROM DISABILITIES.**—

“(1) **PROHIBITED PERSONS.**—

“(A) **IN GENERAL.**—Except as provided in paragraph (2), a person who is prohibited from engaging in activity under section 842 may make application to the Secretary for relief from the disabilities imposed by Federal law with respect to a violation of that section, and the Secretary may grant that relief, if the Secretary determines that—

“(i) the circumstances regarding the disability, and the record and reputation of the applicant are such that the applicant will not be likely to act in a manner dangerous to public safety; and

“(ii) that the granting of the relief will not be contrary to the public interest.

“(B) **PETITION FOR JUDICIAL REVIEW.**—Any person whose application for relief from disabilities under this section is denied by the Secretary may file a petition with the United States district court for the district in which that person resides for a judicial review of the denial.

“(C) **ADDITIONAL EVIDENCE.**—The court may, in its discretion, admit additional evidence where failure to do so would result in a miscarriage of justice.

“(D) **FURTHER OPERATIONS.**—A licensee or permittee who conducts operations under this chapter and makes application for relief from the disabilities under this chapter, shall not be barred by that disability from further operations under the license or permit of that person pending final action on an application for relief filed pursuant to this section.

“(E) **NOTICE.**—Whenever the Secretary grants relief to any person pursuant to this section, the Secretary shall promptly publish in the Federal Register, notice of that

action, together with reasons for that action.

“(2) **WAIVER FOR LAWFUL NONIMMIGRANTS.**—

“(A) **CONDITIONS FOR WAIVER.**—Any individual who has been admitted to the United States in a lawful nonimmigrant status may receive a waiver from the requirements of subsection (d)(7) or (i)(5) of section 842, if—

“(i) the individual submits to the Secretary a petition that meets the requirements of subparagraph (C); and

“(ii) the Secretary approves the petition.

“(B) **PETITION.**—Each petition submitted in accordance with this subsection shall—

“(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

“(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire explosives and certifying that the alien would not, absent the application of subsection (d)(7) or (i)(5) of section 842, otherwise be prohibited from such an acquisition under that subsection (d) or (i).

“(C) **APPROVAL OF PETITION.**—The Secretary may approve a petition submitted in accordance with this paragraph if the Secretary determines that waiving the requirements of subsection (d)(7) or (i)(5) of section 842 with respect to the petitioner—

“(i) would not jeopardize the public safety; and

“(ii) will not be contrary to the public interest.”.

#### **SEC. 407. THEFT REPORTING REQUIREMENT.**

Section 844 of title 18, United States Code, is amended by adding at the end the following:

“(p) **THEFT REPORTING REQUIREMENT.**—

“(1) **IN GENERAL.**—A holder of a license or permit who knows that explosive materials have been stolen from that licensee, user permittee, or limited user permittee, shall report the theft to the Secretary not later than 24 hours after the discovery of the theft.

“(2) **PENALTY.**—A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than \$10,000, imprisoned not more than 5 years, or both.”.

#### **SEC. 408. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated such sums as necessary to carry out this title and the amendments made by this title.

**SA. 4722.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **SEC. . CONGRESSIONAL APPROVAL REQUIREMENT FOR TIPS.**

Any and all activities of the Federal Government to implement the proposed component program of the Citizens Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited, unless expressly authorized by statute.

**SA 4723.** Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, strike lines 10 and 11 and insert the following:

# **TITLE VI—LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2002**

## **SEC. 601. SHORT TITLE.**

This title may be cited as the “Law Enforcement Officers Safety Act of 2002”.

## **SEC. 602. EXEMPTION OF QUALIFIED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.**

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

### **“§926B. Carrying of concealed firearms by qualified law enforcement officers**

“(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

“(b) This section shall not be construed to supersede or limit the laws of any State that—

“(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

“(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

“(c) As used in this section, the term ‘qualified law enforcement officer’ means an employee of a governmental agency who—

“(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

“(2) is authorized by the agency to carry a firearm;

“(3) is not the subject of any disciplinary action by the agency;

“(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm; and

“(5) is not prohibited by Federal law from receiving a firearm.

“(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is, or was, employed as a law enforcement officer.”.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 926A the following:

“926B. Carrying of concealed firearms by qualified law enforcement officers.”.

## **SEC. 603. EXEMPTION OF QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.**

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is further amended by inserting after section 926B the following:

### **“§926C. Carrying of concealed firearms by qualified retired law enforcement officers**

“(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

“(b) This section shall not be construed to supersede or limit the laws of any State that—

“(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

“(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

“(c) As used in this section, the term ‘qualified retired law enforcement officer’ means an individual who—

“(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

“(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

“(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

“(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

“(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

“(5) during the most recent 12-month period, has met, at the expense of the individual, the State’s standards for training and qualification for active law enforcement officers to carry firearms; and

“(6) is not prohibited by Federal law from receiving a firearm.

“(d) The identification required by this subsection is photographic identification issued by the agency for which the individual was employed as a law enforcement officer.”.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is further amended by inserting after the item relating to section 926B the following:

“926C. Carrying of concealed firearms by qualified retired law enforcement officers.”.

**SA 4724.** Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 13 and 14, insert the following:

### **SEC. 173. JOINT INTERAGENCY TASK FORCE.**

(a) ESTABLISHMENT.—The Secretary may establish and operate a permanent Joint Interagency Homeland Security Task Force composed of representatives from military and civilian agencies of the United States Government for the purposes of anticipating terrorist threats against the United States and taking appropriate actions to prevent harm to the United States.

(b) STRUCTURE.—It is the sense of Congress that the Secretary should model the Joint Interagency Homeland Security Task Force on the approach taken by the Joint Interagency Task Forces for drug interdiction at Key West, Florida, and Alameda, California, to the maximum extent feasible and appropriate.

**SA 4725.** Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

### **SEC. \_\_\_\_ . EXCLUSION OF CERTAIN OVERSEAS PAY OF MEMBERS OF THE ARMED FORCES.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of

1986 (relating to items specifically excluded from gross income) is amended by inserting after section 112 the following new section:

### **“SEC. 113. CERTAIN OVERSEAS PAY OF MEMBERS OF THE ARMED FORCES.**

“(a) IN GENERAL.—Gross income does not include compensation received for covered service as a member in the Armed Forces of the United States.

“(b) COVERED SERVICE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘covered service’, with respect to a member, means service outside the United States in an assignment that is a permanent change of station for which travel, transportation, and housing of dependents at Government expense would generally not be authorized under policies of the Secretary concerned that are applicable to that assignment, except in the case of service in such an assignment for which such travel, transportation, and housing is actually authorized as an exception to the applicable policy.

“(2) SECRETARY CONCERNED.—The term ‘Secretary concerned’ has the meaning given the term in section 101(a)(9) of title 10, United States Code.”

(b) CONFORMING AMENDMENT.—Section 3401(a) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting “; or”, and by adding at the end the following new paragraph:

“(22) as compensation described in section 113.”

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 112 the following new item:

“Sec. 113. Certain overseas pay of members of the Armed Forces.”

(d) 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 “September 30, 2003” and inserting “October 31, 2008”.

(e) EFFECTIVE DATE.—The amendments made by this section (other than subsection (d)) shall apply to remuneration paid in taxable years beginning after the date of the enactment of this Act.

**SA 4726.** Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

### **SEC. 173. REPORT ON ESTABLISHMENT OF CIVILIAN LINGUIST RESERVE CORPS.**

(a) REPORT.—

(1) PREPARATION.—The Secretary of Defense, acting through the Director of the National Security Education Program, shall prepare a report on the feasibility of various methods for improving the foreign language capability of the Federal Government, including the establishment of a Civilian Linguist Reserve Corps comprised of individuals with advanced levels of proficiency in foreign languages who are United States citizens who would be available upon a call of the President to perform such service or duties with respect to such foreign languages in the Federal Government as the President may specify.



(2) CONSULTATION.—In preparing the report, the Secretary shall consult with such organizations having expertise in training in foreign languages as the Secretary determines appropriate.

(b) MATTERS CONSIDERED.—

(1) IN GENERAL.—In conducting the study, the Secretary shall develop a proposal for the structure and operations of the Civilian Linguist Reserve Corps. The proposal shall establish requirements for performance of duties and levels of proficiency in foreign languages of the members of the Civilian Linguist Reserve Corps, including maintenance of language skills and specific training required for performance of duties as a linguist of the Federal Government, and shall include recommendations on such other matters as the Secretary determines appropriate.

(2) CONSIDERATION OF USE OF DEFENSE LANGUAGE INSTITUTE AND LANGUAGE REGISTRIES.—In developing the proposal under paragraph (1), the Secretary shall consider the appropriateness of using—

(A) the Defense Language Institute to conduct testing for language skills proficiency and performance, and to provide language refresher courses; and

(B) foreign language skill registries of the Department of Defense or of other agencies or departments of the United States to identify individuals with sufficient proficiency in foreign languages.

(3) CONSIDERATION OF RESERVE COMPONENTS OF ARMED FORCES AS MODEL.—In developing the proposal under paragraph (1), the Secretary shall consider the provisions of title 10, United States Code, establishing and governing service in the Reserve Components of the Armed Forces, as a model for the Civilian Linguist Reserve Corps.

(c) COMPLETION OF REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the report prepared under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Defense \$300,000 to carry out this section.

**SA 4728.** Mrs. CARNAHAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike line 3, p. 131 thru line 25, p. 132.

At line 3, p. 131, insert the following:

**SEC. \_\_\_\_ GRANTS FOR FIREFIGHTING PERSONNEL.**

(a) Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

“(c) PERSONNEL GRANTS.—

“(1) IN GENERAL.—In addition to the grants authorized under subsection (b)(1), the Director may award grants to fire departments of a State for the purpose of hiring ‘employees engaged in fire protection’ as that term is defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203).

“(2) DURATION.—Grants awarded under this subsection shall be for a 3-year period.

“(3) MAXIMUM AMOUNT.—The total amount of grants awarded under this subsection shall not exceed \$100,000 per firefighter, indexed for inflation, over the 3-year grant period.

“(4) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of a grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

“(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

“(5) APPLICATION.—An application for a grant under this subsection, shall—

“(A) meet the requirements under subsection (b)(5);

“(B) include an explanation for the applicant’s need for Federal assistance; and

“(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

“(6) MAINTENANCE OF EFFORT.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources.”; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

“(3) \$1,000,000,000 for each of fiscal years 2003 and 2004, to be used only for grants under subsection (c).”.

**SA 4728.** Mr. GREGG submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ SENSE OF THE SENATE CONCERNING THE AVAILABILITY OF THE SMALLPOX VACCINE.**

(a) FINDINGS.—The Senate finds that—

(1) the smallpox virus has killed more people than any other infectious disease in human history, and is estimated to have killed approximately 400,000,000 people in the 20th century;

(2) Congress and the Administration have determined that a bioterrorist attack utilizing the smallpox virus is a present threat to the nation’s public health and safety;

(3) the Secretary of Health and Human Services has contracted with private manufacturers to purchase approximately 300,000,000 doses of smallpox vaccine, of which 100,000,000 doses have already been delivered;

(4) the Smallpox Response Plan and Guidelines released by the Centers for Disease Control and Prevention on September 23, 2002, calls for vaccinating the entire population of the United States against smallpox within 5 days of an outbreak of the disease;

(5) the plan would make the vaccine available to the general public only in the event of an outbreak of the disease;

(6) the strategy adopted by the Centers for Disease Control and Prevention is an important step forward but it is short of what is needed to adequately protect and defend against a possible attack using the disease;

(7) because the initial symptoms of smallpox are flu-like, the disease may go undetected or undiagnosed for up to 2 weeks, and could spread to and kill thousands before the first vaccinations could be administered;

(8) the more people who receive prompt vaccination against smallpox, the lower the rate of transmission of the disease and the greater the likelihood that such an outbreak could be contained; and

(9) because there are known health risks associated with the smallpox vaccine, the decision to be vaccinated should be made by

the individual, or parent or guardian, in consultation with a doctor, and not the Federal Government.

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

(1) the Secretary of Health and Human Services, at the request of any individual, or such individual’s parent or guardian, and in consultation with such individual’s physician, should make available to that individual vaccine sufficient to inoculate such individual from the smallpox virus;

(2) such vaccine should be provided at no cost or at nominal cost to the individual;

(3) such vaccine should be provided to the individual if the individual resides in the United States or any commonwealth, possession, or territory of the United States or the individual is an American citizen who resides outside of the United States; and

(4) such vaccine should be provided only if it is Federally licensed.

**SA 4729.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2995, to improve economic opportunity and development in communities that are dependent on tobacco production, and for other purposes; which was referred to the Committee on Agriculture, Nutrition, and Forestry; as follows:

At the end of subtitle B of title I, add the following new section:

**SEC. \_\_\_\_ TAX TREATMENT OF PAYMENTS UNDER TOBACCO EQUITY REDUCTION PROGRAM.**

(a) IN GENERAL.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically included in gross income) is amended by adding at the end the following:

**“SEC. 91. TOBACCO EQUITY REDUCTION PROGRAM PAYMENTS.**

“(a) GENERAL RULE.—Gross income includes amounts received under section 380j of the Agricultural Adjustment Act of 1938.

“(b) EXCEPTION FOR AMOUNTS TRANSFERRED DURING REINVESTMENT PERIOD.—

“(1) IN GENERAL.—Subsection (a) shall not apply to any amount if during reinvestment period such amount is—

“(A) used to make a qualified debt repayment, or

“(B) transferred to a tobacco farmer individual retirement account established under section 522.

“(2) QUALIFIED DEBT REPAYMENT.—For purposes of paragraph (1), the term ‘qualified debt repayment’ means the payment of debt incurred directly by the taxpayer to produce tobacco before the marketing year for the 2004 crop of each kind of tobacco.

“(c) CHARACTER OF INCOME.—For purposes of this subtitle, any amount received under section 380j of the Agricultural Adjustment Act of 1938 and included in gross income under this section shall be treated as long-term capital gain.”.

(b) TOBACCO FARMER INDIVIDUAL RETIREMENT ACCOUNTS.—Part IV of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to farmers’ cooperatives) is amended by adding at the end the following:

**“SEC. 522. TOBACCO FARMER INDIVIDUAL RETIREMENT ACCOUNTS.**

“(a) GENERAL RULE.—Except as provided in this section, a tobacco farmer individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

“(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this title—

“(1) TOBACCO FARMER INDIVIDUAL RETIREMENT ACCOUNT.—The term ‘tobacco farmer individual retirement account’ means an individual retirement plan (as defined in section 7701(a)(37)) other than a Roth IRA which

is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as a tobacco farmer individual retirement account.

“(2) TREATMENT OF CONTRIBUTIONS.—

“(A) CASH ONLY.—No contribution will be accepted unless it is in cash.

“(B) SOURCE OF CONTRIBUTIONS.—The only contributions which will be accepted are—

“(i) payments under section 380j of the Agricultural Adjustment Act of 1938, and

“(ii) trustee-to-trustee transfers to such trust from another tobacco farmer individual retirement account of the account beneficiary.

“(C) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a tobacco farmer individual retirement account.

“(D) NO ROLLOVER CONTRIBUTIONS ALLOWED.—No rollover contribution may be made to or from a tobacco farmer individual retirement account.

“(3) TAX TREATMENT OF DISTRIBUTIONS.—Any amount distributed from a tobacco farmer individual retirement account attributable to payments made under section 380j of the Agricultural Adjustment Act of 1938 (including earnings thereon) shall be includible in the gross income of the distributee under the rules described in section 91(c).

“(4) COORDINATION WITH INDIVIDUAL RETIREMENT ACCOUNTS.—Section 408(d)(2) shall be applied separately with respect to tobacco farmer individual retirement accounts and other individual retirement plans.”.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“Sec. 91. Tobacco equity reduction program payments.”.

(2) The table of sections for part IV of subchapter F of chapter 1 of such Code is amended by adding at the end the following:

“Sec. 522. Tobacco farmer individual retirement accounts.”.

(3) The heading for part IV of subchapter F of chapter 1 of such code is amended by striking “FARMERS’ COOPERATIVES” and inserting “CERTAIN FARMER ENTITIES”.

(4) The table of parts for subchapter F of chapter 1 of such Code is amended by striking “FARMERS’ COOPERATIVES” and inserting “CERTAIN FARMER ENTITIES”.

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

**SA 4730.** Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, between lines 14 and 15, insert the following:

(20) To provide for border and transportation security.

On page 25, after line 25, add the following new subsection:

(c) CHIEF OF IMMIGRATION POLICY.—

(1) IN GENERAL.—There shall be within the office of the Deputy Secretary of Homeland Security a Chief of Immigration Policy, who, under the authority of the Secretary, shall be responsible for—

(A) establishing national immigration policy and priorities; and

(B) coordinating immigration policy between the Directorate of Immigration Affairs and the Directorate of Border and Transportation Security.

(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Immigration Policy

shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

On page 43, between lines 2 and 3, insert the following:

(7) Carrying out the border patrol function.

(8) Administering and enforcing the functions of the Department under the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

On page 43, line 3, strike “(7)” and insert “(9)”.

On page 43, between lines 23 and 24, insert the following:

(6) So much of the functions of the Immigration and Naturalization Service as relate to the responsibilities described in paragraphs (7) and (8) of subsection (b).

On page 112, strike line 10 and all that follows through page 114, line 5 and insert the following:

**SEC. 139. BORDER SECURITY AND IMMIGRATION WORKING GROUP.**

(a) ESTABLISHMENT.—The Secretary shall establish a border security and immigration working group (in this section referred to as the “Working Group”), composed of the Secretary or the designee of the Secretary, the Under Secretary for Immigration Affairs, and the Under Secretary for Border and Transportation Security.

(b) FUNCTIONS.—The Working Group shall meet not less frequently than once every 3 months and shall—

(1) with respect to border security functions, develop coordinated budget requests, allocations of appropriations, staffing requirements, communication, use of equipment, transportation, facilities, and other infrastructure;

(2) coordinate joint and cross-training programs for personnel performing border security functions;

(3) monitor, evaluate and make improvements in the coverage and geographic distribution of border security programs and personnel;

(4) develop and implement policies and technologies to ensure the speedy, orderly, and efficient flow of lawful traffic, travel and commerce, and enhanced scrutiny for high-risk traffic, travel, and commerce;

(5) identify systemic problems in coordination encountered by border security agencies and programs and propose administrative, regulatory, or statutory changes to mitigate such problems; and

(6) coordinate the enforcement of all immigration laws.

(c) RELEVANT AGENCIES.—The Secretary shall consult with representatives of relevant agencies with respect to deliberations under subsection (b), and may include representatives of such agencies in Working Group deliberations, as appropriate.

On page 215, lines 15 and 16, strike “policy, administration, and inspection” and insert “policy and administration”.

On page 215, line 20, before the period at the end of the line insert the following: “, but does not include the functions described in paragraphs (7) and (8) of section 131(b).

On page 219, line 18, insert “with respect to any function within the jurisdiction of the Directorate” after “States”.

On page 220, line 1, strike “section 1111(c)” and insert “section 111(c)”.

On page 220, strike lines 8 through 14.

On page 223, strike lines 9 through 25.

On page 224, line 1, strike “(f)” and insert “(e)”.

On page 233, strike line 23.

On page 233, line 24, strike “(B)” and insert “(A)”.

On page 234, line 1, strike “(C)” and insert “(B)”.

On page 234, line 2, strike “(D)” and insert “(C)”.

On page 234, line 3, strike “(E)” and insert “(D)”.

On page 243, line 10, strike “All functions” and insert “Except as provided in subsection (c), all functions”.

On page 243, line 19, strike “All functions” and insert “Except as provided in subsection (c), all functions”.

On page 244 between lines 18 and 19, insert the following:

(c) SPECIAL RULE FOR BORDER PATROL AND INSPECTION FUNCTIONS.—

(1) IN GENERAL.—Notwithstanding subsections (a) and (b), the border patrol function, and primary and secondary immigration inspection functions, vested by statute in, or exercised by, the Attorney General, the Commissioner of Immigration and Naturalization, or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Under Secretary for Border and Transportation in accordance with paragraphs (7) and (8) of section 131(b).

(2) REFERENCES.—With respect to the border patrol function and primary and secondary immigration inspection functions, references in this subtitle to—

(A) the Directorate shall be deemed to be references to the Directorate of Border and Transportation Security; and

(B) the Under Secretary shall be deemed to be references to the Under Secretary for Border and Transportation.

On page 245, lines 13 and 14, strike “Under the direction of the Secretary, the Under Secretary” and insert “The Secretary”.

On page 245, strike lines 20 through 24 and insert the following:

(A) immigration policy and administration functions;

(B) immigration service functions;

(C) immigration enforcement functions (excluding the border patrol function and primary and secondary immigration inspection functions); and

(D) the border patrol function and primary and secondary immigration inspection functions; and

Beginning on page 246, strike line 12 and all that follows through line 20 on page 247 and insert the following:

(a) DELEGATION TO THE DIRECTORATES.—The Secretary shall delegate—

(1) through the Under Secretary and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103)—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement; and

(2) the border patrol function and primary and secondary immigration inspection functions to the Under Secretary for Border and Transportation.

(b) NONEXCLUSIVE DELEGATIONS AUTHORIZED.—Delegations made under subsection (a) may be made on a nonexclusive basis as the Secretary may determine may be necessary to ensure the faithful execution of the Secretary’s responsibilities and duties under law.

(c) EFFECT OF DELEGATIONS.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Secretary may make delegations under this subsection to such officers and employees of the office of the Under Secretary for Immigration Affairs, and the Enforcement Bureau of the Directorate for Border and Transportation Security, respectively, as the Secretary may

designate, and may authorize successive re-delegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

On page 254, strike lines 14 through 19 and insert the following:

Border Affairs (except for the border patrol function and primary and secondary immigration inspection functions);

(iii) the transfer to the Directorate of Border and Transportation Security of the border patrol function and primary and secondary immigration inspection functions; and

(iv) the transfer of such other functions as are required to be made under this division; and

**SA 4731.** Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 338, insert between lines 2 and 3 the following:

**SEC. 2205. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.**

Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (i) and subsection (j) as subsections (j) and (k), respectively; and

(2) by adding at the end the following:

“(1) In the case of any annuity computation under this section that includes, in the aggregate, at least 1 year of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percentage point.”

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, September 24, 2002, at 9 a.m. to conduct a hearing to look at the Federal Government's response to September 11th and the continuing role of the Federal Government in the recovery efforts. The hearing will be held in SD-406.

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

**COMMITTEE ON FOREIGN RELATIONS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 24, 2002 at 2:30 p.m. to hold a Members; Briefing on Iraq.

**AGENDA**

Briefers: The Honorable George J. Tenet, Director of Central Intelligence, Washington, DC; The Honorable Carl W. Ford, Jr., Assistant Secretary for Intelligence and Research, Department of State, Washington, DC; RADM Lowell E. Jacoby, Acting Director, Defense Intelligence Agency, Department of

Defense, Washington, DC; and Dr. Rhys, Williams, Director, Nuclear Non-Proliferation Division, Office of Intelligence, Department of Energy, Washington, DC.

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

**COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS**

**SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions and Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet for a joint hearing on West Nile Fever. Challenges for Public Health during the session of the Senate on Tuesday, September 24, 2002, at 10 a.m. in SD-342.

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

**COMMITTEE ON INDIAN AFFAIRS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, September 24, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an Oversight Hearing on the Role of the Special Trustee within the Department of Interior.

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

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 24, 2002 at 10:00 a.m. to hold a joint hearing with the House Permanent Select Committee on Intelligence concerning the Joint Inquiry into the events of September 11, 2002.

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

**SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on “The DC Circuit: The Importance of Balance on the Nation's Second Highest Court” on Tuesday, September 24, 2002, at 10:00 a.m. in Room 226 of the Dirksen Senate Office Building.

*Tentative Witness List*

The Honorable Abner Mikva, University of Chicago Law School, Chicago, IL; Mr. Fred Fielding, Wiley Rein, and Fielding, Washington, DC; Professor Christopher Schroeder, Duke University School of Law, Durham, NC; Professor Brad Clerk, George Washington University Law School, Washington, DC; Professor Michael Gottesman, Georgetown University Law Center, Washington, DC.

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

**SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA**

**COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia and the Committee on Health, Education, Labor, and Pensions be authorized to meet on Tuesday, September 24, 2002 at 10:00 a.m. for a joint hearing entitled, “Responding to the Threat of West Nile Virus.”

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

**PRIVILEGE OF THE FLOOR**

Mr. WELLSTONE. Madam President, I ask unanimous consent that Jeffrey Scholder and Robert Kerr, a fellow, be granted the privilege of the floor during the debate today.

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

**NATIONAL MAMMOGRAPHY DAY**

Mr. REID. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from consideration of S. Res. 326, and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 326) designating October 18, 2002, as “National Mammography Day.”

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 326) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

**S. RES. 326**

Whereas according to the American Cancer Society, in 2002, 203,500 women will be diagnosed with breast cancer and 39,600 women will die from this disease;

Whereas it is estimated that about 2,000,000 women were diagnosed with breast cancer in the 1990s, and that in nearly 500,000 of those cases, the cancer resulted in death;

Whereas the risk of breast cancer increases with age, with a woman at age 70 years having twice as much of a chance of developing the disease as a woman at age 50 years;

Whereas at least 80 percent of the women who get breast cancer have no family history of the disease;