In addition, H.R. 1528 reforms the penalty and interest provisions of the Internal Revenue Code and provides new safeguards against unfair IRS collection procedures.

Specifically, the bill grants a first-time penalty waiver to individual taxpayers in cases where minor negligence results in a liability that is disproportionate and unreasonable.

□ 1030

The bill allows taxpayers to enter into installment agreements for less than the full amount of their tax liability.

The bill also allows electronic filers until April 30 to file their individual tax returns and allows taxpayers to consult with the Taxpayer Advocate Service on a confidential basis.

Finally, the bill increases the authorization for low income taxpayer clinics from $6 million to $9 million in 2004 and from $12 million for 2005 and $15 million for subsequent years.

The Congressional Budget Office and Joint Committee on Taxation estimate that H.R. 1528 would decrease governmental receipts by $308 million over the 2003–2013 time period, and CBO estimates that the bill would increase direct spending by $171 million over the 2004–2013 time period.

CBO has determined that H.R. 1528 contains no private sector or intergovernmental mandates as defined by the Unfunded Mandate Reform Act and would impose no costs on State, local, or tribal governments.

Mr. Speaker, the gentleman from Ohio (Mr. PORTMAN) and his colleagues on the Committee on Ways and Means are to be commended for their efforts to increase fairness in accountability in our tax collection system. Accordingly, I urge my colleagues to support both this rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Washington for yielding me the customary 30 minutes.

Mr. Speaker, priorities, what are our priorities? H.R. 1528 is a popular, noncontroversial measure that would likely pass under suspension of the rules. So why have we made such a bill more problematic and more difficult to pass? A controversial provision unrelated to restraints on the IRS or protections for American taxpayers was grafted onto this consensus legislation for the second time. If our priority is to enact additional protections for the Federal taxpayer, why was a provision waiving consumer protections for the health insurance tax credit, for workers who have been displaced by trade, implanted into this unrelated bill?

The problem that we now face as we consider H. Res. 282 is that the taxpayer protection bill eliminates the federally mandated requirements of affordability and nondiscrimination for state-based insurance policies for the American workers whose jobs were moved overseas. This controversial and problematic add-on allows the insurers to pick and choose the displaced workers that they wish to cover, insuring the young and healthy and refusing to cover the older workers and those with preexisting conditions. Such a provision would undo the promises Congress last year made to the displaced workers and to their families. Is our priority the health of working families, or is it increasing the bottom line for certain health plans?

Fortunately, the rule does make in order the substitute amendment offered by the gentleman from New York (Mr. RANGEL), my fellow New Yorker, the ranking member of the Committee on Ways and Means, which better reflects what our priorities should be. This amendment removes the waivers that would allow insurance plans to discriminate and includes the child tax credit that seems to have been abandoned in the bureaucratic forest.

The Nation was outraged to learn that in the recent tax-cutting package almost 12 million children were denied the benefit of the increased child tax credit. A way to correct this is simple and straightforward. The other body overwhelmingly by a vote of 94 to 2 passed a clean, simple, bipartisan bill to extend the child tax credit to the 7 million low-income working families. However, our priorities went in the wrong direction.

Instead of quickly passing the other body's bill so the President could sign it and these low-income working families could receive immediate tax credits, which they badly need, the Chamber chose to consider and pass another round of tax cuts totaling $82 billion without any offsets, following on the heels of the $350 billion worth of tax cuts. This indicated that the priority is to use the child tax credit legislation as another opportunity to add more and more tax cuts for those at the highest levels of wealth.

The Rangel substitute includes the language in the clean bill passed by the other body and contains language to extend the child tax credits to the 200,000-or-so families of the military personnel who serve in Iraq, Afghanistan or other combat zones and nonetheless are ineligible under the House-passed tax free-for-all. Let me repeat that, Mr. Speaker: 200,000 families of military personnel who are on active duty were denied the protections or the benefits from this bill.

I urge my colleagues to vote against this rule so that the provisions permitting the discrimination can be excised from an otherwise noncontroversial bill that would undoubtedly pass unanimously. Should H. Res. 282 pass, I strongly urge my colleagues to support the Rangel substitute amendment for these children and families who deserve swift and deliberate action without political add-ons and political chicanery.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I advise my friend from New York that I have no requests for time, and I am prepared to yield back if she is prepared to yield back.

Ms. SLAUGHTER. Mr. Speaker, I have no requests for time, and I yield back my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 8, DEATH TAX REPEAL PERMANENCY ACT OF 2003

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 281 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 281

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 8) to make the repeal of the estate tax permanent. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Pomeroy of North Dakota or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. OSE). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman, and my colleague and neighbor, from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

(Mr. REYNOLDS asked and was given permission to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, House Resolution 281 is a modified closed rule providing for the consideration of H.R. 8, the Death Tax Repeal Permanency Act of 2003, legislation to make the repeal of the estate tax permanent. The rule makes in order 1 hour of debate, a minority substitute, and one motion to recommit, with or without instructions.

Mr. Speaker, the issue before us today is certainly not a new one. In the 106th session, Congress voted several times in a bipartisan fashion to eliminate the death tax. In the 107th session, Congress voted on three separate occasions to eliminate the death tax; but with the death tax relief set to expire in 2011, we might give Dr. Kevorkian a new career as a tax and estate planner.

Today, we have the opportunity to bury the death tax once and for all.

By way of history, this tax was initially imposed to prevent the very wealthy from passing on their wealth from one generation to the next. At the time, this well-intentioned tax eased concerns about the growing concentration of money and power among a small number of wealthy families. Later, it was used to fund national emergencies, and it became necessary to maintain these high tax rates in high wartime levels during the 1930s and the 1940s, but they remained relatively unchanged until the Tax Reform Act of 1976.

Ironically, the death tax served little of the purpose for which it was intended. Rather than prevent the concentrated accumulation of vast wealth, the death tax punished savings and thrift and hard work among American families. Small businesses and farmers have been unfairly penalized for their blood, sweat and tears, paying taxes on already-taxed assets.

Instead of investing money on productive measures such as creating new jobs or purchasing new equipment, businesses and farms are forced to divert their earnings to tax accountants and lawyers just to prepare their estates.

The victims of the death tax are typically hardworking Americans of medium-sized estates, farmers and small business owners. Their enterprises create jobs and growth and opportunities for our communities, but every year those families were literally forced to sell the family farm or business just to pay off their death taxes.

Equally disturbing is the fact that the death tax actually raises relatively little revenue for the Federal Government. Some studies have found that it may cost the government and taxpayers more in administrative and compliance fees than it actually raises in revenue.

Of course, farmers and ranchers are not the only ones facing an unfair and unnecessary burden in the death tax. One study conducted by the Public Policy Institute of New York State found that in a 5-year period family-owned and -operated businesses on an average spent $125,000 per company on tax planning alone. These costs are incurred prior to any actual payment of Federal estate taxes. They reported that an estimated 14 jobs per business were lost as a result of Federal estate tax planning. For just the 365 businesses surveyed, the total number of jobs already lost due to the Federal estate tax is 5,100. That was just in upstate New York.

My rural and suburban district in New York is laden with small businesses and farms that are owned by hardworking families who pay their taxes, create jobs, and contribute not only to the quality of life in their community but to the Nation's rich heritage. Is it so much to ask that they be able to pass on their industry and hard work, their small business or their farm to their children? Why should Uncle Sam become the Grim Reaper?

The fact is they paid their taxes in life on every acre sown, on every product sold, and on every dollar earned. They should not be taxed in death, too.

Mr. Speaker, death tax relief was a good idea in the 107th Congress, and it is a good idea now. We should not provide this kind of relief for only a few years. We should provide it permanently. This kind of permanent tax relief for farmers, ranchers, and small business owners that will keep the family business growing and growing is just the kind of relief that is beginning to get this economy moving.

Wall Street has shown modest gains not only since Congress passed its tax cut plan but even since we began working on the tax cut itself. As one media report said, ''Economic advisers credit the tax cuts and positive first quarter earnings for the gains.''

Tax cuts work. They work in helping hardworking families keep more of what they earn. They work in allowing people to have greater control over decisions to save and invest, and they work in creating jobs and creating greater economic opportunity for American families. We are on the right course. Let us keep moving forward.

Mr. Speaker, I urge my colleagues to bury this unfair tax once and for all. Vote ''yes'' on the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I thank my colleague and neighbor from New York for yielding me the customary 30 minutes.

Mr. Speaker, at the outset let me say that those of us who oppose this bill love the family farms and small businesses no less than anyone else in the Congress. The fact of the matter is that this tax is paid now by such a small percentage of people, less than 2 percent in the United States, that we believe almost every family farm and every small business is covered already by not having to pay estate tax, and indeed, the 2 percent who pay it, including the Warren Buffetts and the Bill Gateses and his father, all claim that this is a very bad direction for us to go in. They do not want to build large kingdoms of their own wealth. They are asking that we keep this because it has always been the American policy for taxation that it is based upon the ability to pay.

We would be wise, I think, to remember our American history. Republican President Teddy Roosevelt, a hero of mine, who led the charge to create an inheritance tax, believed that the wealthy had a special obligation to the government. He said: ''The man of great wealth owes a peculiar obligation to the State because he derives special advantages from the mere existence of government.''

□ 1045

It would also be wise to remember the virtues of responsibility and accountability, especially now that the deficit has gone from the $5.6 trillion surplus to a $400 billion deficit in a little more than 2 years. The underlying legislation before us today would drain $80 billion more a year from the already empty Federal Treasury. In other words, the money would have to be borrowed.

Now, what does this say to the American people when we prioritize the checkbooks of the wealthiest 2 percent of Americans before paying for the health care for our veterans and fully funding education? I know that the President pledged to repeal estate tax during his campaign, and I am sure that he knows some people in the top 2 percent who will benefit from the complete and permanent elimination of the inheritance tax.

In fact, he probably mingled with a few of them just last night during the event that kicked off the largest political fund-raising drive in our history. But I meet those whose Social Security benefits are threatened by the drain on the resources of the government, some of the 9 million unemployed and 12 million children that are still without the help of the child tax credit. Teddy Roosevelt admonished, and this is so important because it is so wise, ''The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.''

I hope that in the short time allocated for discussion of this legislation that we do not frighten the family farmers and small business owners. As I said, all of them, unless they are among the wealthiest 2 percent in the United States, are covered already by not paying this tax. They have worked hard to keep their farms from falling into bankruptcy, and far too many family farms are going under already. They fight hard to keep their small businesses going, and we support them in every way that we can, especially during this continued economic decline. They are not subject to the estate tax as it currently exists. I cannot stress that enough.

Indeed, one of my colleagues on the Committee on Rules last night talked about an event in his home State where the convention hall was full and the President said he wanted to make permanent the repeal of the estate tax

and got a humongous response to that. My colleague on the Committee on Rules said that he was sure that not more than 40 people in that room, if that many, would have benefitted from that repeal.

Special estate tax rules for family farms value their farm land at less than other land, at between 45 percent and 75 percent of its fair market value, and already allows farm couples to exempt up to $2.6 million from taxes. Family businesses pay less than 1 percent of all estate taxes. Family business couples can also exempt up to $2.6 million from taxes. The Pomeroy substitute provides even more protections for them. It excludes from the inheritance tax any estate owned by a couple worth $6 million.

Almost a decade ago, the gentleman from California, the distinguished Chair of the Committee on Rules, said on the floor that ''all,'' and in parentheses the minority members at that time, ''are asking for fair treatment on both sides of the aisle here.'' And I agree with my colleague, I want fairness on both sides of the aisle. I would also like fairness and a little old-fashioned common sense.

Under H. Res. 281, only one amendment has been made in order, a substitute amendment offered by my friend from, the gentleman from North Dakota (Mr. POMEROY). However, instead of choosing his substitute amendment that paid for itself, in other words, took money from probably from the tax cut from the very wealthy and paid for what he is recommending here, where we would have no further drain on the Treasury because it would not have added a single penny to the Federal deficit, but instead of making that amendment in order, the Committee on Rules made a second amendment in order which only partially offsets the cost of the elimination of taxes on estates larger than $3 million.

Even though H.R. 8 falls short, and fails to offset any of the $80 billion annual losses it creates and adds to our increasing deficit, it is very important to note, Mr. Speaker, that one of the differences between H.R. 8 and the Pomeroy substitute amendment is .35 percent. That's all. H.R. 8 would permanently remove the estate tax on any estate, even those as large as $3 billion or $4 billion or $5 billion or larger, and cost the Federal Government more than $800 billion over 10 years. The Pomeroy amendment would exempt every estate in America, except for the wealthiest of the wealthy. Only one-third of 1 percent of estates would be so large that they surpassed the generous exclusion in the Pomeroy substitute.

This bill does a great deal for a very few. It really does, again, add to the deficit. And the most important thing about it are that the people who benefit from it the most are the people who most loudly say not to do this; that we do not need it. We would much prefer a stronger economy in America.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my friends from the left always bring up class warfare every time we have a tax cut discussion in this body. I just would point to two aspects of my colleague and friend's remarks.

First, Henry Aaron and Alicia Munnell, who are two prominent liberal economists, concluded in their study of the estate tax the following: In short, the estate and gift taxes of the United States have failed to achieve their intended purposes. They raise little revenue, they impose large excess burdens, and they are unfair.

Alan Binder, a former member of the Federal Reserve Board, appointed by former President Bill Clinton, found that only about 2 percent of inequity was attributable to the unequal distribution of inherited wealth.

Joseph Stiglitz, who served as Chairman of President Clinton's Council of Economic Advisers, found that the estate tax may ultimately increase income equality.

Those are the same type of things that Republicans or conservatives or economists who are right of center have said. So there seems to be concurrence on that.

I would also say that it is sometimes difficult being a member of the majority to resolve some of the issues of inside baseball upstairs in the Committee on Rules. Sometimes we are attacked because we have open rules, sometimes we are attacked because we have closed rules, modified rules, or whatever happens. In this instance, we just cannot seem to win.

The unfortunate aspect of this is that we have today for our colleagues to consider, in the rule that we now have before us, a substitute offered by the Democrats. If the gentleman from North Dakota (Mr. POMEROY) does not want this substitute, he should withdraw it. He introduced it, he asked the Committee on Rules to consider it, the Committee on Rules did just that.

We also have a recommit, as we have in each and every single rule that we put out on behalf of consideration of legislation since the majority took its control in 1995.

Mr. MCGOVERN. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentleman from Massachusetts, though it is unfortunate, as a member of the Committee on Rules, the gentleman cannot get time from his side.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman for yielding. I just want to assure the gentleman that on our side of the aisle, we will not complain if we get open rules, and we certainly would not be complaining as much if the majority allowed the substitute that the gentleman from North Dakota (Mr. POMEROY) wanted to offer, with the offsets, so this Estate Tax Bill would be paid for.

Mr. REYNOLDS. Reclaiming my time, Mr. Speaker, the gentleman from North Dakota (Mr. POMEROY) came before the Committee on Rules and he introduced his legislation. There is no time I am aware of, in talking to the staff, that the gentleman from North Dakota, from the time he brought the legislation for our consideration until today, that he has asked to withdraw the substitute.

So we are moving forward on the Pomeroy substitute. After that is considered, we will move forward with the motion to recommit and then we will, hopefully, go to final passage.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, a few weeks ago, President Bush signed a huge tax cut into law giving billions and billions of dollars in tax cuts to the very, very wealthy. Of course, in the dead of night, the Republicans stripped out the child tax credit to help low- and middle-income American families. But those families do not go to the fund-raisers at the Hilton, so the leadership does not care about them.

The other body acted quickly and responsibly to fix the child tax problem. The leadership of this House, however, dragged their feet and then acted irresponsibly. Finally, last week, after a drumbeat of public pressure, we saw a child tax credit bill, sort of. What we actually saw was a sham, a distraction, a way to kill the issue with one hand while sending out a press release with the other.

Since the House bill is vastly different and vastly more expensive than the Senate bill, the differences have to be worked out in a conference committee. Conferees have been appointed, but has the conference committee met? No.

Now, it is clear that the leadership of the Committee on Ways and Means is not too busy, since they had time to bring up this week's installment of Tax Cut Bonanza, a bill to eliminate the sunset on the estate tax. Mr. Speaker, the current sunset does not even expire until the year 2010, 7 years from now. Now, the Senate-passed child tax credit can help working families today, but, clearly, the Republicans would rather help the very wealthy 7 years early.

This bill would burden our children and our grandchildren with $150 billion in debt over the next 10 years and hundreds of billions of dollars more after that. So why are we considering this bill today? The answer is simple: Last night, at the Washington Hilton, all the fat cats had a fund-raiser for the President's reelection campaign. For $2,000, the people who will benefit from this Estate Tax Bill got a hamburger and a handshake from the Republican Party.

Now, last night in the Committee on Rules, the gentleman from North Dakota (Mr. POMEROY) offered a substitute that would permanently exclude estates worth up to $3 million per

person or $6 million for a married couple, and would exempt 99.65 percent of estates from estate tax liability. He offered a substitute that would have been paid for. But last night, keeping with tradition, the Committee on Rules basically disallowed his right to offer that substitute. And, also keeping with tradition of shutting out the voices of average working families in this House, they did not allow him to offer his substitute that had the offsets.

So I guess the problem with the approach of the gentleman from North Dakota is that the people who were raising all the money last night are worth more than $6 million. They want more. And they are the people that this leadership in the House cares most about. For those people, it is Christmas in June. But the soldier serving our country over in Iraq, who makes $16,000 a year, gets nothing, because he cannot afford to pay $2,000 for a hamburger at the Hilton.

Mr. Speaker, I urge my colleagues to defeat the previous question vote for the responsible Pomeroy substitute.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

As President Reagan would say, Mr. Speaker, there you go again. Class warfare. I do not know about my colleagues, but I go home every weekend, and I see farmers, and I see small businesses that have worked their hearts out. They have worked hard their whole life on their family farm or in their Main Street business. They are not rich, but they have an estate. They want to pass it to whoever they want. In most instances, that is their children. But to pay the estate tax, they have to sell the family farm. And that just is not right, because they paid taxes on every single portion of the products, goods, and services and then they have to do it again at death tax time.

They are not rich, although this would certainly help them, but as I cited in earlier debate, liberal economists and conservative economists all agree the tax does not really do the job. But think about this: The actuaries and life underwriters and everybody else are saying, if you want to die, you want to do it between now and 2010, because God forbid, if it is January 1, 2011. This thing does not work anymore.

It is a reasonable thing to tell America and to show America and perform for America with permanent death tax relief. This tax relief is reasonable. I understand my colleagues on the left do not believe in tax cuts. I accept that. But I also want to remind my colleagues and friends, as the gentleman from Massachusetts (Mr. MCGOVERN) has indicated, in the Committee on Rules every single amendment had a rollcall vote yesterday. They were all heard, they were all debated, and they all had a vote.

We have, in this modified closed rule, included the Pomeroy substitute, and we have included a motion to recommit. We will then have final passage of whatever comes as the result of our colleagues in the conference on the other side.

Mr. Speaker, I reserve the balance of my time.

□ 1100

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, this is not about family farms. In 2001, only 2 percent of the 2.3 million deaths involved any estate or gift tax liability at all. Of those deaths, about one-tenth of 1 percent incurred any liability at all involving family farm assets. How many is that? What does it translate into? Just 46 family farms incurred any estate tax liability at all.

This bill helps 46 family farms, yet will cost $160 billion. So let us not be fooled. This bill is only about protecting those wealthy few, and the cost of this legislation comes directly out of vital services, job training, education, health care for working families. Even in the most robust economy, eliminating the estate tax would be totally irresponsible, a giveaway to the richest Americans; but at a time when we are experiencing $400 billion in record deficits, 9 million Americans are unemployed, eliminating the estate tax is not only irresponsible, it is immoral.

This bill is an insult to the 6.5 million families left out of the child tax legislation, 200,000 military families, less than a week after the majority cynically maneuvered to kill legislation passed overwhelmingly by the ordinary body which would have corrected this injustice; and the House majority brings up yet another bill to cut taxes for only the wealthiest Americans.

And if Members think it is only the Democrats that are saying that the Republicans are cynical in what they did last week, let me quote a senior Senate Republican aide. He said that he expected the tax credits for those working families would die in a dead-locked conference, and he said further that it appeared that was the intention of the House Republicans. And today the Republican whip has said our leadership is committed to the bill we sent to the conference. The majority of our Members are not going to accept anything else. They wanted to destroy the opportunity for working people to be able to get a child tax credit. That is what they did last week.

At a time when there are hard-working, tax-paying minimum-wage-earning families, families of 12 million children, they have not yet received a penny of tax relief. The House's consideration of this bill is irresponsible.

This is a debate about priorities. It is about values. I call on my colleagues to turn aside this misguided, reckless bill. I call on President Bush to use his moral leadership, help deliver the child tax credit to those 6.5 million families, those 12 million children. The President should urge his Republican leadership to pass a responsible child credit bill that reflects the principles of this great Nation. Give those 6.5 million low-income families the tax relief they need. They pay taxes, property taxes, sales taxes, excise taxes, payroll taxes, 8 percent of their income. Give them the tax relief that they need. That is what we should be debating today. Those families have earned it.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, apparently as I cited in my remarks before, some of that has not been heard as we get some of the facts out. The left does not want to cut taxes. I accept that. I understand that. We are going to have a debate; and this House has repeatedly cut taxes, including the estate tax in the 106th Congress, the 107th Congress, and now in the 108th Congress. But Henry Aaron and Alicia Munnell, who are two prominent liberal economists, concluded in their study of the estate tax, the estate and gift taxes in the United States have failed to achieve their intended purposes. They raise little revenue, they impose large excess burdens, and they are unfair.

Alan Binder, a former member of the Federal Reserve Board appointed by President Clinton, found that 2 percent of the equity was attributable to the unequal distribution of inherited wealth.

And Joseph Stiglitz, who served as President Clinton's Council of Economic Advisors, found the estate tax may ultimately increase income inequality. The reason I have cited that a second time in this debate is we can keep coming forward and say how bad it is. The liberal economists, just as we have seen from right-of-center economists, have concurred that this is not a functional tax.

Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, first of all I would like to say that this is a typical rule on a tax bill, and it gives the minority an opportunity to put all of their eggs in one basket and to vote on a substitute; and that is fair.

But let me speak to the underlying issue, the bill. I was with President Bush some months ago at Harrison High School in Cobb County, Georgia. He spoke for about 30 minutes in a gymnasium that was filled to the rafters. And at one brief time he said we must make permanent the repeal of the death tax, and the place exploded in spontaneous applause and cheering. I turned to the person I was sitting next to, and I said there are not 40 people in this auditorium who are going to benefit from that. They are cheering it because they think it is a moral issue. People should be able to pass on what they earn and keep.

Mr. Speaker, why are we so angry at success in this body? What do rich people do with their money? They give it away, and they do not give it away for

tax reasons. Some of the great fortunes that were given away, the Fricks, the Carnegies, the Mellons, were given away before we had a Tax Code. They were given away because they wanted to, and we think they have a right to decide where their money goes. Bill Gates gives it in Africa for health reasons; Ted Turner gave $1 billion to the United Nations. Let them make that choice, rather than take it away from them and make the choice for them.

I have said this before on this floor, and I want to say it again. Some years ago and maybe today, if you want to start a business in some great cities, you are visited by a pretty scruffy guy who says we are going to let you stay in business, but we want 30 percent of your profits. And if you sell the business, we are going to take 20 percent of what you make off it; but even the Mafia does not show up at the widow's doorstep asking for their share of what is left over. Our government does. It is immoral, and it ought to end.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. MCGOVERN) to ask a question.

Mr. MCGOVERN. Mr. Speaker, I have a question for either of my colleagues on the Committee on Rules. The gentleman's party controls the House and the Senate and the White House. My question is when are we going to have a child tax credit? When are we going to provide relief to that soldier in Iraq who is earning $16,000 a year? We are talking about helping millionaires today, and my question is since the other side of the aisle controls everything, when are they going to bring this child tax credit to the floor?

Mr. REYNOLDS. Mr. Speaker, will the gentleman yield?

Mr. MCGOVERN. I yield to the gentleman from New York.

Mr. REYNOLDS. Mr. Speaker, I certainly hope that the Senate will quickly respond to the legislation we passed last week, in a prompt response to the decision that they wanted to look at the child tax credit.

Mr. MCGOVERN. Mr. Speaker, some of the gentleman's colleagues in the other body have said quite clearly that they are not going to deal with the bill sent over there because it was not paid for. I guess since we have Republicans that control the House and the Senate, I would like to think that they would get along with each other and resolve some of these issues; and the issue of the child tax credit is something that would help low-income and moderate-income families right now. They need help now, and it seems to me while we are talking about this estate tax relief bill today, which takes place 7 years from now, why can we not help the people hurting right now.

Mr. REYNOLDS. If the gentleman would continue to yield, I am a little confused. Last week the gentleman voted against the child tax credit.

Mr. MCGOVERN. Mr. Speaker, reclaiming my time, no, I voted against the child tax credit that was not paid for.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I rise in support of the rule that we are discussing that would allow us to consider legislation to permanently repeal the death tax.

Mr. Speaker, I am one of those that truly believes the death tax is a triple tax. First, Americans pay a tax when they earn this income. Then they buy an asset and spend it, and they pay the tax then. Then when an American dies, they have to pay the tax again.

This tax is a tax that affects all Americans, especially our small business owners. In fact, 70 percent of small businesses never make it past that first generation because of this tax. It is something that prohibits people from being able to pass that business on to the next generation.

In addition, it discourages savings. It discourages investment, and it is costing our economy hundreds of thousands of jobs.

Mr. Speaker, the Americans get it; 89 percent of the people want us to permanently eliminate the death tax. Small business owners get it. Seniors get it. The farmers in my district in Tennessee, they get it. They want us to do away with death taxes. I hope my colleagues on the other side of the aisle will also get it and vote in favor of this rule and in favor of H.R. 8 to rid our country of an unjust tax that penalizes all Americans.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I think it is important to note that we are dealing with an issue today that, as has been pointed out, that is really not in the realm of debate or action for the next 7 years when in fact what I think bears importance is to recount what has happened here in the last several weeks about a tax credit for working families, people who pay payroll taxes, sales taxes, property taxes and excise taxes, people who make between $10,500 and $26,625, again working people, who were told that they were part of a tax package, a $350 billion tax package.

Oddly enough, their portion of the $350 billion tax package, $3.5 billion, was stolen out of the bill that the President signed 10 days ago, 2 weeks ago in the dead of night, and the promise that was made to these individuals was just pulled back in order that we meet the demand of those people, 184,000 millionaires in this country, who are going to get $93,000 a year in a tax cut; but we could not scale back 1 percent of that $350 billion to adjust for these working families.

So the Senate in a bipartisan way, the other body in a bipartisan way, because they said that this was just plain wrong, came to the conclusion on a vote of 94 to 2 that we could address this wrongdoing and put $3.5 billion into a bill and address this injustice. And they paid for it.

The President, I might add, or his spokesperson, said we ought to do what the Senate, the other body, did. It came to the House of Representatives where the majority leader of the House said we have more important things to do. What is more important? What is more important to do, give $93,000 in a tax cut to the wealthiest people in this country? Or allow corporations to go overseas and not pay taxes at all? Is that more important than the hard-working American families who pay taxes, 8 percent of their income in taxes, and they should be shortchanged on a $400 tax credit for their children?

There is a basic and fundamental values issue here about who we care about and what we care about in this Nation. We had an opportunity and what the Republican leadership did, the other side of the aisle did last week, was to in fact come forward with an $82 billion package to pay for a $3.5 billion issue, and they did it for one reason; and I will quote the Senate Republican aide again.

□ 1115

A senior Senate Republican aide said he expected the tax credits to die in a deadlocked conference which he said appeared to be the intention of the House Republicans. It was and is the intention of the House Republicans to end this tax credit for these hard-working folks. What people may not know is that everybody else in that tax bill is going to get their tax relief on July 1. Not the families included here. Military families are not going to get it. They are going to have to apply for next year. Two hundred thousand military families fighting a war, fighting a war on our behalf, they are not going to get it. This is an outrage. This should not happen. But over and over and over again, and today what we are talking about is a tax cut, repealing, permanently, the estate tax which I pointed out earlier, 46 families, some of the wealthiest families in the country. And we cannot take care of these families.

I called on the President and the President said he wanted to see this fixed. The President needs to talk to the Republican House leadership, take them in hand and say, let's do what's right. Take the moral leadership, the moral leadership where the President stood up and he fought for the dividend tax cut, again to benefit the wealthiest people in this country. I believe he should take on the moral leadership to fight for these hardworking families.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume. I enjoyed that oratory. I would almost think that she voted for the child tax credit last week, but the sad fact is that she did not because she voted the other way. She voted no. We sent a bill over to the other body. I have listened to the presumptions of the other body, of what will happen over there. I have

talked to a few Senators. They give me the hope that they are so desirous of voting on this that they are looking forward to a conference and they are looking forward to getting it on the floor.

The fact is we are talking about permanent estate tax repeal now. That is what is coming on the floor as we pass this rule, if the body does pass it, and I believe that they will and I believe that we will get bipartisan, Democrat-Republican, support for a permanent estate tax, death tax, however, you want to look at the reality, repeal. As we are listening to the debate shift over to the child tax credit, it is fine to lecture what that is and how it all happened.

The fact is last week I voted for a child tax credit and other tax cuts and sent it to the other body. And the fact is the last two orators on the Democratic side did not vote for it.

So as we move forward today back on the death tax to make a permanent death tax repeal, Members get to vote up or down on the rule and then they get to vote on a substitute and then they get to vote on a recommit and then final passage. I look forward to today, because I believe that we will get bipartisan support to pass the permanent repeal of the death tax.

Ms. DELAURO. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Speaker, I would just say to the gentleman, he says I voted against that bill last week. I will tell him my view and he can dispute this with me. It was a very good feel-good vote on the Republican side of the aisle, and that may be where his vote was because, according to Republican Senate people, Senator GRASSLEY today—I am sorry, a member of the other body—a Senator from the other body said he does not have time for a conference. The majority whip in this body said no time for a conference. The gentleman felt good about voting for that bill because he knew that the Senate was not going to do it and, therefore, they were going to kill the child tax credit. He can say it over and over again. I would not vote for a bill that was instrumental in killing the child tax credit nor was it paid for. The bill that I voted for was being paid for.

Mr. REYNOLDS. I guess she did not have a question.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM). All Members are reminded against making inappropriate references to the Senate.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I thank the gentlewoman from New York for yielding the time, and I certainly want to associate myself with her remarks and the remarks of the gentlewoman from Connecticut. I think it is important to kind of set the facts straight here because the gentleman from New York, for whom I have a great deal of respect, I think has said some things that I believe are a little bit misleading. One is those of us on our side of the aisle here, we voted for the child tax credit six times. They voted against it six times. We voted for it six times. The difference with what we voted for and what they ended up voting for is we ended up voting for a child tax credit that was fully paid for, with offsets, because we are a little concerned quite frankly with the way Republicans are on this tax cut/spending spree right now because it is adding to our deficit and adding to our debt. This year as a result of their policies, CBO tells us that the deficit this year is $400 billion, the biggest single year deficit ever recorded in our history. That is what we are worried about over here. So we feel very strongly that as we support these tax cut measures to help working families, that they be paid for, that the offsets be specified.

The other body came forward with a bill to help deal with the child tax credit that was going to cost $10 billion, which was fully paid for, with offsets. The majority in the House could not get together with their counterparts in the other body, even though they are of the same party, but the leadership in this House, I think, is so out of touch and so radical when it comes to how they spend the taxpayers' money in this country that they could not even come up with a bill that even approached anything near what the other body did.

But what the House leadership did is they came up with a bill that would cost $82 billion, that was not paid for. In other words, it was all borrowed money, money being borrowed from our children and our grandchildren and our great-grandchildren. They all talk about cutting taxes, but they, in essence, are raising taxes on our kids, something called a debt tax. We are paying an ever increasing amount on the interest on the debt that is being accumulated in this country, in large part because of their fiscally irresponsible policies.

So do not tell us that we voted against a child tax credit. We voted for it six times. We voted for one that would provide immediate relief to these families that we have been talking about for these last several weeks, including our military families, men and women serving in Iraq right now making a base pay of $16,000 a year. They deserve help right now. They work hard, they are defending our country, they deserve this child tax credit. We tried to bring to this floor just like the majority did in the other body brought to the Senate floor a responsible child tax credit bill that was fully paid for. They said no.

We voted for one that was paid for six times and then they came up with a sham, a public relations ploy, knowing that it will get lost in conference committee or that there would never be a conference committee and these low- and medium-income families would get nothing. And here we are today debating an estate tax relief bill that takes effect 7 years from now. We are talking about lifting the sunset 7 years from now. There are more important and pressing problems for a lot of working families, people who will never get to the point where they are going to have to deal with whether or not they are going to pay estate tax or not.

I would just respectfully suggest to the gentleman that his facts are a little bit wrong with regard to what we on this side of the aisle have tried to do and have been championing.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I probably need to put the gentleman from California (Mr. THOMAS) and the gentlewoman from Washington (Ms. DUNN) on notice that when we move into the bill on the underlying legislation, we will be talking more on the child tax credit than the permanent death tax. I am just encouraged to see in the 107th Congress, three votes that occurred on the death tax. I saw from 41 to 58 Democratic votes along with Republicans and it reassures me that we are on the path of a bipartisan tax cut to end the death tax once and for all that is in this country.

We need to see a couple of things. Individuals and families and partnerships or family corporations own 99 percent of all U.S. farms and ranches. Think about that. Individuals, family partnerships or family corporations own 99 percent of all U.S. farms and ranches. I do not want us to ever forget that every acre, every piece of equipment, every business has already been taxed in life, so why should they be taxed in death.

Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, today what we are talking about is ending the death tax. I believe it is morally wrong that we tax people on their death. They should not have to visit the IRS and the undertaker on the same day. I know a story of a couple, a man and a woman, who had two children who owned a small business. They passed away, unfortunately, and left that business to their children. Their children thought they would get this business, maybe get a little money. But instead to pay the death tax, they had to actually borrow money to sell that business. The Republican Party does not want to tax dead people. The Democrat Party does. That is the difference here today.

Mr. Speaker, I rise today in support of H.R. 8, the Death Tax Repeal Permanency Act of 2003. This bill permanently repeals the death tax and allows families to pass on businesses and farms to their families without the enormous, intrusive and burdensome

taxes they are often forced to incur. The IRS imposes rates of up to 60 percent of the value of a family business or farm when the owner passes away. To pay the tax man, many families are forced to liquidate assets and sell their businesses and farms though some have been in the family for generations.

The death tax is un-American, Mr. Speaker. Ask any small business owner. They know all too well that 70 percent of family businesses do not survive to the second generation, and 87 percent do not make it to the third. They will tell you that repealing the death tax would create jobs and grow our economy. It is good for small business owners, it is good for our economy and it is good for America.

Join me in voting for H.R. 8, the repeal of this burdensome tax on family-owned farms and businesses. It is morally wrong.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 5 seconds. Saying that it will preserve family farms from taxation does not make it true. They are preserved already from taxation.

Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, on the commentary for my not having voted for a child tax credit, let me just say we have voted six times on this issue. Democrats have voted for, Republicans voted against, including a motion to instruct on which Republicans voted for taking the bill that the other body passed and bringing it back here. My interest in this effort is not today, it is not yesterday, it is not in the last week.

On March 12, I introduced the child tax credit in the Committee on the Budget and it was voted there for the first time. All of the members on the Democratic side voted yes. All of the members on the Republican side voted no against the child tax credit. This legislation we deal with today goes into effect in 7 years. We have an opportunity to right a wrong, to right an injustice, to pass a child tax credit, to take the bill, to go to conference and address this issue and allow these hard-working people to get their benefit on July 1 as every other American who is going to get the benefit of this tax credit will. It is wrong to do otherwise.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I welcome so many from the left to join me in cutting taxes. I look forward to that vote when it comes out of conference committee and maybe she can join us with that.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I want to remind my colleague from New York that the gentleman from Texas (Mr. STENHOLM) would really hate to be put in that category of a lefty.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I am going to urge that my colleagues vote against this rule. On the one hand, they do allow a Democrat substitute that I am pleased to offer, one that would provide very meaningful estate tax relief. In fact, it would completely take care of any estate tax problem of 99.65 percent of the people of this country. It is far more relief than offered under the majority proposal in each of the next 5 years.

So these family farms and these small businesses we are going to be hearing so much about, the alligator tears we are going to be seeing cried on the majority side, we help them and we help them now. On the other hand, the majority approach is very different. Nobody gets nothing until the wealthiest three-tenths of 1 percent get everything that they need. That is why we have the inferior plan on their side compared to the more generous benefit of ours.

There is another very big difference. Theirs would drive the deficit higher to the tune of $160 plus billion dollars over 10 years. Why I want to vote against this rule is that we had a proposal in the amendment that I proposed to the Committee on Rules that would have completely paid for the relief we provide. There would have been zero impact on the deficit. Yet to my surprise, the substitute allowed in order only provides for the tax relief portion and does not provide the means by which we avoid any impact on the deficit whatsoever. We wanted to close the Enron-like tax shelters.

□ 1130

We also had some customs fees, and yet they have shielded this, stripped it out of the rule; and so what we are allowed on the floor will have a deficit impact. I vote against the rule.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I have got to tell the Members, I have only been here since 1999, but it never ceases to amaze me to see something new. Yesterday my colleague from North Dakota was before the Committee on Rules advocating this substitute that is contained in this rule and another one, and he was granted one that he actually spoke for; and today he wants to bring down the rule.

Mr. POMEROY. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentleman from North Dakota.

Mr. POMEROY. Mr. Speaker, to my friend from New York, we had within the substitute proposed to the Committee on Rules, on which the gentleman served so well, a pay-for so we were not going to impact the deficit. You took out the pay-for provisions of what we submitted to the committee. You make us impact the deficit, although it is only a fraction to which the majority proposal impacts the deficit. We know you do not care about the deficits. In fact, there has been a $9 trillion reversal in the financial fortunes of this country within the last 2 years. We think enough is enough. We do not want to drive the deficit deeper and deeper, and that is why I so wish you would have allowed for the pay-for portion proposed to the Committee on Rules to be considered.

I thank the gentleman for yielding.

Mr. REYNOLDS. Mr. Speaker, did the gentleman come before the Committee on Rules and advocate the substitute which is contained in the rule today? I think he did, did he not? Did he come and advocate two different amendments before the Committee on Rules, this one being made that was made as substitute inside the rule? Did he or did he not come yesterday before the Committee on Rules and submit testimony before us asking for consideration of this substitute?

Mr. POMEROY. I believe the gentleman was out of the room at the time I testified, but I would refer him to the transcript.

Mr. REYNOLDS. I am happy to bring the record down and bring it here.

Mr. POMEROY. Does the gentleman want me to answer his question or does he not?

Mr. REYNOLDS. The gentleman and I both know that he was before the committee and asked for this amendment to be considered by the Committee on Rules and now he wants to bring it down. Is that true or not, sir?

Mr. POMEROY. It is not true.

Mr. REYNOLDS. Is the gentleman saying he was not in the Committee on Rules or that he did not request this substitute in his presentation before the Committee on Rules when he spoke on two specific amendments, this being one?

Mr. POMEROY. Mr. Speaker, is the gentleman going to yield to me to answer his question?

Mr. REYNOLDS. I will yield to the gentleman from South Dakota.

Mr. POMEROY. Then I will proceed to answer. If the gentleman will check the transcript of my remarks before the Committee on Rules, I asked that the proposal I offered be considered that paid for the provision for the very meaningful estate tax relief we extend by closing the Enron-type tax loopholes.

I know you probably do not want that considered on the floor of the House. So what you have made in order does not allow us to incorporate the pay-fors. I think that is unfortunate. My specific request to the chairman of the Committee on Rules was to allow the pay-fors.

Mr. REYNOLDS. Mr. Speaker, I reclaim my time.

Mr. Speaker, I must say that in the Committee on Rules, we try to work with our side of the aisle to advise a Member if they do not want their amendment made in order, they should not offer it in the Committee on Rules. Maybe that does not happen to Members on the other side of the aisle; but on our side, if someone comes up there and asks for consideration of an amendment, they ought to be prepared that it might be granted.

I just want to go back and make sure we do not miss anything on the death tax inhibiting economic growth because I have listened to my colleagues on both sides of the aisle talk about creating jobs. The threat of a resurrected death tax will force American families to make inefficient investment decisions and to waste resources in an effort to comply with the death tax. Studies show that repealing the death tax would create as many as 200,000 extra jobs each year across America. Jobs are lost when businesses are liquidated to pay death taxes and to make decisions not to expand because of anticipated death tax liabilities.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be calling for a ''no'' vote on the previous question. And if it is defeated, I will offer an amendment to the rule. The amendment will make in order the portion of the gentleman from North Dakota's (Mr. POMEROY) request that made his amendment budget neutral and was paid for. The amendment was offered, but was rejected on a party-line vote. At least that part was taken out.

The Pomeroy substitute will provide substantial tax relief from estate taxes. In fact, it grants more generous relief to most estates than the Republican bill and grants it immediately. The Pomeroy substitute completely exempts all but the largest estates from taxation and significantly simplifies tax planning for estates of all sizes. It also exempts virtually all family farms and small businesses from estate taxes. Furthermore, the Pomeroy substitute will not add one single penny to the deficit. Unlike the Republican bill, it will be completely paid for.

Republicans in the House have continued for weeks to block any and every bill that provides tax relief to the people who need it most in this Nation. Even on the issue of estate tax, they favor the rich over the middle- and lower-income working Americans. They continue to take care of their wealthy friends again today with yet another deficit-busting bill. Let us take this opportunity to make in order a substitute that will immediately eliminate estate taxes for all estates of less than $6 million. That is 99.65 percent of all estates, 99.65; and it will also do that without costing any additional dollars to the deficit.

Let me make very clear that a ''no'' vote on the previous question will not stop consideration of the Death Tax Repeal Permanency Act of 2003, but a ''no'' vote will allow the House to vote on the Pomeroy substitute which is fully paid for. However, a ''yes'' vote on the previous question will prevent us from voting on a fiscally responsible and revenue-neutral tax bill. I urge a ''no'' vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I guess I believe, looking up at the press gallery, that there is probably a view that it is a fair rule. It is a modified closed rule that provides a substitute, then a recommit; and then we move on to final passage. So there is not much controversy on the rule. And we are in a situation as we move forward on a debate that I believe once we get through the process, which is the rule vote, we are going to see in final passage, just looking at the 107th Congress, somewhere between 41 Democratic colleagues and 58 Democratic colleagues who voted for death tax in the past Congress that will join us today in a bipartisan message of passing this legislation out of the House and having it go to the other body.

Mr. Speaker, Benjamin Franklin once noted in this world nothing can be said to be certain except death and taxes. But while death may be certain, taxes are immortal. That is because our current tax system plays a cruel joke on farmers and small business owners. Simply put, the death tax stifles growth, discourages savings, stymies job creation, drains resources, and ruins family businesses. It is time we permanently repeal this unfair tax and allow the American Dream to be passed on to our children and future generations.

The material previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION FOR H. RES. 281—RULE ON H.R. 8: THE DEATH TAX REPEAL PERMANENCY ACT OF 2003

Strike all after the resolving clause and insert in lieu thereof the following:

That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 8) to make the repeal of the estate tax permanent. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment specified in section 2 of this resolution if offered by Representative Pomeroy of North Dakota or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with our without instructions.

SEC. 2. The amendment referred to in the first section of this resolution is as follows:

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 28

OFFERED BY MR. POMEROY

Strike all after the enacting clause and insert the following:

SECTION 1. AMENDMENT OF 1986 CODE.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TABLE OF CONTENTS.—

TITLE I—RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS

SEC. 101. RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) SUNSET NOT TO APPLY.—

(1) Subsection (a) of section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''this Act'' and all that follows and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.''.

(2) Subsection (b) of such section 901 is amended by striking '', estates, gifts, and transfers''.

(c) CONFORMING AMENDMENTS.—Subsections (d) and (e) of section 511 of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subsections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsections, and amendments, had never been enacted.

SEC. 102. MODIFICATIONS TO ESTATE TAX.

(a) INCREASE IN EXCLUSION EQUIVALENT OF UNIFIED CREDIT TO $3,000,000.—Subsection (c) of section 2010 (relating to applicable credit amount) is amended by striking all that follows ''the applicable exclusion amount'' and inserting ''. For purposes of the preceding sentence, the applicable exclusion amount is $3,000,000.''.

(b) MAXIMUM ESTATE TAX RATE TO REMAIN AT 49 PERCENT; RESTORATION OF PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—

(1) Paragraph (1) of section 2001(c) is amended by striking the last 2 items in the table and inserting the following new item:

''Over $2,000,000	$780,800, plus 49% of the excess over $2,000,000.''.

(2) Paragraph (2) of section 2001(c) is amended to read as follows:

''(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds $10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and $199,200.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2003.

SEC. 103. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.

(a) IN GENERAL.—Section 2031 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

''(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

''(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

''(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

''(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

''(2) NONBUSINESS ASSETS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'nonbusiness asset' means any asset which is not used in the active conduct of 1 or more trades or businesses.

''(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

''(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

''(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

''(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

''(3) PASSIVE ASSET.—For purposes of this subsection, the term 'passive asset' means any—

''(A) cash or cash equivalents,

''(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

''(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

''(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

''(E) annuity,

''(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

''(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

''(H) commodity,

''(I) collectible (within the meaning of section 401(m)), or

''(J) any other asset specified in regulations prescribed by the Secretary.

''(4) LOOK-THRU RULES.—

''(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

''(B) 10-PERCENT INTEREST.—The term '10-percent interest' means—

''(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

''(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

''(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

''(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.

''(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity.''

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

TITLE II—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

SEC. 201. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there are any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating

the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) SUBSTANTIAL NONTAX PURPOSE.—In applying subclause (II) of paragraph (1)(B)(i), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(D) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(E) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 202. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

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

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 203. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for

the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''

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

SEC. 204. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed tax benefit or the transaction was not respected under section 7701(m)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 205. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''

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

SEC. 206. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 207. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 208. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 209. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause."

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

SEC. 210. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708."

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS."

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions."

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

SEC. 211. 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. 212. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 213. 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. 214. 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. 215. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 216. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 217. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

TITLE III—OTHER PROVISIONS

SEC. 301. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

''(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this paragraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.''

''(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

''(A) IN GENERAL.—If—

''(i) property is transferred in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of the property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''

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

SEC. 302. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) if any property so contributed has a built-in loss—

''(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

''(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution.''

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period ''or unless the partnership has a substantial built-in loss immediately after such transfer''.

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting ''or with respect to which there is a substantial built-in loss immediately after such transfer'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BUILT-IN LOSS.—

''(1) IN GENERAL.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the basis of such partner's interest in the partnership.

''(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes.''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

''SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS.''

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

''Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.''

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period ''or unless there is a substantial basis reduction''.

(2) ADJUSTMENT.—Subsection (b) of section 734 is amended by inserting ''or unless there is a substantial basis reduction'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds $250,000.

''(2) REGULATIONS.—

''For regulations to carry out this subsection, see section 743(d)(2).''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 is amended to read as follows:

''SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION.''

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

''Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction.''

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

SEC. 303. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 304. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking '', and any regular interest in a FASIT,''.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding ''and'' at the end of clause (ix), by striking '', and'' at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this

section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 305. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking ''or a related party'' and inserting ''or equity held by the issuer (or any related party) in any other person''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 306. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

''(a) IN GENERAL.—If—

''(1)(A) any person acquires stock in a corporation, or

''(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 307. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period.''

(b) DETERMINATION OF PRO RATA SHARE OF SUBPART F INCOME.—Subsection (a) of section 951 (relating to amounts included in gross income of United States shareholders) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULES FOR DETERMINING PRO RATA SHARE OF SUBPART F INCOME.—The pro rata share under paragraph (2) shall be determined by disregarding—

''(A) any rights lacking substantial economic effect, and

''(B) stock owned by a shareholder who is a tax-indifferent party (as defined in section 7701(m)(3)) if the amount which would (but for this paragraph) be allocated to such shareholder does not reflect such shareholder's economic share of the earnings and profits of the corporation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

SEC. 308. BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.

(a) IN GENERAL.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.—The basis of stock in a corporation (for purposes of determining loss) shall be reduced by the nontaxed portion of any dividend received with respect to such stock if this section does not otherwise apply to such dividend.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received after the date of the enactment of this Act.

SEC. 309. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 310. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking September 30, 2003' and inserting September 30, 2013'.

Amend the title so as to read: ''A bill to amend the Internal Revenue Code of 1986 to restore the estate tax, to limit its applicability to estates of over $3,000,000, to curb abusive tax shelters, and for other purposes.''

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 and 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution and then on the question of the Speaker's approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 200, not voting 7, as follows:

[Roll No. 284]

YEAS—227

Aderholt	Gibbons	Osborne
Akin	Gilchrest	Ose
Bachus	Gillmor	Otter
Baker	Gingrey	Oxley
Ballenger	Goode	Paul
Barrett (SC)	Goodlatte	Pearce
Bartlett (MD)	Goss	Pence
Barton (TX)	Granger	Peterson (PA)
Bass	Graves	Petri
Beauprez	Green (WI)	Pickering
Bereuter	Greenwood	Pitts
Biggert	Gutknecht	Platts
Bilirakis	Harris	Pombo
Bishop (UT)	Hart	Porter
Blackburn	Hastings (WA)	Portman
Blunt	Hayes	Pryce (OH)
Boehlert	Hayworth	Putnam
Boehner	Hefley	Quinn
Bonilla	Hensarling	Radanovich
Bonner	Herger	Ramstad
Bono	Hobson	Regula
Boozman	Hoekstra	Rehberg
Bradley (NH)	Hostettler	Renzi
Brown (SC)	Houghton	Reynolds
Brown-Waite, Ginny	Hulshof	Rogers (AL)
Burgess	Hunter	Rogers (KY)
Burns	Hyde	Rogers (MI)
Burr	Isakson	Rohrabacher
Burton (IN)	Issa	Ros-Lehtinen
Buyer	Istook	Royce
Calvert	Janklow	Ryan (WI)
Camp	Jenkins	Ryun (KS)
Cannon	Johnson (CT)	Saxton
Cantor	Johnson (IL)	Schrock
Capito	Johnson, Sam	Sensenbrenner
Carter	Jones (NC)	Sessions
Castle	Keller	Shadegg
Chabot	Kelly	Shaw
Chocola	Kennedy (MN)	Shays
Coble	King (IA)	Sherwood
Cole	King (NY)	Shimkus
Collins	Kingston	Shuster
Cox	Kirk	Simmons
Crane	Kline	Simpson
Crenshaw	Knollenberg	Smith (MI)
Cubin	Kolbe	Smith (NJ)
Culberson	LaHood	Smith (TX)
Cunningham	Latham	Souder
Davis, Jo Ann	LaTourette	Stearns
Davis, Tom	Leach	Sullivan
Deal (GA)	Lewis (CA)	Sweeney
DeLay	Lewis (KY)	Tancredo
DeMint	Linder	Tauzin
Diaz-Balart, L.	LoBiondo	Taylor (NC)
Diaz-Balart, M.	Lucas (OK)	Terry
Doolittle	Manzullo	Thomas
Dreier	McCotter	Thornberry
Duncan	McCrery	Tiahrt
Dunn	McHugh	Tiberi
Ehlers	McInnis	Toomey
Emerson	McKeon	Turner (OH)
English	Mica	Upton
Everett	Miller (FL)	Vitter
Feeney	Miller (MI)	Walden (OR)
Ferguson	Miller, Gary	Walsh
Flake	Moran (KS)	Wamp
Fletcher	Murphy	Weldon (FL)
Foley	Musgrave	Weldon (PA)
Forbes	Myrick	Weller
Fossella	Nethercutt	Whitfield
Franks (AZ)	Neugebauer	Wicker
Frelinghuysen	Ney	Wilson (NM)
Gallegly	Northup	Wilson (SC)
Garrett (NJ)	Norwood	Wolf
Gerlach	Nunes	Young (AK)
	Nussle	Young (FL)

NAYS—200

Abercrombie	Baca	Bell
Ackerman	Baird	Berkley
Alexander	Baldwin	Berman
Allen	Ballance	Berry
Andrews	Becerra	Bishop (GA)

Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOT VOTING—7

Brady (TX)
Carson (IN)
Conyers
Gephardt
Lofgren
Smith (WA)
Weiner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM) (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1201

Messrs. PASCRELL, OBEY, BELL, and Ms. BERKLEY changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 230, noes 199, not voting 5, as follows:

[Roll No. 285]

AYES—230

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—199

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Carson (IN)
Gephardt
Lofgren
Smith (WA)
Weiner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1208

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 365, noes 59,