these provisions will help to ensure an affordable, reliable wood supply upon which so many manufacturing jobs in Maine depend.

Finally, this bill is designed to ensure that only companies that are helping to build America's manufacturing base obtain its benefits. It has both a carrot and a stick approach. Companies that move jobs offshore will see their benefits reduced. For example, they will not be able to claim that 9-percent deduction on operations that are located in the United States. Companies that choose to invert their corporate structure altogether in order to avoid U.S. taxes will not be eligible for this credit at all.

The crisis in the manufacturing sector demands our attention. It did not start yesterday, and it will not be resolved tomorrow. Solutions can and should be sought today.

The bill I have introduced is a good start, but additional remedies are needed. Manufacturing jobs arise in part because some of our trading partners simply do not play by the rules. The Presiding Officer has been a leader in this area. Our Nation's manufacturers can compete against the best in the world, but they cannot compete against nations that provide huge subsidies and other help to their manufacturers.

I hear from manufacturers in my State time and again whose efforts to compete successfully in a global economy simply cannot overcome the practices of the illegal pricing and subsidies of nations such as China. That is why I will soon be introducing a second bill that will help ensure that nations such as China are held fully accountable for their actions by our trade remedy laws. Unfair market conditions cannot continue to cause our manufacturers to hemorrhage jobs.

I am hopeful that working together on this and other legislative and administrative proposals, we can take the important steps needed to strengthen American manufacturers, to preserve our manufacturing capacity, and most of all, to help ensure that hard-working Americans have the jobs they need and deserve.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I thank the Chair.

(The remarks of Mr. WYDEN pertaining to the introduction of S. 2160 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. WYDEN. Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will proceed to the consideration of S. 1637, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1637) to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1637

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

[SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the ''Jumpstart Our Business Strength (JOBS) Act''.

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

[(c) TABLE OF CONTENTS.—

[TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

[SEC. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

[(a) IN GENERAL.—Section 114 is hereby repealed.

[(b) CONFORMING AMENDMENTS.—

[(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

[(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

[(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

[(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking ''or under section 114''.

[(4) Section 275(a) is amended—

[(A) by inserting ''or'' at the end of paragraph (4)(A), by striking ''or'' at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

[(B) by striking the last sentence.

[(5) Paragraph (3) of section 864(e) is amended—

[(A) by striking:

[''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

[''(A) IN GENERAL.—For purposes of''; and inserting:

[''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of'', and

[(B) by striking subparagraph (B).

[(6) Section 903 is amended by striking ''114, 164(a),'' and inserting ''164(a)''.

[(7) Section 999(c)(1) is amended by striking ''941(a)(5),''.

[(c) EFFECTIVE DATE.—

[(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

[(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

[(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

[(B) which is in effect on September 17, 2003, and at all times thereafter.

[(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

[(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

[(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

[(B) if the corporation does revoke such election—

[(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

[(ii) no gain or loss shall be recognized on such transfer.

[(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

[(A) the basis of such asset is determined in whole or in part by reference to the basis

of such asset in the hands of the person from whom the revoking corporation acquired such asset,

[(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

[(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

[(e) GENERAL TRANSITION.—

[(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

[(2) CURRENT FSC/ETI BENEFICIARY.—The term ''current FSC/ETI beneficiary'' means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

[(3) TRANSITION AMOUNT.—For purposes of this subsection—

[(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

[(B) PHASEOUT PERCENTAGE.—

[(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

[Years:	The phaseout percentage is:
[2004	80
[2005	80
[2006	60.

[(ii) SPECIAL RULE FOR 2003.—The phaseout percentage for 2003 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act bears to 365.

[(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

[(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the aggregate FSC/ETI benefits for the taxpayer's taxable year beginning in calendar year 2002.

[(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term ''FSC/ETI benefit'' means—

[(A) amounts excludable from gross income under section 114 of such Code, and

[(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in part by the taxpayer.

[(6) SPECIAL RULE FOR FARM COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 250(h) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

[(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

[(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2), except that for purposes of this paragraph the phaseout percentage for 2003 shall be treated as being equal to 100 percent.

[(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

[(A) 100 percent of such beneficiary's base period amount for calendar year 2003, reduced by

[(B) the aggregate FSC/ETI benefits of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

[SEC. 102. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

[(a) IN GENERAL.—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by adding at the end the following new section:

[''SEC. 250. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

[''(a) IN GENERAL.—In the case of a corporation, there shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the corporation for the taxable year.

[''(b) PHASEIN.—In the case of taxable years beginning in 2004, 2005, 2006, 2007, or 2008, subsection (a) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

[''Taxable years beginning in:	The transition percentage is:
[2004	1
[2005	2
[2006	3
[2007 or 2008	6.

[''(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section—

[''(1) IN GENERAL.—The term 'qualified production activities income' means an amount equal to the applicable percentage of the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

[''(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means—

[''(A) in the case of taxable years beginning before 2012, a percentage equal to the domestic/worldwide fraction,

[''(B) in the case of taxable years beginning in 2012, a percentage (not greater than 100 percent) equal to twice the domestic/worldwide fraction, and

[''(C) in the case of taxable years beginning after 2012, 100 percent.

[''(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

[''(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

[''(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

[''(B) the sum of—

[''(i) the costs of goods sold that are allocable to such receipts,

[''(ii) other deductions, expenses, or losses directly allocable to such receipts, and

[''(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

[''(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

[''(3) SPECIAL RULES FOR DETERMINING COSTS.—

[''(A) IN GENERAL.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States without a transfer price meeting the requirements of section 482 shall be treated as acquired by purchase, and its cost shall be treated as not less than its value when it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

[''(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

[''(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

[''(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section, the term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

[''(1) any sale, exchange, or other disposition of, or

[''(2) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

[''(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

[''(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

[''(A) any tangible personal property,

[''(B) any computer software, and

[''(C) any property described in section 168(f) (3) or (4).

[''(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

[''(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

[''(B) oil or gas (or any primary product thereof),

[''(C) electricity,

[''(D) water supplied by pipeline to the consumer,

[''(E) any unprocessed timber which is softwood,

[''(F) utility services, or

[''(G) any property (not described in paragraph (1)(B)) which is a film, tape, recording,

book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber.

[''(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

[''(1) IN GENERAL.—The term 'domestic/worldwide fraction' means a fraction—

[''(A) the numerator of which is the value of the domestic production of the taxpayer, and

[''(B) the denominator of which is the value of the worldwide production of the taxpayer.

[''(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess of—

[''(A) the domestic production gross receipts, over

[''(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

[''(3) PURCHASED INPUTS.—

[''(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

[''(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

[''(ii) Items consumed in connection with such activities.

[''(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

[''(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

[''(4) VALUE OF WORLDWIDE PRODUCTION.—

[''(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

[''(i) worldwide production gross receipts shall be taken into account, and

[''(ii) paragraph (3)(B) shall not apply.

[''(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

[''(5) SPECIAL RULE FOR AFFILIATED GROUPS.—

[''(A) IN GENERAL.—In the case of a taxpayer that is a member of an expanded affiliated group, the domestic/worldwide fraction shall be the amount determined under the preceding provisions of this subsection by treating all members of such group as a single corporation.

[''(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

[''(i) by substituting '50 percent' for '80 percent' each place it appears, and

[''(ii) without regard to paragraphs (2), (3), (4), and (8) of section 1504(b).

[''(h) DEFINITIONS AND SPECIAL RULES.—

[''(1) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

[''(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385(a)—

[''(i) is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

[''(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) (determined as if the organization were a corporation if it is not) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(a),

then such person shall be allowed an exclusion from gross income with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by the portion of any such amount with respect to which an exclusion is allowable to a person by reason of this paragraph.

[''(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

[''(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

[''(ii) the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

[''(2) SPECIAL RULE FOR PARTNERSHIPS.—For purposes of this section, a corporation's distributive share of any partnership item shall be taken into account as if directly realized by the corporation.

[''(3) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

[''(4) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

[''(5) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

[''(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

[''(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.''.

[(b) DEDUCTION ALLOWED TO SHAREHOLDERS OF S CORPORATIONS.—

[(1) IN GENERAL.—Section 1363(b) (relating to computation of S corporation's taxable income) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

[''(5) the deduction under section 250 shall be allowed to the S corporation.''

[(2) INCREASE IN BASIS.—Section 1367(a)(1) (relating to increases in basis) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

[''(D) any deduction allowed under section 250.''

[(c) MINIMUM TAX.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

[''(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 250.''

[(d) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 is amended by adding at the end the following new item:

[''Sec. 250. Income attributable to domestic production activities.''

[(e) EFFECTIVE DATE.—

[(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

[(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

[TITLE II—INTERNATIONAL TAX PROVISIONS

[Subtitle A—International Tax Reform

[SEC. 201. 20-YEAR FOREIGN TAX CREDIT CARRYFORWARD.

[(a) GENERAL RULE.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended by striking ''in the first, second, third, fourth, or fifth'' and inserting ''in any of the first 20''.

[(b) EXCESS EXTRACTION TAXES.—Paragraph (1) of section 907(f) is amended by striking ''in the first, second, third, fourth, or fifth'' and inserting ''in any of the first 20''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to excess foreign taxes which (without regard to the amendments made by this section) may be carried to any taxable year beginning after December 31, 2004.

[SEC. 202. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.

[(a) IN GENERAL.—Section 904(d)(4) (relating to look-thru rules apply to dividends from noncontrolled section 902 corporations) is amended to read as follows:

[''(4) LOOK-THRU APPLIES TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.—

[''(A) IN GENERAL.—For purposes of this subsection, any dividend from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income described in a subparagraph of paragraph (1) in proportion to the ratio of—

[''(i) the portion of earnings and profits attributable to income described in such subparagraph, to

[''(ii) the total amount of earnings and profits.

[''(B) SPECIAL RULES.—For purposes of this paragraph—

[''(i) EARNINGS AND PROFITS.—

[''(I) IN GENERAL.—The rules of section 316 shall apply.

[''(II) REGULATIONS.—The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods before the taxpayer's acquisition of the stock to which the distributions relate.

[''(ii) INADEQUATE SUBSTANTIATION.—If the Secretary determines that the proper subparagraph of paragraph (1) in which a dividend is described has not been substantiated, such dividend shall be treated as income described in paragraph (1)(A).

[''(iii) LOOK-THRU WITH RESPECT TO CARRYFORWARDS OF CREDIT.—Rules similar to subparagraph (A) also shall apply to any carryforward under subsection (c) from a taxable year beginning before January 1, 2003, of tax allocable to a dividend from a noncontrolled section 902 corporation with respect to the taxpayer. The Secretary may by regulations provide for the allocation of any carryback of tax allocable to a dividend from a noncontrolled section 902 corporation to such a taxable year for purposes of allocating such dividend among the separate categories in effect for such taxable year.

[''(iv) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—Rules similar to the rules of paragraph (3)(F) shall apply for purposes of this paragraph.''.

[(b) CONFORMING AMENDMENTS.—

[(1) Section 904(d)(2)(E) is amended—

[(A) by inserting ''or (4)'' after ''paragraph (3)'' in clause (i), and

[(B) by striking clauses (ii) and (iv) and by redesignating clause (iii) as clause (ii).

[(2) Clause (i) of section 864(d)(5)(A) is amended to read as follows:

[''(i) Subclause (I) of section 904(d)(2)(B)(iii).''

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

[SEC. 203. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

[(a) IN GENERAL.—

[(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

[(2) Section 53(d)(1)(B)(i)(II) of such Code is amended by striking ''and if section 59(a)(2) did not apply''.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

[SEC. 204. RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.

[(a) GENERAL RULE.—Section 904 is amended by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l) respectively, and by inserting after subsection (f) the following new subsection:

[''(g) RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.—

[''(1) GENERAL RULE.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall domestic loss for any taxable year beginning after December 31, 2006, that portion of the taxpayer's taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

[''(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

[''(B) 50 percent of the taxpayer's taxable income from sources within the United States for such succeeding taxable year,

shall be treated as income from sources without the United States (and not as income from sources within the United States).

[''(2) OVERALL DOMESTIC LOSS DEFINED.—For purposes of this subsection—

[''(A) IN GENERAL.—The term 'overall domestic loss' means any domestic loss to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding taxable year by reason of a carryback. For purposes of the preceding sentence, the term 'domestic loss' means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

[''(B) TAXPAYER MUST HAVE ELECTED FOREIGN TAX CREDIT FOR YEAR OF LOSS.—The term 'overall domestic loss' shall not include any loss for any taxable year unless the taxpayer chose the benefits of this subpart for such taxable year.

[''(3) CHARACTERIZATION OF SUBSEQUENT INCOME.—

[''(A) IN GENERAL.—Any income from sources within the United States that is treated as income from sources without the United States under paragraph (1) shall be allocated among and increase the income categories in proportion to the loss from sources within the United States previously allocated to those income categories.

[''(B) INCOME CATEGORY.—For purposes of this paragraph, the term 'income category' has the meaning given such term by subsection (f)(5)(E)(i).

[''(4) COORDINATION WITH SUBSECTION (f).—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this subsection with the provisions of subsection (f).''

[(b) CONFORMING AMENDMENTS.—

[(1) Section 535(d)(2) is amended by striking ''section 904(g)(6)'' and inserting ''section 904(h)(6)''.

[(2) Subparagraph (A) of section 936(a)(2) is amended by striking ''section 904(f)'' and inserting ''subsections (f) and (g) of section 904''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses for taxable years beginning after December 31, 2006.

[SEC. 205. INTEREST EXPENSE ALLOCATION RULES.

[(a) ELECTION TO ALLOCATE ON WORLDWIDE BASIS.— Section 864 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

[''(f) ELECTION TO ALLOCATE INTEREST, ETC. ON WORLDWIDE BASIS.—For purposes of this subchapter, at the election of the worldwide affiliated group—

[''(1) ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE.—

[''(A) IN GENERAL.—The taxable income of each domestic corporation which is a member of a worldwide affiliated group shall be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation.

[''(B) TREATMENT OF WORLDWIDE AFFILIATED GROUP.—The taxable income of the domestic members of a worldwide affiliated group from sources outside the United States shall be determined by allocating and apportioning the interest expense of such domestic members to such income in an amount equal to the excess (if any) of—

[''(i) the total interest expense of the worldwide affiliated group multiplied by the ratio which the foreign assets of the worldwide affiliated group bears to all the assets of the worldwide affiliated group, over

[''(ii) the interest expense of all foreign corporations which are members of the worldwide affiliated group to the extent such interest expense of such foreign corporations would have been allocated and apportioned to foreign source income if this subsection were applied to a group consisting of all the foreign corporations in such worldwide affiliated group.

[''(C) WORLDWIDE AFFILIATED GROUP.—For purposes of this paragraph, the term 'worldwide affiliated group' means a group consisting of—

[''(i) the includible members of an affiliated group (as defined in section 1504(a), determined without regard to paragraphs (2) and (4) of section 1504(b)), and

[''(ii) all controlled foreign corporations in which such members in the aggregate meet the ownership requirements of section 1504(a)(2) either directly or indirectly through applying paragraph (2) of section 958(a) or through applying rules similar to the rules of such paragraph to stock owned directly or indirectly by domestic partnerships, trusts, or estates.

[''(2) ALLOCATION AND APPORTIONMENT OF OTHER EXPENSES.—Expenses other than interest which are not directly allocable or apportioned to any specific income producing activity shall be allocated and apportioned as if all members of the affiliated group were a single corporation. For purposes of the preceding sentence, the term 'affiliated group' has the meaning given such term by section 1504 (determined without regard to paragraph (4) of section 1504(b)).

[''(3) TREATMENT OF TAX-EXEMPT ASSETS; BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS.—The rules of paragraphs (3) and (4) of subsection (e) shall apply for purposes of this subsection; except that paragraph (4) shall be applied on worldwide affiliated group basis.

[''(4) TREATMENT OF CERTAIN FINANCIAL INSTITUTIONS.—

[''(A) IN GENERAL.—For purposes of paragraph (1), any corporation described in subparagraph (B) shall be treated as an includible corporation for purposes of section 1504 only for purposes of applying this subsection separately to corporations so described.

[''(B) DESCRIPTION.—A corporation is described in this subparagraph if—

[''(i) such corporation is a financial institution described in section 581 or 591,

[''(ii) the business of such financial institution is predominantly with persons other than related persons (within the meaning of subsection (d)(4)) or their customers, and

[''(iii) such financial institution is required by State or Federal law to be operated separately from any other entity which is not such an institution.

[''(C) TREATMENT OF BANK AND FINANCIAL HOLDING COMPANIES.—To the extent provided in regulations—

[''(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956),

[''(ii) a financial holding company (within the meaning of section 2(p) of the Bank Holding Company Act of 1956), and

[''(iii) any subsidiary of a financial institution described in section 581 or 591, or of any such bank or financial holding company, if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (B).

[''(5) ELECTION TO EXPAND FINANCIAL INSTITUTION GROUP OF WORLDWIDE GROUP.—

[''(A) IN GENERAL.—If a worldwide affiliated group elects the application of this subsection, all financial corporations which—

[''(i) are members of such worldwide affiliated group, but

[''(ii) are not corporations described in paragraph (4)(B),

shall be treated as described in paragraph (4)(B) for purposes of applying paragraph (4)(A). This subsection (other than this paragraph) shall apply to any such group in the same manner as this subsection (other than this paragraph) applies to the pre-election worldwide affiliated group of which such group is a part.

[''(B) FINANCIAL CORPORATION.—For purposes of this paragraph, the term 'financial corporation' means any corporation if at least 80 percent of its gross income is income described in section 904(d)(2)(D)(ii) and the regulations thereunder which is derived from transactions with persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the corporation. For purposes of the preceding sentence, there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of any corporation as a financial corporation.

[''(C) ANTIABUSE RULES.—In the case of a corporation which is a member of an electing financial institution group, to the extent that such corporation—

[''(i) distributes dividends or makes other distributions with respect to its stock after the date of the enactment of this paragraph

to any member of the pre-election worldwide affiliated group (other than to a member of the electing financial institution group) in excess of the greater of—

[''(I) its average annual dividend (expressed as a percentage of current earnings and profits) during the 5-taxable-year period ending with the taxable year preceding the taxable year, or

[''(II) 25 percent of its average annual earnings and profits for such 5-taxable-year period, or

[''(ii) deals with any person in any manner not clearly reflecting the income of the corporation (as determined under principles similar to the principles of section 482),

an amount of indebtedness of the electing financial institution group equal to the excess distribution or the understatement or overstatement of income, as the case may be, shall be recharacterized (for the taxable year and subsequent taxable years) for purposes of this paragraph as indebtedness of the worldwide affiliated group (excluding the electing financial institution group). If a corporation has not been in existence for 5 taxable years, this subparagraph shall be applied with respect to the period it was in existence.

[''(D) ELECTION.—An election under this paragraph with respect to any financial institution group may be made only by the common parent of the pre-election worldwide affiliated group and may be made only for the first taxable year beginning after December 31, 2009, in which such affiliated group includes 1 or more financial corporations. Such an election, once made, shall apply to all financial corporations which are members of the electing financial institution group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.

[''(E) DEFINITIONS RELATING TO GROUPS.—For purposes of this paragraph—

[''(i) PRE-ELECTION WORLDWIDE AFFILIATED GROUP.—The term 'pre-election worldwide affiliated group' means, with respect to a corporation, the worldwide affiliated group of which such corporation would (but for an election under this paragraph) be a member for purposes of applying paragraph (1).

[''(ii) ELECTING FINANCIAL INSTITUTION GROUP.—The term 'electing financial institution group' means the group of corporations to which this subsection applies separately by reason of the application of paragraph (4)(A) and which includes financial corporations by reason of an election under subparagraph (A).

[''(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations—

[''(i) providing for the direct allocation of interest expense in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection,

[''(ii) preventing assets or interest expense from being taken into account more than once, and

[''(iii) dealing with changes in members of any group (through acquisitions or otherwise) treated under this paragraph as an affiliated group for purposes of this subsection.

[''(6) ELECTION.—An election to have this subsection apply with respect to any worldwide affiliated group may be made only by the common parent of the domestic affiliated group referred to in paragraph (1)(C) and may be made only for the first taxable year beginning after December 31, 2009, in which a worldwide affiliated group exists which includes such affiliated group and at least one foreign corporation. Such an election, once made, shall apply to such common parent and all other corporations which are members of such worldwide affiliated group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.''.

[(b) EXPANSION OF REGULATORY AUTHORITY.—Paragraph (7) of section 864(e) is amended—

[(1) by inserting before the comma at the end of subparagraph (B) ''and in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection'', and

[(2) by striking ''and'' at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

[''(F) preventing assets or interest expense from being taken into account more than once, and''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

[SEC. 206. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

[(a) IN GENERAL.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

[''(i) arise out of commodity hedging transactions (as defined in paragraph (6)(A)),

[''(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or''.

[(b) DEFINITION AND SPECIAL RULES.—Subsection (c) of section 954 is amended by adding after paragraph (5) the following new paragraph:

[''(6) DEFINITION AND SPECIAL RULES RELATING TO COMMODITY TRANSACTIONS.—

[''(A) COMMODITY HEDGING TRANSACTIONS.—For purposes of paragraph (1)(C)(i), the term 'commodity hedging transaction' means any transaction with respect to a commodity if such transaction—

[''(i) is a hedging transaction as defined in section 1221(b)(2), determined—

[''(I) without regard to subparagraph (A)(ii) thereof,

[''(II) by applying subparagraph (A)(i) thereof by substituting 'ordinary property or property described in section 1231(b)' for 'ordinary property', and

[''(III) by substituting 'controlled foreign corporation' for 'taxpayer' each place it appears, and

[''(ii) is clearly identified as such in accordance with section 1221(a)(7).

[''(B) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties.''

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after December 31, 2004.

[Subtitle B—International Tax Simplification

[SEC. 211. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

[(a) GENERAL RULE.—The following provisions are hereby repealed:

[(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

[(2) Section 1246 (relating to gain on foreign investment company stock).

[(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

[(b) EXEMPTION OF FOREIGN CORPORATIONS FROM PERSONAL HOLDING COMPANY RULES.—

[(1) IN GENERAL.—Subsection (c) of section 542 (relating to exceptions) is amended—

[(A) by striking paragraph (5) and inserting the following:

[''(5) a foreign corporation,'',

[(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

[(C) by inserting ''and'' at the end of paragraph (7) (as so redesignated), and

[(D) by striking ''; and'' at the end of paragraph (8) (as so redesignated) and inserting a period.

[(2) TREATMENT OF INCOME FROM PERSONAL SERVICE CONTRACTS.—Paragraph (1) of section 954(c) is amended by adding at the end the following new subparagraph:

[''(I) PERSONAL SERVICE CONTRACTS.—

[''(i) Amounts received under a contract under which the corporation is to furnish personal services if—

[''(I) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or

[''(II) the individual who is to perform the services is designated (by name or by description) in the contract, and

[''(ii) amounts received from the sale or other disposition of such a contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.''

[(c) CONFORMING AMENDMENTS.—

[(1) Section 1(h) is amended—

[(A) in paragraph (10), by inserting ''and'' at the end of subparagraph (F), by striking subparagraph (G), and by redesignating subparagraph (H) as subparagraph (G), and

[(B) by striking ''a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or'' in paragraph (11)(C)(iii).

[(2) Paragraph (2) of section 171(c) is amended—

[(A) by striking '', or by a foreign personal holding company, as defined in section 552'', and

[(B) by striking '', or foreign personal holding company''.

[(3) Paragraph (2) of section 245(a) is amended by striking ''foreign personal holding company or''.

[(4) Section 312 is amended by striking subsection (j).

[(5) Subsection (m) of section 312 is amended by striking '', a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)''.

[(6) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

[(7) Subparagraph (B) of section 465(c)(7) is amended by adding ''or'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[(8) Paragraph (1) of section 543(b) is amended by inserting ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

[(9) Paragraph (1) of section 562(b) is amended by striking ''or a foreign personal holding company described in section 552''.

[(10) Section 563 is amended—

[(A) by striking subsection (c),

[(B) by redesignating subsection (d) as subsection (c), and

[(C) by striking ''subsection (a), (b), or (c)'' in subsection (c) (as so redesignated) and inserting ''subsection (a) or (b)''.

[(11) Subsection (d) of section 751 is amended by adding ''and'' at the end of paragraph (2), by striking paragraph (3), by redesignating paragraph (4) as paragraph (3), and by striking ''paragraph (1), (2), or (3)'' in paragraph (3) (as so redesignated) and inserting ''paragraph (1) or (2)''.

[(12) Paragraph (2) of section 864(d) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

[(13)(A) Subparagraph (A) of section 898(b)(1) is amended to read as follows:

[''(A) which is treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, and''.

[(B) Subparagraph (B) of section 898(b)(2) is amended by striking ''and sections 551(f) and 554, whichever are applicable,''.

[(C) Paragraph (3) of section 898(b) is amended to read as follows:

[''(3) UNITED STATES SHAREHOLDER.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).''

[(D) Subsection (c) of section 898 is amended to read as follows:

[''(c) DETERMINATION OF REQUIRED YEAR.—

[''(1) IN GENERAL.—The required year is—

[''(A) the majority U.S. shareholder year, or

[''(B) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

[''(2) 1-MONTH DEFERRAL ALLOWED.—A specified foreign corporation may elect, in lieu of the taxable year under paragraph (1)(A), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

[''(3) MAJORITY U.S. SHAREHOLDER YEAR.—

[''(A) IN GENERAL.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

[''(i) each United States shareholder described in subsection (b)(2)(A), and

[''(ii) each United States shareholder not described in clause (i) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such clause.

[''(B) TESTING DAY.—The testing days shall be—

[''(i) the first day of the corporation's taxable year (determined without regard to this section), or

[''(ii) the days during such representative period as the Secretary may prescribe.''

[(14) Clause (ii) of section 904(d)(2)(A) is amended to read as follows:

[''(ii) CERTAIN AMOUNTS INCLUDED.—Except as provided in clause (iii), the term 'passive income' includes, except as provided in subparagraph (E)(iii) or paragraph (3)(I), any amount includible in gross income under section 1293 (relating to certain passive foreign investment companies).''

[(15)(A) Subparagraph (A) of section 904(g)(1), as redesignated by section 204, is amended by adding ''or'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[(B) The paragraph heading of paragraph (2) of section 904(g), as so redesignated, is amended by striking ''FOREIGN PERSONAL HOLDING OR''.

[(16) Section 951 is amended by striking subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

[(17) Paragraph (3) of section 989(b) is amended by striking '', 551(a),''.

[(18) Paragraph (5) of section 1014(b) is amended by inserting ''and before January 1, 2005,'' after ''August 26, 1937,''.

[(19) Subsection (a) of section 1016 is amended by striking paragraph (13).

[(20)(A) Paragraph (3) of section 1212(a) is amended to read as follows:

[''(3) SPECIAL RULES ON CARRYBACKS.—A net capital loss of a corporation shall not be carried back under paragraph (1)(A) to a taxable year—

[''(A) for which it is a regulated investment company (as defined in section 851), or

[''(B) for which it is a real estate investment trust (as defined in section 856).''

[(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 2004.

[(21) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

[(22) Subsection (d) of section 1248 is amended by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

[(23) Paragraph (2) of section 1260(c) is amended by striking subparagraphs (H) and (I) and by redesignating subparagraph (J) as subparagraph (H).

[(24)(A) Subparagraph (F) of section 1291(b)(3) is amended by striking ''551(d), 959(a),'' and inserting ''959(a)''.

[(B) Subsection (e) of section 1291 is amended by inserting ''(as in effect on the day before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act)'' after ''section 1246''.

[(25) Paragraph (2) of section 1294(a) is amended to read as follows:

[''(2) ELECTION NOT PERMITTED WHERE AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION 951.—The taxpayer may not make an election under paragraph (1) with respect to the undistributed PFIC earnings tax liability attributable to a qualified electing fund for the taxable year if any amount is includible in the gross income of the taxpayer under section 951 with respect to such fund for such taxable year.''

[(26) Section 6035 is hereby repealed.

[(27) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

[(28) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

[''(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed.''

[(29) Subsection (a) of section 6679 is amended—

[(A) by striking ''6035, 6046, and 6046A'' in paragraph (1) and inserting ''6046 and 6046A'', and

[(B) by striking paragraph (3).

[(30) Sections 170(f)(10)(A), 508(d), 4947, and 4948(c)(4) are each amended by striking ''556(b)(2),'' each place it appears.

[(31) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

[(32) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

[(33) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6035.

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and taxable years of United States shareholders of such corporations ending with or within such taxable years of such corporations.

[SEC. 212. EXPANSION OF DE MINIMIS RULE UNDER SUBPART F.

[(a) IN GENERAL.—Clause (ii) of section 954(b)(3)(A) (relating to de minimis, etc., rules) is amended by striking ''$1,000,000'' and inserting ''$5,000,000''.

[(b) TECHNICAL AMENDMENTS.—

[(1) Clause (ii) of section 864(d)(5)(A) is amended by striking ''$1,000,000'' and inserting ''$5,000,000''.

[(2) Clause (i) of section 881(c)(5)(A) is amended by striking ''$1,000,000'' and inserting ''$5,000,000''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and taxable years of United States shareholders of such corporations ending with or within such taxable years of such corporations.

[SEC. 213. ATTRIBUTION OF STOCK OWNERSHIP THROUGH PARTNERSHIPS TO APPLY IN DETERMINING SECTION 902 AND 960 CREDITS.

[(a) IN GENERAL.—Subsection (c) of section 902 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

[''(7) CONSTRUCTIVE OWNERSHIP THROUGH PARTNERSHIPS.—Stock owned, directly or indirectly, by or for a partnership shall be considered as being owned proportionately by its partners. Stock considered to be owned by a person by reason of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person. The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including rules to account for special partnership allocations of dividends, credits, and other incidents of ownership of stock in determining proportionate ownership.''

[(b) CLARIFICATION OF COMPARABLE ATTRIBUTION UNDER SECTION 901(b)(5).—Paragraph (5) of section 901(b) is amended by striking ''any individual'' and inserting ''any person''.

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

[SEC. 214. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

[(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

[''(7) FOREIGN PERSONS.—Except for purposes of applying sections 871(b)(1) and 882(a)(1), this section shall not apply to any taxpayer who is not a United States person if such taxpayer capitalizes costs of produced property or property acquired for resale by applying the method used to ascertain the income, profit, or loss for purposes of reports or statements to shareholders, partners, other proprietors, or beneficiaries, or for credit purposes.''

[(b) EFFECTIVE DATE.—

[(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

[(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after December 31, 2004—

[(A) such change shall be treated as initiated by the taxpayer,

[(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

[(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first year.

[SEC. 215. REPEAL OF WITHHOLDING TAX ON DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS.

[(a) IN GENERAL.—Paragraph (2) of section 871(i) (relating to tax not to apply to certain interest and dividends) is amended by adding at the end the following new subparagraph:

[''(D) Dividends paid by a foreign corporation which are treated under section 861(a)(2)(B) as income from sources within the United States.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2004.

[SEC. 216. REPEAL OF SPECIAL CAPITAL GAINS TAX ON ALIENS PRESENT IN THE UNITED STATES FOR 183 DAYS OR MORE.

[(a) IN GENERAL.—Subsection (a) of section 871 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.]

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Jumpstart Our Business Strength (JOBS) Act''.

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

(c) TABLE OF CONTENTS.—

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

SEC. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking ''or under section 114''.

(4) Section 275(a) is amended—

(A) by inserting ''or'' at the end of paragraph (4)(A), by striking ''or'' at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

''(A) IN GENERAL.—For purposes of''; and inserting:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of'', and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking ''114, 164(a),'' and inserting ''164(a)''.

(7) Section 999(c)(1) is amended by striking ''941(a)(5),''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term ''current FSC/ETI beneficiary'' means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

Years:	The phaseout percentage is:
2004	80
2005	80
2006	60.

(ii) SPECIAL RULE FOR 2003.—The phaseout percentage for 2003 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act bears to 365.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(C) SHORT TAXABLE YEAR.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the FSC/ETI benefit for the taxpayer's taxable year beginning in calendar year 2002.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term ''FSC/ETI benefit'' means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) SPECIAL RULE FOR AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phaseout percentage for 2003 shall be treated as being equal to 100 percent.

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount for calendar year 2003, reduced by

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

SEC. 102. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

"SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the taxpayer for the taxable year.

"(2) PHASEIN.—In the case of taxable years beginning in 2003, 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	The transition percentage is:
2003 or 2004	1
2005	2
2006	3
2007 or 2008	6.

"(b) DEDUCTION LIMITED TO WAGES PAID.—

"(1) IN GENERAL.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the employer for the taxable year.

"(2) W–2 WAGES.—For purposes of paragraph (1), the term 'W–2 wages' means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

"(3) SPECIAL RULES.—

"(A) PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level.

"(B) ACQUISITIONS AND DISPOSITIONS.—The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

"(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified production activities income' means an amount equal to the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

"(2) REDUCTION FOR TAXABLE YEARS BEGINNING BEFORE 2013.—The amount otherwise determined under paragraph (1) (the 'unreduced amount') shall not exceed—

"(A) in the case of taxable years beginning before 2010, the product of the unreduced amount and the domestic/worldwide fraction, and

"(B) in the case of taxable years beginning in 2010, 2011, or 2012, an amount equal to the sum of—

"(i) the product of the unreduced amount and the domestic/worldwide fraction, plus

"(ii) the applicable percentage of an amount equal to the unreduced amount minus the amount determined under clause (i).

For purposes of subparagraph (B)(ii), the applicable percentage is 25 percent for 2010, 50 percent for 2011, and 75 percent for 2012.

"(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

"(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

"(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

"(B) the sum of—

"(i) the costs of goods sold that are allocable to such receipts,

"(ii) other deductions, expenses, or losses directly allocable to such receipts, and

"(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

"(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

"(3) SPECIAL RULES FOR DETERMINING COSTS.—

"(A) IN GENERAL.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

"(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

"(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

"(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

"(A) any sale, exchange, or other disposition of, or

"(B) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

"(2) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualifying production property described in subsection (f)(1)(C)—

"(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

"(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

"(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

"(A) any tangible personal property,

"(B) any computer software, and

"(C) any property described in section 168(f)(3) or (4), including any underlying copyright or trademark.

"(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

"(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

"(B) oil or gas,

"(C) electricity,

"(D) water supplied by pipeline to the consumer,

"(E) utility services, or

"(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

"(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'domestic/worldwide fraction' means a fraction (not greater than 1)—

"(A) the numerator of which is the value of the domestic production of the taxpayer, and

"(B) the denominator of which is the value of the worldwide production of the taxpayer.

"(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess (if any) of—

"(A) the domestic production gross receipts, over

"(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

"(3) PURCHASED INPUTS.—

"(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

"(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

"(ii) Items consumed in connection with such activities.

"(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

"(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

"(4) VALUE OF WORLDWIDE PRODUCTION.—

"(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

"(i) worldwide production gross receipts shall be taken into account, and

''(ii) paragraph (3)(B) shall not apply.

''(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

''(h) DEFINITIONS AND SPECIAL RULES.—

''(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity—

''(A) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

''(B) the Secretary shall prescribe rules for the application of this section, including rules relating to—

''(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

''(ii) additional reporting requirements.

''(2) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

''(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385 (a)—

''(i) is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

''(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

then such person shall be allowed an exclusion from gross income with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by the portion of any such amount with respect to which an exclusion is allowable to a person by reason of this paragraph.

''(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

''(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

''(ii) the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

''(3) SPECIAL RULE FOR AFFILIATED GROUPS.—

''(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

''(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

''(i) by substituting '50 percent' for '80 percent' each place it appears, and

''(ii) without regard to paragraphs (2) and (4) of section 1504(b).

For purposes of determining the domestic/worldwide fraction under subsection (g), clause (ii) shall be applied by also disregarding paragraphs (3) and (8) of section 1504(b).

''(4) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

''(5) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

''(6) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

''(7) POSSESSIONS, ETC.—

''(A) IN GENERAL.—For purposes of subsections (d) and (e), the term 'United States' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

''(B) SPECIAL RULES FOR APPLYING WAGE LIMITATION.—For purposes of applying the limitation under subsection (b) for any taxable year—

''(i) the determination of W–2 wages of a taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in a jurisdiction described in subparagraph (A), and

''(ii) in determining the amount of any credit allowable under section 30A or 936 for the taxable year, there shall not be taken into account any wages which are taken into account in applying such limitation.

''(8) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

''(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

''(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.''.

(b) MINIMUM TAX.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

''(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 199. Income attributable to domestic production activities.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

SEC. 201. 20-YEAR FOREIGN TAX CREDIT CARRYOVER; 1-YEAR FOREIGN TAX CREDIT CARRYBACK.

(a) GENERAL RULE.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended—

(1) by striking ''in the second preceding taxable year,'', and

(2) by striking '', and in the first, second, third, fourth, or fifth'' and inserting ''and in any of the first 20''.

(b) EXCESS EXTRACTION TAXES.—Paragraph (1) of section 907(f) is amended—

(1) by striking ''in the second preceding taxable year,'',

(2) by striking '', and in the first, second, third, fourth, or fifth'' and inserting ''and in any of the first 20'', and

(3) by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) CARRYBACK.—The amendments made by subsections (a)(1) and (b)(1) shall apply to excess foreign taxes arising in taxable years beginning after the date of the enactment of this Act.

(2) CARRYOVER.—The amendments made by subsections (a)(2) and (b)(2) shall apply to excess foreign taxes which (without regard to the amendments made by this section) may be carried to any taxable year ending after the date of the enactment of this Act.

SEC. 202. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.

(a) IN GENERAL.—Section 904(d)(4) (relating to look-thru rules apply to dividends from noncontrolled section 902 corporations) is amended to read as follows:

''(4) LOOK-THRU APPLIES TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.—

''(A) IN GENERAL.—For purposes of this subsection, any dividend from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income described in a subparagraph of paragraph (1) in proportion to the ratio of—

''(i) the portion of earnings and profits attributable to income described in such subparagraph, to

''(ii) the total amount of earnings and profits.

''(B) EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.—In the case of any distribution from a controlled foreign corporation to a United States shareholder, rules similar to the rules of subparagraph (A) shall apply in determining the extent to which earnings and profits of the controlled foreign corporation which are attributable to dividends received from a noncontrolled section 902 corporation may be treated as income in a separate category.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) EARNINGS AND PROFITS.—

''(I) IN GENERAL.—The rules of section 316 shall apply.

''(II) REGULATIONS.—The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods before the taxpayer's acquisition of the stock to which the distributions relate.

''(ii) INADEQUATE SUBSTANTIATION.—If the Secretary determines that the proper subparagraph of paragraph (1) in which a dividend is described has not been substantiated, such dividend shall be treated as income described in paragraph (1)(A).

''(iii) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—Rules similar to the rules of paragraph (3)(F) shall apply for purposes of this paragraph.

''(iv) LOOK-THRU WITH RESPECT TO CARRYOVER OF CREDIT.—Rules similar to subparagraph (A) also shall apply to any carryforward under subsection (c) from a taxable year beginning before January 1, 2003, of tax allocable to a dividend from a noncontrolled section 902 corporation with respect to the taxpayer. The Secretary may by regulations provide for the allocation of any carryback of tax allocable to a dividend from a noncontrolled section 902 corporation to such a taxable year for purposes of allocating such dividend among the separate categories in effect for such taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 904(d)(1) is hereby repealed.

(2) Section 904(d)(2)(C)(iii) is amended by adding ''and'' at the end of subclause (I), by striking subclause (II), and by redesignating subclause (III) as subclause (II).

(3) The last sentence of section 904(d)(2)(D) is amended to read as follows: ''Such term does not include any financial services income.''.

(4) Section 904(d)(2)(E) is amended—

(A) by inserting ''or (4)'' after ''paragraph (3)'' in clause (i), and

(B) by striking clauses (ii) and (iv) and by redesignating clause (iii) as clause (ii).

(5) Section 904(d)(3)(F) is amended by striking ''(D), or (E)'' and inserting ''or (D)''.

(6) Section 864(d)(5)(A)(i) is amended by striking ''(C)(iii)(III)'' and inserting ''(C)(iii)(II)''.

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

SEC. 203. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Section 53(d)(1)(B)(i)(II) is amended by striking ''and if section 59(a)(2) did not apply''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 204. RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.

(a) GENERAL RULE.—Section 904 is amended by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l) respectively, and by inserting after subsection (f) the following new subsection:

''(g) RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.—

''(1) GENERAL RULE.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall domestic loss for any taxable year beginning after December 31, 2006, that portion of the taxpayer's taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

''(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

''(B) 50 percent of the taxpayer's taxable income from sources within the United States for such succeeding taxable year,

shall be treated as income from sources without the United States (and not as income from sources within the United States).

''(2) OVERALL DOMESTIC LOSS DEFINED.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'overall domestic loss' means any domestic loss to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding taxable year by reason of a carryback. For purposes of the preceding sentence, the term 'domestic loss' means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

''(B) TAXPAYER MUST HAVE ELECTED FOREIGN TAX CREDIT FOR YEAR OF LOSS.—The term 'overall domestic loss' shall not include any loss for any taxable year unless the taxpayer chose the benefits of this subpart for such taxable year.

''(3) CHARACTERIZATION OF SUBSEQUENT INCOME.—

''(A) IN GENERAL.—Any income from sources within the United States that is treated as income from sources without the United States under paragraph (1) shall be allocated among and increase the income categories in proportion to the loss from sources within the United States previously allocated to those income categories.

''(B) INCOME CATEGORY.—For purposes of this paragraph, the term 'income category' has the meaning given such term by subsection (f)(5)(E)(i).

''(4) COORDINATION WITH SUBSECTION (f).—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this subsection with the provisions of subsection (f).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 535(d)(2) is amended by striking ''section 904(g)(6)'' and inserting ''section 904(h)(6)''.

(2) Subparagraph (A) of section 936(a)(2) is amended by striking ''section 904(f)'' and inserting ''subsections (f) and (g) of section 904''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses for taxable years beginning after December 31, 2006.

SEC. 205. INTEREST EXPENSE ALLOCATION RULES.

(a) ELECTION TO ALLOCATE ON WORLDWIDE BASIS.—Section 864 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) ELECTION TO ALLOCATE INTEREST, ETC. ON WORLDWIDE BASIS.—For purposes of this subchapter, at the election of the worldwide affiliated group—

''(1) ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE.—

''(A) IN GENERAL.—The taxable income of each domestic corporation which is a member of a worldwide affiliated group shall be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation.

''(B) TREATMENT OF WORLDWIDE AFFILIATED GROUP.—The taxable income of the domestic members of a worldwide affiliated group from sources outside the United States shall be determined by allocating and apportioning the interest expense of such domestic members to such income in an amount equal to the excess (if any) of—

''(i) the total interest expense of the worldwide affiliated group multiplied by the ratio which the foreign assets of the worldwide affiliated group bears to all the assets of the worldwide affiliated group, over

''(ii) the interest expense of all foreign corporations which are members of the worldwide affiliated group to the extent such interest expense of such foreign corporations would have been allocated and apportioned to foreign source income if this subsection were applied to a group consisting of all the foreign corporations in such worldwide affiliated group.

''(C) WORLDWIDE AFFILIATED GROUP.—For purposes of this paragraph, the term 'worldwide affiliated group' means a group consisting of—

''(i) the includible members of an affiliated group (as defined in section 1504(a), determined without regard to paragraphs (2) and (4) of section 1504(b)), and

''(ii) all controlled foreign corporations in which such members in the aggregate meet the ownership requirements of section 1504(a)(2) either directly or indirectly through applying paragraph (2) of section 958(a) or through applying rules similar to the rules of such paragraph to stock owned directly or indirectly by domestic partnerships, trusts, or estates.

''(2) ALLOCATION AND APPORTIONMENT OF OTHER EXPENSES.—Expenses other than interest which are not directly allocable or apportioned to any specific income producing activity shall be allocated and apportioned as if all members of the affiliated group were a single corporation. For purposes of the preceding sentence, the term 'affiliated group' has the meaning given such term by section 1504 (determined without regard to paragraph (4) of section 1504(b)).

''(3) TREATMENT OF TAX-EXEMPT ASSETS; BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS.—The rules of paragraphs (3) and (4) of subsection (e) shall apply for purposes of this subsection, except that paragraph (4) shall be applied on a worldwide affiliated group basis.

''(4) TREATMENT OF CERTAIN FINANCIAL INSTITUTIONS.—

''(A) IN GENERAL.—For purposes of paragraph (1), any corporation described in subparagraph (B) shall be treated as an includible corporation for purposes of section 1504 only for purposes of applying this subsection separately to corporations so described.

''(B) DESCRIPTION.—A corporation is described in this subparagraph if—

''(i) such corporation is a financial institution described in section 581 or 591,

''(ii) the business of such financial institution is predominantly with persons other than related persons (within the meaning of subsection (d)(4)) or their customers, and

''(iii) such financial institution is required by State or Federal law to be operated separately from any other entity which is not such an institution.

''(C) TREATMENT OF BANK AND FINANCIAL HOLDING COMPANIES.—To the extent provided in regulations—

''(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)),

''(ii) a financial holding company (within the meaning of section 2(p) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(p)), and

''(iii) any subsidiary of a financial institution described in section 581 or 591, or of any such bank or financial holding company, if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (B).

''(5) ELECTION TO EXPAND FINANCIAL INSTITUTION GROUP OF WORLDWIDE GROUP.—

''(A) IN GENERAL.—If a worldwide affiliated group elects the application of this subsection, all financial corporations which—

''(i) are members of such worldwide affiliated group, but

''(ii) are not corporations described in paragraph (4)(B),

shall be treated as described in paragraph (4)(B) for purposes of applying paragraph (4)(A). This subsection (other than this paragraph) shall apply to any such group in the same manner as this subsection (other than this paragraph) applies to the pre-election worldwide affiliated group of which such group is a part.

''(B) FINANCIAL CORPORATION.—For purposes of this paragraph, the term 'financial corporation' means any corporation if at least 80 percent of its gross income is income described in section 904(d)(2)(C)(ii) and the regulations thereunder which is derived from transactions with persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the corporation. For purposes of the preceding sentence, there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of any corporation as a financial corporation.

''(C) ANTIABUSE RULES.—In the case of a corporation which is a member of an electing financial institution group, to the extent that such corporation—

''(i) distributes dividends or makes other distributions with respect to its stock after the date of the enactment of this paragraph to any member of the pre-election worldwide affiliated group (other than to a member of the electing financial institution group) in excess of the greater of—

''(I) its average annual dividend (expressed as a percentage of current earnings and profits) during the 5-taxable-year period ending with the taxable year preceding the taxable year, or

''(II) 25 percent of its average annual earnings and profits for such 5-taxable-year period, or

''(ii) deals with any person in any manner not clearly reflecting the income of the corporation (as determined under principles similar to the principles of section 482),

an amount of indebtedness of the electing financial institution group equal to the excess distribution or the understatement or overstatement of income, as the case may be, shall be recharacterized (for the taxable year and subsequent taxable years) for purposes of this paragraph as indebtedness of the worldwide affiliated group (excluding the electing financial institution group). If a corporation has not been in existence for 5 taxable years, this subparagraph shall be applied with respect to the period it was in existence.

''(D) ELECTION.—An election under this paragraph with respect to any financial institution group may be made only by the common parent of the pre-election worldwide affiliated group and may be made only for the first taxable year beginning after December 31, 2008, in which

such affiliated group includes 1 or more financial corporations. Such an election, once made, shall apply to all financial corporations which are members of the electing financial institution group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.

''(E) DEFINITIONS RELATING TO GROUPS.—For purposes of this paragraph—

''(i) PRE-ELECTION WORLDWIDE AFFILIATED GROUP.—The term 'pre-election worldwide affiliated group' means, with respect to a corporation, the worldwide affiliated group of which such corporation would (but for an election under this paragraph) be a member for purposes of applying paragraph (1).

''(ii) ELECTING FINANCIAL INSTITUTION GROUP.—The term 'electing financial institution group' means the group of corporations to which this subsection applies separately by reason of the application of paragraph (4)(A) and which includes financial corporations by reason of an election under subparagraph (A).

''(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations—

''(i) providing for the direct allocation of interest expense in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection,

''(ii) preventing assets or interest expense from being taken into account more than once, and

''(iii) dealing with changes in members of any group (through acquisitions or otherwise) treated under this paragraph as an affiliated group for purposes of this subsection.

''(6) ELECTION.—An election to have this subsection apply with respect to any worldwide affiliated group may be made only by the common parent of the domestic affiliated group referred to in paragraph (1)(C) and may be made only for the first taxable year beginning after December 31, 2008, in which a worldwide affiliated group exists which includes such affiliated group and at least 1 foreign corporation. Such an election, once made, shall apply to such common parent and all other corporations which are members of such worldwide affiliated group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.''.

(b) EXPANSION OF REGULATORY AUTHORITY.—Paragraph (7) of section 864(e) is amended—

(1) by inserting before the comma at the end of subparagraph (B) ''and in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection'', and

(2) by striking ''and'' at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

''(F) preventing assets or interest expense from being taken into account more than once, and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 206. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

(a) IN GENERAL.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

''(i) arise out of commodity hedging transactions (as defined in paragraph (4)(A)),

''(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or''.

(b) DEFINITION AND SPECIAL RULES.—Subsection (c) of section 954 is amended by adding after paragraph (3) the following new paragraph:

''(4) DEFINITION AND SPECIAL RULES RELATING TO COMMODITY TRANSACTIONS.—

''(A) COMMODITY HEDGING TRANSACTIONS.—For purposes of paragraph (1)(C)(i), the term 'commodity hedging transaction' means any transaction with respect to a commodity if such transaction—

''(i) is a hedging transaction as defined in section 1221(b)(2), determined—

''(I) without regard to subparagraph (A)(ii) thereof,

''(II) by applying subparagraph (A)(i) thereof by substituting 'ordinary property or property described in section 1231(b)' for 'ordinary property', and

''(III) by substituting 'controlled foreign corporation' for 'taxpayer' each place it appears, and

''(ii) is clearly identified as such in accordance with section 1221(a)(7).

''(B) TREATMENT OF DEALER ACTIVITIES UNDER PARAGRAPH (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(C) in computing a controlled foreign corporation's foreign personal holding company income shall not be taken into account in applying the substantially all test under paragraph (1)(C)(ii) to such corporation.

''(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties.''.

(c) MODIFICATION OF EXCEPTION FOR DEALERS.—Clause (i) of section 954(c)(2)(C) is amended by inserting ''and transactions involving physical settlement'' after ''(including hedging transactions''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after December 31, 2004.

Subtitle B—International Tax Simplification

SEC. 211. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) EXEMPTION OF FOREIGN CORPORATIONS FROM PERSONAL HOLDING COMPANY RULES.—

(1) IN GENERAL.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

''(5) a foreign corporation,'',

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting ''and'' at the end of paragraph (7) (as so redesignated), and

(D) by striking ''; and'' at the end of paragraph (8) (as so redesignated) and inserting a period.

(2) TREATMENT OF INCOME FROM PERSONAL SERVICE CONTRACTS.—Paragraph (1) of section 954(c) is amended by adding at the end the following new subparagraph:

''(I) PERSONAL SERVICE CONTRACTS.—

''(i) Amounts received under a contract under which the corporation is to furnish personal services if—

''(I) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or

''(II) the individual who is to perform the services is designated (by name or by description) in the contract, and

''(ii) amounts received from the sale or other disposition of such a contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1(h) is amended—

(A) in paragraph (10), by inserting ''and'' at the end of subparagraph (F), by striking subparagraph (G), and by redesignating subparagraph (H) as subparagraph (G), and

(B) by striking ''a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or'' in paragraph (11)(C)(iii).

(2) Section 163(e)(3)(B), as amended by this Act, is amended by striking ''which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or'' and inserting ''which is a controlled foreign corporation (as defined in section 957) or''.

(3) Paragraph (2) of section 171(c) is amended—

(A) by striking '', or by a foreign personal holding company, as defined in section 552'', and

(B) by striking '', or foreign personal holding company''.

(4) Paragraph (2) of section 245(a) is amended by striking ''foreign personal holding company or''.

(5) Section 267(a)(3)(B), as amended by this Act, is amended by striking ''to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or'' and inserting ''to a controlled foreign corporation (as defined in section 957) or''.

(6) Section 312 is amended by striking subsection (j).

(7) Subsection (m) of section 312 is amended by striking '', a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)''.

(8) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(9) Subparagraph (B) of section 465(c)(7) is amended by adding ''or'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(10) Paragraph (1) of section 543(b) is amended by inserting ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(11) Paragraph (1) of section 562(b) is amended by striking ''or a foreign personal holding company described in section 552''.

(12) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking ''subsection (a), (b), or (c)'' in subsection (c) (as so redesignated) and inserting ''subsection (a) or (b)''.

(13) Subsection (d) of section 751 is amended by adding ''and'' at the end of paragraph (2), by striking paragraph (3), by redesignating paragraph (4) as paragraph (3), and by striking ''paragraph (1), (2), or (3)'' in paragraph (3) (as so redesignated) and inserting ''paragraph (1) or (2)''.

(14) Paragraph (2) of section 864(d) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(15)(A) Subparagraph (A) of section 898(b)(1) is amended to read as follows:

''(A) which is treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, and''.

(B) Subparagraph (B) of section 898(b)(2) is amended by striking ''and sections 551(f) and 554, whichever are applicable,''.

(C) Paragraph (3) of section 898(b) is amended to read as follows:

''(3) UNITED STATES SHAREHOLDER.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).''.

(D) Subsection (c) of section 898 is amended to read as follows:

''(c) DETERMINATION OF REQUIRED YEAR.—

''(1) IN GENERAL.—The required year is—

''(A) the majority U.S. shareholder year, or

''(B) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

''(2) 1-MONTH DEFERRAL ALLOWED.—A specified foreign corporation may elect, in lieu of the taxable year under paragraph (1)(A), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

''(3) MAJORITY U.S. SHAREHOLDER YEAR.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

''(i) each United States shareholder described in subsection (b)(2)(A), and

''(ii) each United States shareholder not described in clause (i) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such clause.

''(B) TESTING DAY.—The testing days shall be—

''(i) the first day of the corporation's taxable year (determined without regard to this section), or

''(ii) the days during such representative period as the Secretary may prescribe.''.

(16) Clause (ii) of section 904(d)(2)(A) is amended to read as follows:

''(ii) CERTAIN AMOUNTS INCLUDED.—Except as provided in clause (iii), the term 'passive income' includes, except as provided in subparagraph (E)(iii) or paragraph (3)(I), any amount includible in gross income under section 1293 (relating to certain passive foreign investment companies).''.

(17)(A) Subparagraph (A) of section 904(g)(1), as redesignated by section 204, is amended by adding ''or'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(B) The paragraph heading of paragraph (2) of section 904(g), as so redesignated, is amended by striking ''FOREIGN PERSONAL HOLDING OR''.

(18) Section 951 is amended by striking subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(19) Paragraph (3) of section 989(b) is amended by striking '', 551(a),''.

(20) Paragraph (5) of section 1014(b) is amended by inserting ''and before January 1, 2005,'' after ''August 26, 1937,''.

(21) Subsection (a) of section 1016 is amended by striking paragraph (13).

(22)(A) Paragraph (3) of section 1212(a) is amended to read as follows:

''(3) SPECIAL RULES ON CARRYBACKS.—A net capital loss of a corporation shall not be carried back under paragraph (1)(A) to a taxable year—

''(A) for which it is a regulated investment company (as defined in section 851), or

''(B) for which it is a real estate investment trust (as defined in section 856).''.

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 2004.

(23) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(24) Subsection (d) of section 1248 is amended by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(25) Paragraph (2) of section 1260(c) is amended by striking subparagraphs (H) and (I) and by redesignating subparagraph (J) as subparagraph (H).

(26)(A) Subparagraph (F) of section 1291(b)(3) is amended by striking ''551(d), 959(a),'' and inserting ''959(a)''.

(B) Subsection (e) of section 1291 is amended by inserting ''(as in effect on the day before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act)'' after ''section 1246''.

(27) Paragraph (2) of section 1294(a) is amended to read as follows:

''(2) ELECTION NOT PERMITTED WHERE AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION 951.—The taxpayer may not make an election under paragraph (1) with respect to the undistributed PFIC earnings tax liability attributable to a qualified electing fund for the taxable year if any amount is includible in the gross income of the taxpayer under section 951 with respect to such fund for such taxable year.''.

(28) Section 6035 is hereby repealed.

(29) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(30) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

''(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed.''.

(31) Subsection (a) of section 6679 is amended—

(A) by striking ''6035, 6046, and 6046A'' in paragraph (1) and inserting ''6046 and 6046A'', and

(B) by striking paragraph (3).

(32) Sections 170(f)(10)(A), 508(d), 4947, and 4948(c)(4) are each amended by striking ''556(b)(2),'' each place it appears.

(33) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(34) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(35) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6035.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 212. EXPANSION OF DE MINIMIS RULE UNDER SUBPART F.

(a) IN GENERAL.—Clause (ii) of section 954(b)(3)(A) (relating to de minimis, etc., rules) is amended by striking ''$1,000,000'' and inserting ''$5,000,000''.

(b) TECHNICAL AMENDMENTS.—

(1) Clause (ii) of section 864(d)(5)(A) is amended by striking ''$1,000,000'' and inserting ''$5,000,000''.

(2) Clause (i) of section 881(c)(5)(A) is amended by striking ''$1,000,000'' and inserting ''$5,000,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 213. ATTRIBUTION OF STOCK OWNERSHIP THROUGH PARTNERSHIPS TO APPLY IN DETERMINING SECTION 902 AND 960 CREDITS.

(a) IN GENERAL.—Subsection (c) of section 902 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) CONSTRUCTIVE OWNERSHIP THROUGH PARTNERSHIPS.—Stock owned, directly or indirectly, by or for a partnership shall be considered as being owned proportionately by its partners. Stock considered to be owned by a person by reason of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person. The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including rules to account for special partnership allocations of dividends, credits, and other incidents of ownership of stock in determining proportionate ownership.''.

(b) CLARIFICATION OF COMPARABLE ATTRIBUTION UNDER SECTION 901(b)(5).—Paragraph (5) of section 901(b) is amended by striking ''any individual'' and inserting ''any person''.

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

SEC. 214. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(7) FOREIGN PERSONS.—Except for purposes of applying sections 871(b)(1) and 882(a)(1), this section shall not apply to any taxpayer who is not a United States person if such taxpayer capitalizes costs of produced property or property acquired for resale by applying the method used to ascertain the income, profit, or loss for purposes of reports or statements to shareholders, partners, other proprietors, or beneficiaries, or for credit purposes.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after December 31, 2004—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first year.

SEC. 215. REPEAL OF WITHHOLDING TAX ON DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (2) of section 871(i) (relating to tax not to apply to certain interest and dividends) is amended by adding at the end the following new subparagraph:

''(D) Dividends paid by a foreign corporation which are treated under section 861(a)(2)(B) as income from sources within the United States.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2004.

SEC. 216. REPEAL OF SPECIAL CAPITAL GAINS TAX ON ALIENS PRESENT IN THE UNITED STATES FOR 183 DAYS OR MORE.

(a) IN GENERAL.—Subsection (a) of section 871 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) CONFORMING AMENDMENT.—Section 1441(g) is amended is amended by striking ''section 871(a)(3)'' and inserting ''section 871(a)(2)''.

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

Subtitle C—Additional International Tax Provisions

SEC. 221. ACTIVE LEASING INCOME FROM AIRCRAFT AND VESSELS.

(a) IN GENERAL.—Section 954(c)(2) is amended by adding at the end the following new subparagraph:

''(D) CERTAIN RENTS, ETC.—

''(i) IN GENERAL.—Foreign personal holding company income shall not include qualified leasing income derived from or in connection with the leasing or rental of any aircraft or vessel.

''(ii) QUALIFIED LEASING INCOME.—For purposes of this subparagraph, the term 'qualified leasing income' means rents and gains derived in the active conduct of a trade or business of leasing with respect to which the controlled foreign corporation conducts substantial activity, but only if—

''(I) the leased property is used by the lessee or other end-user in foreign commerce and predominantly outside the United States, and

''(II) the lessee or other end-user is not a related person (as defined in subsection (d)(3)).

Any amount not treated as foreign personal holding income under this subparagraph shall not be treated as foreign base company shipping income.''.

(b) CONFORMING AMENDMENT.—Section 954(c)(1)(B) is amended by inserting ''or (2)(D)'' after ''paragraph (2)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2006, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 222. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY INCOME RULES.

(a) IN GENERAL.—Subsection (c) of section 954, as amended by this Act, is amended by adding after paragraph (4) the following new paragraph:

''(5) LOOK-THRU IN THE CASE OF RELATED CONTROLLED FOREIGN CORPORATIONS.—For purposes of this subsection, dividends, interest, rents, and royalties received or accrued from a controlled foreign corporation which is a related person (as defined in subsection (b)(9)) shall not be treated as foreign personal holding company income to the extent attributable or properly allocable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which is not subpart F income (as defined in section 952). The Secretary shall prescribe such regulations as may be appropriate to prevent the abuse of the purposes of this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 223. LOOK-THRU TREATMENT FOR SALES OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 954(c) (defining foreign personal holding company income), as amended by this Act, is amended by adding after paragraph (5) the following new paragraph:

''(6) LOOK-THRU RULE FOR CERTAIN PARTNERSHIP SALES.—

''(A) IN GENERAL.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 25-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest. The Secretary shall prescribe such regulations as may be appropriate to prevent abuse of the purposes of this paragraph, including regulations providing for coordination of this paragraph with the provisions of subchapter K.

''(B) 25-PERCENT OWNER.—For purposes of this paragraph, the term '25-percent owner' means a controlled foreign corporation which owns directly 25 percent or more of the capital or profits interest in a partnership. For purposes of the preceding sentence, if a controlled foreign corporation is a shareholder or partner of a corporation or partnership, the controlled foreign corporation shall be treated as owning directly its proportionate share of any such capital or profits interest held directly or indirectly by such corporation or partnership''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 224. ELECTION NOT TO USE AVERAGE EXCHANGE RATE FOR FOREIGN TAX PAID OTHER THAN IN FUNCTIONAL CURRENCY.

(a) IN GENERAL.—Paragraph (1) of section 986(a) (relating to determination of foreign taxes and foreign corporation's earnings and profits) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) ELECTIVE EXCEPTION FOR TAXES PAID OTHER THAN IN FUNCTIONAL CURRENCY.—

''(i) IN GENERAL.—At the election of the taxpayer, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency other than in the taxpayer's functional currency.

''(ii) APPLICATION TO QUALIFIED BUSINESS UNITS.—An election under this subparagraph may apply to foreign income taxes attributable to a qualified business unit in accordance with regulations prescribed by the Secretary.

''(iii) ELECTION.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 225. TREATMENT OF INCOME TAX BASE DIFFERENCES.

(a) IN GENERAL.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) TREATMENT OF INCOME TAX BASE DIFFERENCES.—

''(i) IN GENERAL.—A taxpayer may elect to treat tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States tax principles as tax imposed on income described in subparagraph (C) or (I) of paragraph (1).

''(ii) ELECTION IRREVOCABLE.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.''.

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

SEC. 226. MODIFICATION OF EXCEPTIONS UNDER SUBPART F FOR ACTIVE FINANCING.

(a) IN GENERAL.—Section 954(h)(3) is amended by adding at the end the following:

''(E) DIRECT CONDUCT OF ACTIVITIES.—For purposes of subparagraph (A)(ii)(II), an activity shall be treated as conducted directly by an eligible controlled foreign corporation or qualified business unit in its home country if the activity is performed by employees of a related person and—

''(i) the related person is an eligible controlled foreign corporation the home country of which is the same as the home country of the corporation or unit to which subparagraph (A)(ii)(II) is being applied,

''(ii) the activity is performed in the home country of the related person, and

''(iii) the related person is compensated on an arm's-length basis for the performance of the activity by its employees and such compensation is treated as earned by such person in its home country for purposes of the home country's tax laws.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of such foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of such foreign corporations end.

SEC. 227. UNITED STATES PROPERTY NOT TO INCLUDE CERTAIN ASSETS OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 956(c)(2) (relating to exceptions from property treated as United States property) is amended by striking ''and'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting a semicolon, and by adding at the end the following new subparagraphs:

''(L) securities acquired and held by a controlled foreign corporation in the ordinary course of its business as a dealer in securities if—

''(i) the dealer accounts for the securities as securities held primarily for sale to customers in the ordinary course of business, and

''(ii) the dealer disposes of the securities (or such securities mature while held by the dealer) within a period consistent with the holding of securities for sale to customers in the ordinary course of business; and

''(M) an obligation of a United States person which—

''(i) is not a domestic corporation, and

''(ii) is not—

''(I) a United States shareholder (as defined in section 951(b)) of the controlled foreign corporation, or

''(II) a partnership, estate, or trust in which the controlled foreign corporation, or any related person (as defined in section 954(d)(3)), is a partner, beneficiary, or trustee immediately after the acquisition of any obligation of such partnership, estate, or trust by the controlled foreign corporation.''.

(b) CONFORMING AMENDMENT.—Section 956(c)(2) is amended by striking ''and (K)'' in the last sentence and inserting '', (K), and (L)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 228. PROVIDE EQUAL TREATMENT FOR INTEREST PAID BY FOREIGN PARTNERSHIPS AND FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 861(a) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) in the case of a foreign partnership in which United States persons do not hold directly or indirectly 20 percent or more of either the capital or profits interests, any interest not paid by a trade or business engaged in by the partnership in the United States and not allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.''.

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

SEC. 229. CLARIFICATION OF TREATMENT OF CERTAIN TRANSFERS OF INTANGIBLE PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 367(d)(2) is amended by adding at the end the following new sentence: ''For purposes of applying section 904(d), any such amount shall be

treated in the same manner as if such amount were a royalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts treated as received pursuant to section 367(d)(2) of the Internal Revenue Code of 1986 on or after August 5, 1997.

SEC. 230. MODIFICATION OF THE TREATMENT OF CERTAIN REIT DISTRIBUTIONS ATTRIBUTABLE TO GAIN FROM SALES OR EXCHANGES OF UNITED STATES REAL PROPERTY INTERESTS.

(a) IN GENERAL.—Paragraph (1) of section 897(h) (relating to look-through of distributions) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a REIT with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the taxable year.''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(F) CERTAIN DISTRIBUTIONS.—In the case of a shareholder of a real estate investment trust to whom section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be included in computing long-term capital gains for such shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

''(i) shall not be included in computing such shareholder's long-term capital gains, and

''(ii) shall be included in such shareholder's gross income as a dividend from the real estate investment trust.''.

(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. 231. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

''SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

''(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

''(1) the taxpayer's excess qualified foreign distribution amount, and

''(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for such taxable year.

''(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

''(A) the aggregate dividends received by the taxpayer during the taxable year which are—

''(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

''(ii) described in a domestic reinvestment plan which—

''(I) is approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, and

''(II) provides for the reinvestment of such dividends in the United States (other than as payment for executive compensation), including as a source for the funding of worker hiring and training, infrastructure, research and development, capital investments, or the financial stabilization of the corporation for the purposes of job retention or creation, over

''(B) the base dividend amount.

''(2) BASE DIVIDEND AMOUNT.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

''(3) FIXED BASE PERIOD.—

''(A) IN GENERAL.—The term 'fixed base period' means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

''(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

''(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

''(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall include all the taxable years of the taxpayer ending on or before December 31, 2002.

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

''(1) DIVIDENDS.—The term 'dividend' has the meaning given such term by section 316, except that the term shall include amounts described in section 951(a)(1)(B), but shall not include amounts described in sections 78 and 959.

''(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' has the meaning given such term by section 957(a) and the term 'United States shareholder' has the meaning given such term by section 951(b).

''(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent. No deduction shall be allowed under this chapter for the portion of any tax for which credit is not allowable by reason of the preceding sentence.

''(4) FOREIGN TAX CREDIT LIMITATION.—For purposes of section 904, there shall be disregarded 85 percent of—

''(A) the excess qualified foreign distribution amount,

''(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

''(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

''(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

''(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer for purposes of this section.

''(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

''(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

''(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

''(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

''(d) ELECTION.—

''(1) IN GENERAL.—An election under this section shall be made on the taxpayer's timely filed income tax return for the first taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

''(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

''(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer and shall apply to all members of the affiliated group.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

''Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

SEC. 232. EXCLUSION OF INCOME DERIVED FROM CERTAIN WAGERS ON HORSE RACES AND DOG RACES FROM GROSS INCOME OF NONRESIDENT ALIEN INDIVIDUALS.

(a) IN GENERAL.—Subsection (b) of section 872 (relating to exclusions) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and inserting after paragraph (4) the following new paragraph:

''(5) INCOME DERIVED FROM WAGERING TRANSACTIONS IN CERTAIN PARIMUTUEL POOLS.—Gross income derived by a nonresident alien individual from a legal wagering transaction initiated outside the United States in a parimutuel pool with respect to a live horse race or dog race in the United States.''.

(b) CONFORMING AMENDMENT.—Section 883(a)(4) is amended by striking ''(5), (6), and (7)'' and inserting ''(6), (7), and (8)''.

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

SEC. 233. LIMITATION OF WITHHOLDING TAX FOR PUERTO RICO CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 881 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

''(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

''(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of paragraph (1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.''.

(b) WITHHOLDING.—Subsection (c) of section 1442 (relating to withholding of tax on foreign corporations) is amended—

(1) by striking ''For purposes'' and inserting the following:

''(1) GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.—For purposes'', and

(2) by adding at the end the following new paragraph:

''(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

''(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

''(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 881 is amended by striking ''GUAM AND VIRGIN ISLANDS CORPORATIONS'' in the heading and inserting ''POSSESSIONS''.

(2) Paragraph (1) of section 881(b) is amended by striking ''IN GENERAL'' in the heading and inserting ''GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS''.

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

SEC. 234. REPORT ON WTO DISPUTE SETTLEMENT PANELS AND THE APPELLATE BODY.

Not later than March 31, 2004, the Secretary of Commerce, in consultation with the United States Trade Representative, shall transmit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, regarding whether dispute settlement panels and the Appellate Body of the World Trade Organization have—

(1) added to or diminished the rights of the United States by imposing obligations or restrictions on the use of antidumping, countervailing, and safeguard measures not agreed to under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards;

(2) appropriately applied the standard of review contained in Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994; or

(3) exceeded their authority or terms of reference under the Agreements referred to in paragraph (1).

SEC. 235. STUDY OF IMPACT OF INTERNATIONAL TAX LAWS ON TAXPAYERS OTHER THAN LARGE CORPORATIONS.

(a) STUDY.—The Secretary of the Treasury or the Secretary's delegate shall conduct a study of the impact of Federal international tax rules on taxpayers other than large corporations, including the burdens placed on such taxpayers in complying with such rules.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a), including any recommendations for legislative or administrative changes to reduce the compliance burden on taxpayers other than large corporations and for such other purposes as the Secretary determines appropriate.

SEC. 236. CONSULTATIVE ROLE FOR SENATE COMMITTEE ON FINANCE IN CONNECTION WITH THE REVIEW OF PROPOSED TAX TREATIES.

Paragraph 1(j) of Rule XXV of the Standing Rules of the Senate is amended by adding at the end the following:

''(3)(A) Notwithstanding any other rule of the Senate, the Committee on Foreign Relations shall consult with the Committee on Finance with respect to any proposed treaty on taxation prior to reporting such treaty to the Senate.

''(B) The Committee on Foreign Relations shall request in writing the views of the Committee on Finance with respect to any proposed treaty on taxation which is referred to the Committee on Foreign Relations. Not less than 120 days after the date on which such request is made, the Committee on Finance shall respond to such request in writing. If the Committee on Finance does not provide such written response during such 120 day period, the Committee on Finance shall be deemed to have waived the opportunity to submit such views.

''(C) The Committee on Foreign Relations shall consider the views submitted by the Committee on Finance and shall include such views in any report of the treaty to the Senate.''.

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

SEC. 301. EXPANSION OF QUALIFIED SMALL-ISSUE BOND PROGRAM.

(a) IN GENERAL.—Subparagraph (F) of section 144(a)(4) (relating to $10,000,000 limit in certain cases) is amended to read as follows:

''(F) ADDITIONAL CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT.—With respect to any issue, in addition to any capital expenditure described in subparagraph (C), capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii).''.

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

SEC. 302. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

''SEC. 191. BROADBAND EXPENDITURES.

''(a) TREATMENT OF EXPENDITURES.—

''(1) IN GENERAL.—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

''(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

''(b) QUALIFIED BROADBAND EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred during 2004 and properly taken into account for such taxable year with respect to—

''(A) the purchase or installation of qualified equipment (including any upgrades thereto), and

''(B) the connection of such qualified equipment to any qualified subscriber.

''(2) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

''(3) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of qualified equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

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

''(ii) which is placed in service, after December 31, 2003.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after December 31, 2003, by any person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

''(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

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

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

''(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by 1 or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber.

''(15) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

''(16) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(17) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(18) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

''(19) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

''(20) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

''(21) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include a commercial mobile service carrier.

''(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(23) UNDERSERVED AREA.—The term 'underserved area' means—

''(A) any census tract which is located in—

''(i) an empowerment zone or enterprise community designated under section 1391, or

''(ii) the District of Columbia Enterprise Zone established under section 1400, or

''(B) any census tract—

''(i) the poverty level of which is at least 30 percent (based on the most recent census data), and

''(ii) the median family income of which does not exceed—

''(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

''(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

''(24) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(f) SPECIAL RULES.—

''(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

''(2) BASIS REDUCTION.—

''(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

''(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).''.

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following:

''(v) from the sale of property subject to a lease described in section 191(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the qualified broadband expenditures which would be taken into account under section 191 for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) (relating to capital expenditures) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following new subparagraph:

''(I) expenditures for which a deduction is allowed under section 191.''.

(2) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 191(f)(2).''.

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

''Sec. 191. Broadband expenditures.''.

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16), (22), and (23) of section 191(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2003.

SEC. 303. EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS UNDER SECTION 263A.

(a) IN GENERAL.—Section 263A(f) of the Internal Revenue Code of 1986 (relating to general exceptions) is amended by adding at the end the following new paragraph:

''(5) EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS.—For purposes of this subsection, the production period for distilled spirits shall be determined without regard to any period allocated to the natural aging process.''.

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

SEC. 304. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.

(a) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

''(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as one corporation. For purposes of the preceding sentence, a corporation's separate affiliated group is the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

''(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as one distributee corporation.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

''(A) it is engaged in the active conduct of a trade or business,''.

(2) Section 355(b)(2) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) to distributions after the date of the enactment of this Act, and

(B) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by subsection (b)(1)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to a transaction which is—

(A) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) ELECTION TO HAVE AMENDMENTS APPLY.—Paragraph (2) shall not apply if the distributing corporation elects not to have such paragraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

SEC. 305. EXCLUSION OF CERTAIN INDEBTEDNESS OF SMALL BUSINESS INVESTMENT COMPANIES FROM ACQUISITION INDEBTEDNESS.

(a) IN GENERAL.—Section 514(c) (relating to acquisition indebtedness) is amended by adding at the end the following new paragraph:

''(10) CERTAIN INDEBTEDNESS OF SMALL BUSINESS INVESTMENT COMPANIES.—For purposes of this section, the term 'acquisition indebtedness' does not include any indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

''(A) issued by such company under section 303(a) of such Act, and

''(B) held or guaranteed by the Small Business Administration.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any indebtedness incurred after December 31, 2003, by a small business investment company described in section 514(c)(10) of the Internal Revenue Code of 1986 (as added by this section) with respect to property acquired by such company after such date.

SEC. 306. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

''(1) BOWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

''(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

''(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

''(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.''.

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) ARROWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

''(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

''(i) section 6416(b)(3) shall not apply, and

''(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

''(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

''(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

''(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.''.

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting ''(other than broadheads)'' after ''point'', and

(2) by striking ''ARROWS.—'' in the heading and inserting ''ARROW COMPONENTS.—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after December 31, 2003.

SEC. 307. MODIFICATION TO COOPERATIVE MARKETING RULES TO INCLUDE VALUE ADDED PROCESSING INVOLVING ANIMALS.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(k) COOPERATIVE MARKETING INCLUDES VALUE-ADDED PROCESSING INVOLVING ANIMALS.—For purposes of section 521 and this subchapter, the marketing of the products of members or other producers shall include the feeding of such products to cattle, hogs, fish, chickens, or other animals and the sale of the resulting animals or animal products.''.

(b) CONFORMING AMENDMENT.—Section 521(b) is amended by adding at the end the following new paragraph:

''(7) CROSS REFERENCE.—

''For treatment of value-added processing involving animals, see section 1388(k).''.

(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. 308. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO FARMERS' COOPERATIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 7428(a)(1) (relating to declaratory judgments of tax exempt organizations) is amended by striking ''or'' at the end of subparagraph (B) and by adding at the end the following new subparagraph:

''(D) with respect to the initial classification or continuing classification of a cooperative as an organization described in section 521(b) which is exempt from tax under section 521(a), or''.

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

SEC. 309. TEMPORARY SUSPENSION OF PERSONAL HOLDING COMPANY TAX.

(a) IN GENERAL.—Section 541 (relating to imposition of personal holding company tax) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply with respect to any taxable year to which section 1(h)(11) (as in effect on the date of the enactment of this sentence) applies.''.

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

SEC. 310. INCREASE IN SECTION 179 EXPENSING.

(a) IN GENERAL.—Section 179(b)(2) (relating to reduction in limitation) is amended by inserting ''50 percent of'' before ''the amount''.

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

SEC. 311. THREE-YEAR CARRYBACK OF NET OPERATING LOSSES.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

''(I) SPECIAL RULE FOR 2003.—In the case of a net operating loss for any taxable year ending during 2003, subparagraph (A)(i) shall be applied by substituting '3' for '2'.''.

(b) ELECTION TO DISREGARD 3-YEAR CARRYBACK.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) ELECTION TO DISREGARD 3-YEAR CARRYBACK FOR CERTAIN NET OPERATING LOSSES.—Any taxpayer entitled to a 3-year carryback under subsection (b)(1)(I) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(I). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.''.

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYOVERS.—

(1) IN GENERAL.—Section 56(d)(1)(A)(ii)(I) (relating to general rule defining alternative tax net operating loss deduction) is amended—

(A) by striking ''or 2002'' and inserting '', 2002, or 2003'', and

(B) by striking ''and 2002'' and inserting '', 2002, and 2003''.

(d) TECHNICAL CORRECTIONS.—

(1) Subparagraph (H) of section 172(b)(1) is amended by striking ''a taxpayer which has''.

(2) Section 102(c)(2) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107–147) is amended by striking ''before January 1, 2003'' and inserting ''after December 31, 1990''.

(3)(A) Subclause (I) of section 56(d)(1)(A)(i) is amended by striking ''attributable to carryovers''.

(B) Subclause (I) of section 56(d)(1)(A)(ii) is amended—

(i) by striking ''for taxable years'' and inserting ''from taxable years'', and

(ii) by striking ''carryforwards'' and inserting ''carryovers''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 2002.

(2) TECHNICAL CORRECTIONS.—The amendments made by subsection (d) shall take effect as if included in the amendments made by section 102 of the Job Creation and Worker Assistance Act of 2002.

(3) ELECTION.—In the case of a net operating loss for a taxable year ending during 2003—

(A) any election made under section 172(b)(3) of such Code may (notwithstanding such section) be revoked before April 15, 2004, and

(B) any election made under section 172(k) (as added by this section) of such Code shall (notwithstanding such section) be treated as timely made if made before April 15, 2004.

Subtitle B—Manufacturing Relating to Films

SEC. 321. SPECIAL RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 180 the following new section:

''SEC. 181. TREATMENT OF QUALIFIED FILM AND TELEVISION PRODUCTIONS.

''(a) ELECTION TO TREAT CERTAIN COSTS OF QUALIFIED FILM AND TELEVISION PRODUCTIONS AS EXPENSES.—

''(1) IN GENERAL.—A taxpayer may elect to treat the cost of any qualified film or television production as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction.

''(2) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The aggregate cost which may be taken into account under paragraph (1) with respect to each qualified film or television production shall not exceed $15,000,000.

''(B) HIGHER DOLLAR LIMITATION FOR PRODUCTIONS IN CERTAIN AREAS.—In the case of any qualified film or television production the aggregate cost of which is significantly incurred in an area eligible for designation as—

''(i) a low-income community under section 45D, or

''(ii) a distressed county or isolated area of distress by the Delta Regional Authority established under section 2009aa–1 of title 7, United States Code,

subparagraph (A) shall be applied by substituting '$20,000,000' for '$15,000,000'.

''(b) AMORTIZATION OF REMAINING COSTS.—

''(1) IN GENERAL.—If an election is made under subsection (a) with respect to any qualified film or television production, that portion of the basis of such production in excess of the amount taken into account under subsection (a) shall be allowed as a deduction ratably over the 36-month period beginning with the month in which such production is placed in service.

''(2) NO OTHER DEDUCTION OR AMORTIZATION DEDUCTION ALLOWABLE.—With respect to the basis of any qualified film or television production described in paragraph (1), no other depreciation or amortization deduction shall be allowable.

''(c) ELECTION.—

''(1) IN GENERAL.—An election under subsection (a) with respect to any qualified film or television production shall be made in such manner as prescribed by the Secretary and by the due date (including extensions) for filing the taxpayer's return of tax under this chapter for the taxable year in which costs of the production are first incurred.

''(2) REVOCATION OF ELECTION.—Any election made under subsection (a) may not be revoked without the consent of the Secretary.

''(d) QUALIFIED FILM OR TELEVISION PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified film or television production' means any production described in paragraph (2) if 75 percent of the total compensation of the production is qualified compensation.

''(2) PRODUCTION.—

''(A) IN GENERAL.—A production is described in this paragraph if such production is property described in section 168(f)(3). For purposes of a television series, only the first 44 episodes of such series may be taken into account.

''(B) EXCEPTION.—A production is not described in this paragraph if records are required under section 2257 of title 18, United States Code, to be maintained with respect to any performer in such production.

''(3) QUALIFIED COMPENSATION.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualified compensation' means compensation for services performed in the United States by actors, directors, producers, and other relevant production personnel.

''(B) PARTICIPATIONS AND RESIDUALS EXCLUDED.—The term 'compensation' does not include participations and residuals (as defined in section 167(g)(7)(B)).

''(e) APPLICATION OF CERTAIN OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (b)(2) and (c)(4) of section 194 shall apply.

''(f) TERMINATION.—This section shall not apply to qualified film and television productions commencing after December 31, 2008.''.

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 180 the following new item:

''Sec. 181. Treatment of qualified film and television productions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified film and television productions (as defined in section 181(d)(1) of the Internal Revenue Code of 1986, as added by this section) commencing after the date of the enactment of this Act.

SEC. 322. MODIFICATION OF APPLICATION OF INCOME FORECAST METHOD OF DEPRECIATION.

(a) IN GENERAL.—Section 167(g) (relating to depreciation under income forecast method) is amended by adding at the end the following new paragraph:

''(7) TREATMENT OF PARTICIPATIONS AND RESIDUALS.—

''(A) IN GENERAL.—For purposes of determining the depreciation deduction allowable with respect to a property under this subsection, the taxpayer may include participations and residuals with respect to such property in the adjusted basis of such property for the taxable year in which the property is placed in service, but only to the extent that such participations and residuals relate to income estimated (for purposes of this subsection) to be earned in connection with the property before the close of the 10th taxable year referred to in paragraph (1)(A).

''(B) PARTICIPATIONS AND RESIDUALS.—For purposes of this paragraph, the term 'participations and residuals' means, with respect to any property, costs the amount of which by contract varies with the amount of income earned in connection with such property.

''(C) SPECIAL RULES RELATING TO RECOMPUTATION YEARS.—If the adjusted basis of any property is determined under this paragraph, paragraph (4) shall be applied by substituting 'for each taxable year in such period' for 'for such period'.

''(D) OTHER SPECIAL RULES.—

''(i) PARTICIPATIONS AND RESIDUALS.—Notwithstanding subparagraph (A), the taxpayer may exclude participations and residuals from the adjusted basis of such property and deduct such participations and residuals in the taxable year that such participations and residuals are paid.

''(ii) COORDINATION WITH OTHER RULES.—Deductions computed in accordance with this paragraph shall be allowable notwithstanding paragraph (1)(B) or sections 263, 263A, 404, 419, or 461(h).

''(E) AUTHORITY TO MAKE ADJUSTMENTS.—The Secretary shall prescribe appropriate adjustments to the basis of property and to the look-back method for the additional amounts allowable as a deduction solely by reason of this paragraph.''.

(b) DETERMINATION OF INCOME.—Section 167(g)(5) (relating to special rules) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and inserting after subparagraph (D) the following new subparagraph:

''(E) TREATMENT OF DISTRIBUTION COSTS.—For purposes of this subsection, the income with respect to any property shall be the taxpayer's gross income from such property.''.

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

Subtitle C—Manufacturing Relating to Timber

SEC. 331. EXPENSING OF CERTAIN REFORESTATION EXPENDITURES.

(a) IN GENERAL.—So much of subsection (b) of section 194 (relating to amortization of reforestation expenditures) as precedes paragraph (2) is amended to read as follows:

''(b) TREATMENT AS EXPENSES.—

''(1) ELECTION TO TREAT CERTAIN REFORESTATION EXPENDITURES AS EXPENSES.—

''(A) IN GENERAL.—In the case of any qualified timber property with respect to which the taxpayer has made (in accordance with regulations prescribed by the Secretary) an election under this subsection, the taxpayer shall treat reforestation expenditures which are paid or incurred during the taxable year with respect to such property as an expense which is not chargeable to capital account. The reforestation expenditures so treated shall be allowed as a deduction.

''(B) DOLLAR LIMITATION.—The aggregate amount of reforestation expenditures which may be taken into account under subparagraph (A) with respect to each qualified timber property for any taxable year shall not exceed $10,000 ($5,000 in the case of a separate return by a married individual (as defined in section 7703)).''.

(b) NET AMORTIZABLE BASIS.—Section 194(c)(2) (defining amortizable basis) is amended by inserting ''which have not been taken into account under subsection (b)'' after ''expenditures''.

(c) CONFORMING AMENDMENTS.—

(1) Section 194(b) is amended by striking paragraphs (3) and (4).

(2) Section 194(b)(2) is amended by striking ''paragraph (1)'' both places it appears and inserting ''paragraph (1)(B)''.

(3) Section 194(c) is amended by striking paragraph (4) and inserting the following new paragraphs:

''(4) TREATMENT OF TRUSTS AND ESTATES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), this section shall not apply to trusts and estates.

''(B) AMORTIZATION DEDUCTION ALLOWED TO ESTATES.—The benefit of the deduction for amortization provided by subsection (a) shall be allowed to estates in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiary and the fiduciary under regulations prescribed by the Secretary. Any amount so apportioned to a beneficiary shall be taken into account for purposes of determining the amount allowable as a deduction under subsection (a) to such beneficiary.

''(5) APPLICATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under any other provision of this chapter with respect to any expenditure with respect to which a deduction is allowed or allowable under this section to the taxpayer .''.

(4) The heading for section 194 is amended by striking ''***AMORTIZATION***'' and inserting ''***TREATMENT***''.

(5) The item relating to section 194 in the table of sections for part VI of subchapter B of chapter 1 is amended by striking ''Amortization'' and inserting ''Treatment''.

(d) REPEAL OF REFORESTATION CREDIT.—

(1) IN GENERAL.—Section 46 (relating to amount of credit) is amended—

(A) by adding ''and'' at the end of paragraph (1),

(B) by striking '', and '' at the end of paragraph (2) and inserting a period, and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Section 48 is amended—

(i) by striking subsection (b),

(ii) by striking ''this subsection'' in paragraph (5) of subsection (a) and inserting ''subsection (a)'', and

(iii) by redesignating such paragraph (5) as subsection (b).

(B) The heading for section 48 is amended by striking ''***; REFORESTATION CREDIT***''.

(C) The item relating to section 48 in the table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking '', reforestation credit''.

(D) Section 50(c)(3) is amended by striking ''or reforestation credit''.

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

SEC. 332. ELECTION TO TREAT CUTTING OF TIMBER AS A SALE OR EXCHANGE.

Any election under section 631(a) of the Internal Revenue Code of 1986 made for a taxable year ending on or before the date of the enactment of this Act may be revoked by the taxpayer for any taxable year ending after such date. For purposes of determining whether the taxpayer may make a further election under such section, such election (and any revocation under this section) shall not be taken into account.

SEC. 333. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LANDOWNERS.

(a) IN GENERAL.—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking ''retains an economic interest in such timber'' and inserting ''either retains an economic interest in such timber or makes an outright sale of such timber''.

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 631(b) is amended by striking ''The date of disposal'' and inserting ''In the case of disposal of timber with a retained economic interest, the date of disposal''.

(2) The heading for section 631(b) is amended by striking ''WITH A RETAINED ECONOMIC INTEREST''.

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

SEC. 334. MODIFICATION OF SAFE HARBOR RULES FOR TIMBER REITS.

(a) EXPANSION OF PROHIBITED TRANSACTION SAFE HARBOR.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

''(D) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' does not include a sale of property which is a real estate asset (as defined in section 856(c)(5)(B)) if—

''(i) the trust held the property for not less than 4 years in connection with the trade or business of producing timber,

''(ii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

''(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

''(II) are directly related to operation of the property for the production of timber or for the preservation of the property for use as timberland,

do not exceed 30 percent of the net selling price of the property,

''(iii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

''(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

''(II) are not directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 5 percent of the net selling price of the property,

''(iv)(I) during the taxable year the trust does not make more than 7 sales of property (other than sales of foreclosure property or sales to which section 1033 applies), or

''(II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year,

''(v) in the case that the requirement of clause (iv)(I) is not satisfied, substantially all of the

marketing expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income, and

''(vi) the sales price of the property sold by the trust is not based in whole or in part on income or profits, including income or profits derived from the sale or operation of such property.''.

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

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

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

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

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

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

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

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

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

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

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

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

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

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

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

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

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

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

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

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

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

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

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

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

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

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

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

SEC. 402. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

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

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

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

''(b) AMOUNT OF PENALTY.—

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

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

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

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

''(i) a large entity, or

''(ii) a high net worth individual,

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

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

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

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

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

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

''(d) AUTHORITY TO RESCIND PENALTY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(2) which—

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

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

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

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

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

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

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

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

SEC. 403. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

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

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

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

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

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

''(A) the product of—

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

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

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

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

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

''(A) any listed transaction, and

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

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

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

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

''(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

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

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

''(e) SPECIAL RULES.—

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

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

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

''(2) COORDINATION WITH OTHER PENALTIES.—

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

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

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

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

''(5) CROSS REFERENCE.—

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

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

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

(c) REASONABLE CAUSE EXCEPTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) CONFORMING AMENDMENTS.—

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

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

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

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

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

''(i) a partnership or other entity,

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

''(iii) any other plan or arrangement,

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

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

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

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

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

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

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

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

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

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

SEC. 404. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

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

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

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

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

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

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

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

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

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

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

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

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

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

''(f) CROSS REFERENCES.—

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

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

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

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

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

SEC. 405. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

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

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

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

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

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

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

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

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

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

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

SEC. 406. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

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

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

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

''(A) any person,

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

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

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

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

SEC. 407. DISCLOSURE OF REPORTABLE TRANSACTIONS.

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

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

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

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

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

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

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

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

''(1) MATERIAL ADVISOR.—

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

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

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

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

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

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

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

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

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 408. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

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

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

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

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

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

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

''(b) AMOUNT OF PENALTY.—

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

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

''(A) $200,000, or

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

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

''(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

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

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

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

SEC. 409. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

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

''(a) IMPOSITION OF PENALTY.—

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

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

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

SEC. 410. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

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

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

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

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

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

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

SEC. 411. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

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

SEC. 412. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

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

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

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

''(B) AMOUNT OF PENALTY.—

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

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

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

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

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

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

''(I) $25,000, or

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

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

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

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

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided

with respect to an account, the balance in the account at the time of the violation.''.

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

SEC. 413. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 414. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''.

SEC. 415. PENALTY ON PROMOTERS OF TAX SHELTERS.

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

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

SEC. 416. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 417. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

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

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

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

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

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

SEC. 418. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after

September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Corporate Governance Provisions

SEC. 421. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

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

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

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

SEC. 422. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 (relating to signing of corporation returns) is amended by inserting after the first sentence the following new sentences: ''The return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the chief executive officer ensures that such return complies with this title and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''.

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

SEC. 423. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 424. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

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

SEC. 425. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''misdemeanor'' and inserting ''felony'', and

(ii) by striking ''1 year'' and inserting ''10 years'', and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

Subtitle C—Enron-Related Tax Shelter Provisions

SEC. 431. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

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

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

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

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

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

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

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

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

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

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

''(A) IN GENERAL.—If—

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

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

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

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

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

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

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

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

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

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

SEC. 432. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

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

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

''(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

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

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

SEC. 433. REPEAL OF SPECIAL RULES FOR FASITS.

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: ''An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.''.

(B) The last sentence of section 860G(a)(3) is amended by inserting '', and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property'' before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: ''For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.''.

(8)(A) Section 860G(a)(3)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

''(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

''(II) occurs after the startup day, and

''(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.''.

(B) Section 860G(a)(7)(B) is amended to read as follows:

''(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

''(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

''(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).''.

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

(10) Section 1272(a)(6)(B) is amended by adding at the end the following new flush sentence:

''For purposes of clause (iii), the Secretary shall prescribe regulations permitting the use of a current prepayment assumption, determined as of the close of the accrual period (or such other time as the Secretary may prescribe during the taxable year in which the accrual period ends).''.

(11) 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).

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

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

(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. 434. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

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

(b) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

''(4) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.''.

(c) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

''(5) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.''.

(c) CONFORMING AMENDMENTS.—Paragraph (3) of section 163(l) is amended—

(1) by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person'', and

(2) by striking ''or interest'' each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 435. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

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

''(a) IN GENERAL.—If—

''(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

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

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.''.

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

SEC. 436. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

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

''Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

Subtitle D—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements,

the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 442. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2003, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

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

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust

with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)''

after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 5, 2003.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 5, 2003.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 5, 2003, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 443. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

''(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

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

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

''(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 444. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by

striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

SEC. 445. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

''SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

''(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

''(1) a description of the acquisition,

''(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

''(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

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

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

''(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

''(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

''(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return,

''(2) the information required to be shown on such return with respect to such shareholder, and

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

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.''.

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ii) through (xvii) as clauses (iii) through (xviii), respectively, and by inserting after clause (i) the following new clause:

''(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),''.

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (F) through (AA) as subparagraphs (G) through (BB), respectively, and by inserting after subparagraph (E) the following new subparagraph:

''(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

''Sec. 6043A. Returns relating to taxable mergers and acquisitions.''.

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

Subtitle E—International Tax

SEC. 451. CLARIFICATION OF BANKING BUSINESS FOR PURPOSES OF DETERMINING INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 956(c)(2) is amended to read as follows:

''(A) obligations of the United States, money, or deposits with—

''(i) any bank (as defined by section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), without regard to subparagraphs (C) and (G) of paragraph (2) of such section), or

''(ii) any corporation not described in clause (i) with respect to which a bank holding company (as defined by section 2(a) of such Act) or financial holding company (as defined by section 2(p) of such Act) owns directly or indirectly more than 80 percent by vote or value of the stock of such corporation;''.

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

SEC. 452. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

''(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

''(1) IN GENERAL.—In the case of any distribution to a foreign corporation in complete liquidation of an applicable holding company—

''(A) subsection (a) and section 331 shall not apply to such distribution, and

''(B) such distribution shall be treated as a distribution to which section 301 applies.

''(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable holding company' means any domestic corporation—

''(i) which is a common parent of an affiliated group,

''(ii) stock of which is directly owned by the distributee foreign corporation,

''(iii) substantially all of the assets of which consist of stock in other members of such affiliated group, and

''(iv) which has not been in existence at all times during the 5 years immediately preceding the date of the liquidation.

''(B) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a) (without regard to paragraphs (2) and (4) of section 1504(b)).

''(3) COORDINATION WITH SUBPART F.—If the distributee of a distribution described in paragraph (1) is a controlled foreign corporation (as defined in section 957), then notwithstanding paragraph (1) or subsection (a), such distribution shall be treated as a distribution to which section 331 applies.

''(4) REGULATIONS.—The Secretary shall provide such regulations as appropriate to prevent the abuse of this subsection, including regulations which provide, for the purposes of clause (iv) of paragraph (2)(A), that a corporation is not in existence for any period unless it is engaged in the active conduct of a trade or business or owns a significant ownership interest in another corporation so engaged.''.

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

SEC. 453. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

''(i) IN GENERAL.—In the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year before the taxable year in which paid only to the extent such original issue discount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

''(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged.''.

(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—Section 267(a)(3) is amended—

(1) by striking ''The Secretary'' and inserting:

''(A) IN GENERAL.—The Secretary'', and

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

''(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), in the case of any amount payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year before the taxable year in which paid only to the extent such amount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

''(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged and in which the payment of the accrued amounts occurs within 8½ months after accrual or within such other period as the Secretary may prescribe.''.

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

SEC. 454. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) IN GENERAL.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

''Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.''.

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

SEC. 455. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

''(D) APPLICATION TO DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS.—In the

case of any disposition by a taxpayer of any share of stock in a controlled foreign corporation (as defined in section 957), this paragraph shall apply to such disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.''.

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

SEC. 456. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

''(l) MINIMUM HOLDING PERIOD FOR WITHHOLDING TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS ETC.—

''(1) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

''(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

''(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

''(2) EXCEPTION FOR TAXES PAID BY DEALERS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

''(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

''(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

''(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

''(C) DEALER.—For purposes of subparagraph (A), the term 'dealer' means—

''(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

''(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

''(D) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

''(3) EXCEPTIONS.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

''(5) DETERMINATION OF HOLDING PERIOD.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.''.

(b) CONFORMING AMENDMENT.—The heading of subsection (k) of section 901 is amended by inserting ''ON DIVIDENDS'' after ''TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

SEC. 461. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.''.

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

''(7) CROSS REFERENCE.—

''For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).''.

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

SEC. 462. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) IN GENERAL.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

''(A) IN GENERAL.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

''(B) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

''(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

''(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.''.

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

SEC. 463. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

''(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

''(A) a debtor corporation transfers stock, or

''(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.''.

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

SEC. 464. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

''(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

''(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

''(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

''(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.''.

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

''(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and'', and

(B) by adding at the end the following new flush sentence:

''The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.''.

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle.''

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

''(A) terminated the position for its fair market value immediately before the settlement, and

''(B) sold the property so delivered by the taxpayer at its fair market value.''.

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Section 1092(d)(3) is repealed.

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking ''; except that the term 'personal property' shall include stock''.

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

''(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 465. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking ''is issued by a corporation or a government or political subdivision thereof and''.

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

PART II—CORPORATIONS AND PARTNERSHIPS

SEC. 466. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: ''In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.''.

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting ''with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355'' after ''section 368(a)(1)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 467. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: ''Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 468. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking ''possessing—'' and all that follows through ''(B)'' and inserting ''possessing''.

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

''(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

''(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

''(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).''.

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

SEC. 469. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking '', with respect to which the election provided in section 754 is in effect,'' in the matter preceding paragraph (1) of subsection (b),

(2) by striking ''(as adjusted by section 732(d))'' both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking ''**optional**'' in the heading.

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking ''with respect to which the election provided in section 754 is in effect'' in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

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

''(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.'', and

(4) by striking ''**optional**'' in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking ''section 734(b) (relating to the optional adjustment'' and inserting ''section 734(a) (relating to the adjustment'', and

(B) by striking ''section 743(b) (relating to the optional adjustment'' and inserting ''section 743(a) (relating to the adjustment''.

(3) Section 761(e)(2) is amended by striking ''optional''.

(4) Section 774(a) is amended by striking ''743(b)'' both places it appears and inserting ''743(a)''.

(5) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking ''Optional''.

(6) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking ''Optional''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART III—DEPRECIATION AND AMORTIZATION

SEC. 471. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 472. SERVICE CONTRACTS TREATED IN SAME MANNER AS LEASES FOR RULES RELATING TO TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Section 168(h)(7) (defining lease) is amended by adding at the end the following: ''Such term shall also include any service contract or other similar arrangement.''.

(b) LEASE TERM.—Section 168(i)(3) (relating to lease term) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR SERVICE CONTRACTS.—In the case of any service contract or other similar arrangement treated as a lease under subsection (h)(7), the lease term shall be determined in the same manner as a lease.''.

(c) CONFORMING AMENDMENTS.—Section 168(g)(3)(A) is amended—

(1) by inserting ''(as defined in subsection (h)(7)'' after ''lease'' the first place it appears, and

(2) by inserting ''(as determined under subsection (i)(3))'' after ''term''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to leases and service contracts or other similar arrangements entered into after the date of the enactment of this Act.

SEC. 473. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is

amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) initial clearing and grading land improvements with respect to gas utility property.''.

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

''(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.''.

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting ''or (E)(iv)'' after ''(E)(iii)'', and

(2) by adding at the end the following new item:

''(F) ..... 25''.

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

SEC. 474. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

''(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

''(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

''(I) is manufactured primarily for use on public streets, roads, and highways,

''(II) is not subject to section 280F, and

''(III) is rated at not more than 14,000 pounds gross vehicle weight.

''(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

''(I) does not have the primary load carrying device or container attached,

''(II) has a seating capacity of more than 12 individuals,

''(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

''(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

''(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.''.

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

SEC. 475. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(A) the amount of organizational expenditures with respect to the taxpayer, or

''(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.''.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

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

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

''SEC. 470. DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

''(a) GENERAL RULE.—The aggregate amount of deductions otherwise allowable to the taxpayer with respect to tax-exempt use property for any taxable year shall not exceed the aggregate amount of income includible in gross income of the taxpayer for the taxable year with respect to such property.

''(b) DISALLOWED DEDUCTION CARRIED TO NEXT YEAR.—Except as otherwise provided in this section, any deduction with respect to any tax-exempt use property which is disallowed under subsection (a) shall, subject to the limitation under subsection (a), be treated as a deduction with respect to such property in the next taxable year.

''(c) TAX-EXEMPT USE PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'tax-exempt use property' has the meaning given such term by section 168(h), except that such section shall be applied without regard to paragraphs (2)(C)(ii) and (3).

''(2) SPECIAL RULES FOR SERVICE CONTRACTS AND SIMILAR ARRANGEMENTS.—If tangible property is subject to a service contract or other similar arrangement between a taxpayer (or any related person) and any tax-exempt entity, such contract or arrangement shall be treated in the same manner as if it were a lease for purposes of determining whether such property is tax-exempt use property under paragraph (1).

''(d) SPECIAL RULES.—

''(1) ALLOCABLE DEDUCTIONS.—Subsection (a) shall apply to—

''(A) any deduction directly allocable to any tax-exempt use property, and

''(B) a proper share of other deductions that are not directly allocable to such property.

''(2) PROPERTY CEASING TO BE TAX-EXEMPT USE PROPERTY.—If property of a taxpayer ceases to be tax-exempt use property in the hands of the taxpayer—

''(A) any unused deduction allocable to such property under subsection (b) shall only be allowable as a deduction for any taxable year to the extent of any net income of the taxpayer allocable to such property, and

''(B) any portion of such unused deduction remaining after application of subparagraph (A) shall, subject to the limitation of subparagraph (A), be treated as a deduction allocable to such property in the next taxable year.

''(3) DISPOSITION OF ENTIRE INTEREST IN PROPERTY.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property, rules similar to the rules of section 469(g) shall apply for purposes of this section.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

''Sec. 470. Deductions allocable to property used by governments or other tax-exempt entities.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to leases and service contracts or similar arrangements entered into after the date of the enactment of this Act.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 481. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) IN GENERAL.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: ''The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).''.

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

SEC. 482. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''September 30, 2013''.

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

SEC. 483. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term ''Voluntary Offshore Compliance Initiative'' means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 484. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 485. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''March 31, 2004'' and inserting ''September 30, 2013''.

SEC. 486. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

''SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

''(d) PAYMENT OF INTEREST.—

''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

''(2) DISPUTABLE TAX.—

''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

''(i) has a reasonable basis for its treatment of such item, and

''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

''(e) USE OF DEPOSITS.—

''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

''(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 487. QUALIFIED TAX COLLECTION CONTRACTS.

(a) CONTRACT REQUIREMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

''SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

''(a) IN GENERAL.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

''(b) QUALIFIED TAX COLLECTION CONTRACT.—For purposes of this section, the term 'qualified tax collection contract' means any contract which—

''(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

''(A) to locate and contact any taxpayer specified by the Secretary,

''(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 3 years, and

''(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

''(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

''(3) prohibits subcontractors from—

''(A) having contacts with taxpayers,

''(B) providing quality assurance services, and

''(C) composing debt collection notices, and

''(4) permits subcontractors to perform other services only with the approval of the Secretary.

''(c) FEES.—The Secretary may retain and use an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

''(d) NO FEDERAL LIABILITY.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

''(e) APPLICATION OF FAIR DEBT COLLECTION PRACTICES ACT.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

''(f) CROSS REFERENCES.—

''(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

''(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 7809(a) is amended by inserting ''6306,'' before ''7651''.

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

''Sec. 6306. Qualified Tax Collection Contracts.''.

(b) CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

''SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

''(a) IN GENERAL.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

''(b) MODIFICATIONS.—For purposes of subsection (a)—

''(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

''(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

''(3) Such civil action shall not be an exclusive remedy with respect to such person.

''(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

''Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.''.

(c) APPLICATION OF TAXPAYER ASSISTANCE ORDERS TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

''(g) APPLICATION TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.''.

(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MISCONDUCT TO PERFORM UNDER CONTRACT.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

''(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.— An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.''.

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

PART V—MISCELLANEOUS PROVISIONS

SEC. 491. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''May 8, 2003''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 492. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) IN GENERAL.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.''.

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

SEC. 493. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15)(A) is amended to read as follows:

''(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

''(i) the gross receipts for the taxable year do not exceed $600,000, and

''(ii) more than 50 percent of such gross receipts consist of premiums.''.

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) is amended by inserting '', except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded'' before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) is amended by striking ''exceed $350,000 but''.

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

SEC. 494. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

(a) IN GENERAL.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).''.

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

SEC. 495. LIMITATIONS ON DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) DEDUCTION ALLOWED ONLY TO THE EXTENT OF BASIS.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property,''.

(b) TREATMENT OF CONTRIBUTIONS WHERE DONOR RECEIVES INTEREST.—Section 170(e) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULES FOR CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY WHERE DONOR RECEIVES INTEREST.—

''(A) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under this section with respect to a contribution of property described in paragraph (1)(B)(iii) if the taxpayer after the contribution has any interest in the property other than a qualified interest.

''(B) CONTRIBUTIONS WITH QUALIFIED INTEREST.—If a taxpayer after a contribution of property described in paragraph (1)(B)(iii) has a qualified interest in the property—

''(i) any payment pursuant to the qualified interest shall be treated as ordinary income and shall be includible in gross income of the taxpayer for the taxable year in which the payment is received by the taxpayer, and

''(ii) subsection (f)(3) and section 1011(b) shall not apply to the transfer of the property from the taxpayer to the donee.

''(C) QUALIFIED INTEREST.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified interest' means, with respect to any taxpayer, a right to receive from the donee a percentage (not greater than 50 percent) of any royalty payment received by the donee with respect to property described in paragraph (1)(B)(iii) (other than copyrights which are described in section 1221(a)(3) or 1231(b)(1)(C)) contributed by the taxpayer to the donee.

''(ii) SECRETARIAL AUTHORITY.—

''(I) IN GENERAL.—Except as provided in subclause (II), the Secretary may by regulation or other administrative guidance treat as a qualified interest the right to receive other payments from the donee, but only if the donee does not possess a right to receive any payment (whether royalties or otherwise) from a third party with respect to the contributed property.

''(II) EXCEPTIONS.—The Secretary may not treat as a qualified interest the right to receive any payment which provides a benefit to the donor which is greater than the benefit retained by the donee or the right to receive any portion of the proceeds from the sale of the property contributed.

''(iii) LIMITATION.—An interest shall be treated as a qualified interest under this subparagraph only if the taxpayer has no right to receive any payment described in clause (i) or (ii)(I) after the earlier of the date on which the legal life of the contributed property expires or the date which is 20 years after the date of the contribution.''.

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 6050L(a) (relating to returns regarding certain dispositions of donated property) is amended—

(A) by striking ''If'' and inserting:

''(1) DISPOSITIONS OF DONATED PROPERTY.—If'',

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and

(C) by adding at the end the following new paragraph:

''(2) PAYMENTS OF QUALIFIED INTERESTS.—Each donee of property described in section 170(e)(1)(B)(iii) which makes a payment to a donor pursuant to a qualified interest (as defined in section 170(e)(7)) during any calendar year shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

''(A) the name, address, and TIN of the payor and the payee with respect to such a payment,

''(B) a description, and date of contribution, of the property to which the qualified interest relates,

''(C) the dates and amounts of any royalty payments received by the donee with respect to such property,

''(D) the date and the amount of the payment pursuant to the qualified interest, and

''(E) a description of the terms of the qualified interest.''.

(2) CONFORMING AMENDMENTS.—

*(A) The heading for section 6050L is amended by striking ''**certain dispositions of**''.*

(B) The item relating to section 6050L in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking ''certain dispositions of''.

(d) ANTI-ABUSE RULES.—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after October 1, 2003.

SEC. 496. REPEAL OF 10-PERCENT REHABILITATION TAX CREDIT.

Section 47 is amended by adding at the end the following new subsection:

''(e) TERMINATION.—This section shall not apply to expenditures described in subsection (a)(1) incurred in taxable years beginning after December 31, 2003.''.

SEC. 497. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking ''age 14'' and inserting ''age 18''.

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

The PRESIDING OFFICER. The Senator from Iowa.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I am happy to be, once again, on the floor with a very important piece of legislation. With the cooperation of the Democratic leadership of the Senate Finance Committee, Senator BAUCUS, we bring to the floor a bill that was voted out of committee 19 to 2. Senator BAUCUS and I always work together as much as we can—that is, most of the time—to bring to the Senate a bill that can get through the Chamber because as so many people who watch the Senate regularly know, the Senate, unlike the House of Representatives, can't function if it does not function in a bipartisan way.

So we proceed, then, with this bipartisan bill: the Jumpstart Our Business Strength Act. If I refer to the acronym JOBS, it is jumpstart our business strength.

Since March 2000, long before President Bush took office, the manufacturing sector has been under significant economic pressure. Obviously, that has affected manufacturing workers. A recent CBO study estimates that going way back to March 2000, an estimated 3 million workers have lost their manufacturing jobs.

The Congressional Budget Office attributes this job decline to the recession that began in November 2000 and the weak economy in demand that followed, part of it a result of September 11 and recovery not coming as normal as recoveries do.

But we always tend to look at bad news. Bad news tends to make the front pages of the newspaper. Good news tends to make the back pages, if there is good news printed at all.

There is good news on the horizon. That is, that new manufacturing orders, just this past December, surged to their highest levels in 50 years. They haven't been that high since July of 1950. And January was the sixth consecutive month that manufacturing activity expanded. In December, the manufacturing employment index grew for the second consecutive month, but the overall economy during that month added 1,000 jobs only. That was, of course, disappointing. But it wasn't disappointing from the standpoint of the manufacturing employment index growing because it seems that is the lagging sector of this recovery.

I believe we are on the right path for a strong recovery. In fact, there has been a recovery underway since economists ruled that the last recession ended October 1, 2001. But when a recovery ends, it is not always visible. Of course, it is visible in most segments of the economy by very strong indices that are there to prove that. But one area that is not is manufacturing employment. We do now have those 2 consecutive months of increased employment.

I believe we are on the right path to strong recovery, but we must do more to ensure manufacturing stays on the path of recovery. Manufacturing is so vital to the overall health of our economy, including follow-on sectors that benefit: the service and financial sectors.

As government policymakers, which we are, we have to act to revitalize the manufacturing sector. Today we have some good news on manufacturing, and that is, the legislation we bring to the Senate, because it is going to help enhance employment in the manufacturing sector.

As I have said previously, but I cannot emphasize too much, by a vote of 19 to 2 this bill was voted out of the Senate Finance Committee. Our bill is a bipartisan balance of domestic tax relief and international tax reforms, all meant to strengthen American business. Not as an end in itself, but as business strengthens, jobs are created. We are talking about jobs for Americans.

Most importantly, this bill is revenue neutral. That is important, when we read in the newspapers about facing a budget deficit. This bill then will not add one dime to the Federal deficit. The JOBS bill will repeal the current FSC/ETI regime and use all the money from repeal to provide a 3-point tax rate cut on income from U.S.-based manufacturing. I emphasize U.S.-based manufacturing. We start those cuts phasing in next year. This 3-point rate cut is only for manufacturing and only for manufacturing in the United States. This bill will not help American manufacturers that want to manufacture offshore.

I point out how our bill would approach this effort to help create jobs in American manufacturing and do it on American soil as opposed to the way that the Ways and Means Committee of the other body, and even other bills that will be offered in the upcoming debate, would face these issues. Our bill reducing taxes applies to all that manufacture in America.

I wish to make clear to our colleagues this is a bill to help manufacturing in the United States. American companies that manufacture overseas will not get the benefit of the corporate rate reduction. Foreign corporations that want to come over here to America and build plants and employ people in this country would get the benefit. But this bill is about helping American manufacturing that takes place in the United States of America.

I wish to differentiate the approach we use from the approach the Ways and Means Committee uses.

Unlike the pending Ways and Means bill, and other bills that will be offered during the upcoming debate, these cuts apply to all who manufacture in America, regardless of size. So this is going to include sole proprietors, partnerships, farmers, individuals, family businesses, multinational corporations, and foreign companies that set up manufacturing plants in the United States. All of these enterprises will benefit as long as they manufacture.

So the objectives of this bill are pretty simple. Three: Jobs, jobs, jobs, meaning jobs that pay money because of manufacturing in America.

Manufacturing is important to all States, and I want to point out some benefits. For my State of Iowa—the figures I have are for 2001—Iowa's gross State product was $91 billion. Of that, $19 billion or 21 percent of the State's wealth was created by manufacturing. From 2001 to 2002, Iowa's exports grew by nearly 15 percent. We shipped nearly $5 billion of goods out of Iowa, and that was during the year 2002.

In Iowa, we have 222,000 jobs in manufacturing. So that shows how important it is for the United States to be competitive in manufacturing both home and abroad because of 222,000 jobs just in my State. Those kinds of export numbers translate into very good and lasting jobs at home. Many of our country's manufacturing jobs are dependent upon the current FSC/ETI international taxing regime.

I have a map behind me that makes this very clear. It shows by State the jobs that are existing today because of the current FSC/ETI provision: South Carolina, 47,000 jobs; my State of Iowa, 35,000 jobs; California, 429,000 jobs; Texas, 262,000; New York, 215,000; Illinois, 156,000; Washington State, 107,000 jobs generated by FSC/ETI.

As my colleagues probably know, FSC/ETI stands for Foreign Sales Corporation, extraterritorial income. This is what was determined to be contrary to our international trade agreements, and that is why we have this legislation before us because if we do not do something about this issue, these numbers of jobs that are dependent upon this legislation are in jeopardy because our manufacturing will not be competitive with our foreign competition.

Of course, what this is all about is passing legislation that will be in agreement with our trade agreements and, consequently, still protect American manufacturing as the FSC/ETI has done over the last 25 to 30 years.

FSC/ETI reduces the income tax on goods manufactured in the U.S. and sold overseas. FSC/ETI is critical to the manufacturing sector. It can reduce taxes on exports by as much as 3 to 8 tax rate percentage points.

The nonpartisan Joint Committee on Taxation says that 89 percent of the Foreign Sales Corporation benefits go to manufacturing companies. Many of those companies are the largest manufacturing employers in the Nation. This reduced rate of tax on exports of U.S.-manufactured goods keeps our companies competitive in the international marketplace. It allows our companies to compete with the European Union countries, which happen to have a taxing system where they get a rebate on their value-added tax on exports.

If we did not have the Foreign Sales Corporation, we would be exporting more of our taxes, making us uncompetitive with the European Community that has a different taxing system, value-added tax, that they do not export.

Several years ago, the European Union filed a claim with the World Trade Organization challenging FSC/ETI as an illegal export subsidy. Hence, we are here repealing such an important provision because under trading rules, according to the decision, we cannot have a subsidy if it is contingent upon the act of exporting. The World Trade Organization ruled that the FSC/ETI is an illegal export subsidy and has authorized the European Union to impose up to $4 billion a year of sanctions against U.S. exports.

The European Union has already started this because March 1, this year, was the date to do it. The sanctions start at 5 percent of the $4 billion, and they are going to increase 1 percent for each month if we do not repeal the FSC/ETI provisions. They are going to cap out at 17 percent. So by November, these sanctions will be 12 percent. How are we going to compete when the tax benefits that were supposed to level the playing field are not only used, but the European Union, in a legal way under our trade agreements, is levying sanctions. Just as the United States when the European Union lost a case on our beef—they did not take our beef—we leveled sanctions against European products that are coming into this country, all in a legal way but not necessarily in the best way to conduct international trade.

So eventually, these sanctions are going to get up to 17 percent, and at that point the European Union will review the effectiveness of the sanctions, and further increases are possible.

The European Union has been consistent in its message, that the FSC/ETI must be repealed; the same way that we were insistent upon Europe and we won a case in the World Trade Organization that they take our beef.

This is a serious threat against American manufacturing, and Europe knows where to hit us. One of those is agricultural products, plus paper products, and also a number of important manufacturing industries, and they are hitting us right now in our soft underbelly.

These sanctions are going to undermine the economic recovery that is underway, as I indicated before—underway with 2 months in a row of a positive upturn in the manufacturing index. So I believe it is important for the United States to fulfill its obligations under our trading rules.

Now, it so happens that we win a lot more cases than we lose, and it also is true that the United States has been a leader—in fact, the entire world recognizes us as a leader, and they wait for us sometimes—in reducing trade barriers around the world. We have shown leadership for the last 60 or 70 years in this area going back to the reciprocity agreements of the 1930s of reducing trade barriers.

As we expect Europe to import our beef when we win a case, it seems to me that we must show leadership in complying with these rules. What the World Trade Organization is all about is to bring the rule of law to what would otherwise be a jungle of international trade. That is because we get more business activity when there is predictability and understanding of how we are going to do business. Just as that is true in our domestic policy for business expansion, it is true in international trade; if there is predictability, we will get more business expansion around the world.

Domestic law has made that possible within the United States. We need to support a regime that does the same thing in international trade because we have seen under that regime of rule of law in international trade for the last 50 or 60 years the expansion of the world economic pie.

We are not talking about something that is just good for the United States. It is good for the United States. But we are talking about something that is good for the entire world.

We have a growing world population. If you don't have a growing world economic pie, there will be less for more people and less for more people means political, economic, and social instability, and chaos.

So we have seen under this regime of rule of law in international trade that the world economic pie has grown tremendously, and to a great extent because of international trade.

The United States has led the way. We need to continue leading the way. There are some lobbyists who are suggesting this is no big deal, this doesn't have to be done now, it can be done tomorrow, it can be done next year, and somehow these sanctions don't mean anything. They do mean something because they are going to make our products uncompetitive and then we can't sell. If these were put on John Deere tractors in Waterloo, IA, one-fourth of the jobs could go.

One-fourth of the jobs at John Deere tractor in my home State are related to trade. But we do have to abide by the rule of law in international trade unless we want chaos, unless we want the jungle.

These lobbyists say sanctions don't matter. They argue: After all, sanctions only start at 5 percent. They would say: There has been a decline in the dollar. That is going to take care of that problem. With a decline in the dollar, add on 5 percent, no difference.

But I will bet these lobbyists who are spreading this word that Congress doesn't have to act don't represent anybody—any workers or any firms—on this retaliation list. But for those industries that I have already talked about, and there are a lot more, sanctions do matter because they will not be able to export if they can't compete. Five percent right now, and for sure 17 percent a year from now, is going to make a big difference.

In regard to the lower value of the dollar against the euro, that somehow merely restores the status quo of the 1990s for a lot of American companies so they can export more. The recent decline in the dollar helped these companies regain lost market share in Europe, and we have lobbyists saying they ought to be back in that position that they were in just a year ago, not being able to sell because of the high cost of the dollar?

Why would Congress want to deprive these companies and their employees, where these are good American jobs, of the opportunity to export? That is beyond me. These are good jobs, because

statistics show conclusively that jobs connected with exports pay 15 percent above the national average.

Besides, there is no guarantee that the value of the dollar will not go up tomorrow because our official policy is a strong dollar policy. Our official policy is also to let the marketplace decide the value of the dollar. But if it does go up, it is going to leave American exporters in even a worse situation than they are today with that 5 percent and next month 6 percent.

It is plain wrong for us in Congress, when we can do something about it—and this bill does something about it—to gamble the future of these American working men and women on the volatile international currency market.

There is another fancy suggestion from these high-paid lobbyists, that all we have to do is cut a Government check to these U.S. exporters that are hurt by the sanctions.

That suggestion is just as stupid as the previous one. First, it is likely that the World Trade Organization would find such a scheme to be a prohibited export subsidy anyway, just as they originally did. That would continue the cycle of noncompliance and retaliation.

These birds don't believe in the rule of law on international trade. They like the jungle of international trade. In fact, most lobbyists like a jungle because they are the ones who think they are smart enough to sort it out. We are not going to allow that jungle to grow just so lobbyists can prosper.

But this scheme, as the original suggestions, is unworkable. It would probably require a new government bureaucracy to administer. You know what. This JOBS bill is about creating manufacturing jobs, not jobs in a government bureaucracy.

It has also been suggested that the U.S. Government could simply pay compensation to some foreign government rather than comply with our international trade obligations. I suppose, in the era of foreign aid, you might say that suggestion is theoretically possible. But it is not very realistic.

Under the World Trade Organization dispute settlement system, there is only one way, just one way, a nation can bring itself into compliance with an adverse ruling, conforming with the WTO-inconsistent measure, and that is with a report adopted by the dispute settlement body. That would dictate that as long as FSC/ETI is not repealed, the United States remains in violation of these international trade commitments. So paying compensation to some government, in my reading of the obligations under the trade commitments, is not going to bring the United States into compliance.

Furthermore, it has to be remembered that compensation in lieu of retaliation is only a viable option if the prevailing parties agree.

I think that is something the European Union is not inclined to do.

Even if it were possible, I am not going to suggest on the Senate floor that the United States taxpayers ought to be writing a check to the country of France. I, for one, don't think Congress is going to buy these arguments that we don't have to deal with this now and there are other ways around. These proposals are shell games expounded by Washington lobbyists trying to confuse Congress, confuse the public, and thus avoiding a real permanent solution to a longstanding FSC/ETI dispute with the European Union. This is not realistic. They will not stop the imposition of European sanctions.

People suggesting these alternatives ought to face facts. Gambling America's exports on the volatile currency market won't work. Cutting government checks to U.S. exporters won't work. Transferring taxpayers' money to foreign governments such as France won't work. These are shell games. There is only one real solution for American workers. This is something that has been worked out in a bipartisan way for the Senate to consider by the Senator from Montana and this Senator. This is the JOBS Act that is before us, and the best solution is to pass the JOBS Act now. I hope my Senate colleagues and our counterparts in the House of Representatives will act on the Finance Committee's FSC/ETI legislation. It is all of our responsibility—Democrat and Republican alike—to pass this bipartisan legislation.

If we, as a body, fail to act, American workers will suffer with fewer jobs, and the United States will lose an opportunity to rejuvenate and remain globally competitive in the mainstay of its economy—the manufacturing sector of our economy.

Our majority leader, Senator FRIST, should be commended for bringing this bill to the floor so that the Senate can act now to end sanctions before they seriously damage the economy and before they damage our transatlantic relations. The bill needs to be passed so we can end the sanctions as soon as possible.

Repealing FSC/ETI raises around $55 billion over 10 years. Eighty-nine percent of it comes from jobs in the manufacturing industry. If that money is not sent back to help the manufacturing sector to be competitive with Europe, FSC/ETI repeal will be a $50 billion tax increase on manufacturing. The old rule of economics is if you tax something more, you get less of it. So there is going to be less jobs in manufacturing.

I think we can all agree that a $50 billion tax increase on manufacturing will not stimulate job growth in that sector. That is why the JOBS bill passed by the Finance Committee uses every penny from the FSC/ETI bill repeal. To give this 3-percentage tax rate cut on all income derived from manufacturing—that is done in the United States—there is no benefit to American companies manufacturing overseas. There would be a benefit to international companies that come here to create jobs in America in manufacturing. Our 3-point rate reduction is not export contingent under the World Trade Organization rules. Unlike the FSC/ETI regime, this 3-point rate reduction applies to goods manufactured in the United States and which are sold domestically in the United States, or if they are exported for sale outside the United States. If you make it here, we cut your taxes regardless of whether you are a U.S. or foreign corporation—bringing those manufacturing jobs, then, to the United States of America. The JOBS bill starts phasing in the 3-point percentage tax rate reduction immediately in 2004.

If you look at this next chart behind me, you see on average, European Union manufacturing income is taxed at 21 percent but U.S. manufacturing income is taxed at 24 percent. As you can see, the 3-point rate cut on manufacturing income in the JOBS bill keeps us even with the European Union on manufacturing tax burdens.

We included in the JOBS bill several international tax reforms that are aimed specifically to help manufacturing. The whole JOBS bill is slanted towards manufacturing. Flaws in our international tax rules seriously undermine America's ability to compete in the global marketplace. International tax reform, like doing something with FSC/ETI, is long overdue.

Our current system is built upon a framework dating back to President Kennedy in the early 1960s. We clean up problems that cause foreign earnings to be double taxed by the United States and the foreign countries where those profits are earned. We reform subpart (f) to ensure that active foreign businesses are taxed when the money is brought home and not when the United States companies are locked in battle with foreign companies that do not pay taxes.

You will hear a lot of noise in the upcoming debate about these international provisions. But let me tell you right now that the international provisions in our bipartisan JOBS bill are targeted to benefit U.S. manufacturing companies. Members may be surprised to learn our international provisions can actually harm a company's expansion in the United States of America where we want companies to expand so that jobs are created here and so that those jobs are not exported. It is a simple thing to do. Just fix our tax laws so that jobs are created in America as opposed to overseas.

We will have plenty of opportunity to talk about that issue in the upcoming debate.

In an era of expanding global markets, in an era of falling trade barriers, and in an era of technological innovations that melt away traditional notions of national borders, it is critical that our international tax laws keep pace with these new business realities.

We also include a provision for manufacturing that is not making money

right now. We allow a 3-year net operating loss carryback. This will allow companies to reclaim prior taxes paid. This will give them cash liquidity to weather the current storm.

I understand there may be some effort to expand this 3-year carryback to a 5-year carryback.

The JOBS bill also includes the Homeland Reinvestment Act sponsored by Senator SMITH of Oregon, Senator ENSIGN of Nevada, and Senator BOXER of California. That is a bipartisan group to which anybody ought to be drawn.

This subpart of our JOBS bill, which is sponsored by Senators Smith, Ensign, and Boxer, is intended to encourage companies to bring their foreign earnings back to the United States by temporarily providing the reduced rate of tax. This bill will tax foreign earnings at 5¼ percentage points instead of the 35 percent that would normally apply.

Advocates of this Homeland Investment Act claim that those moneys will be invested overseas instead of the United States, if we don't tax them at a lower rate than the 35 percent.

These colleagues view this measure as I do, very much stimulative to the economy and helping with our unemployment problem.

One last point I will make is that our bipartisan manufacturing tax bill is revenue neutral. I don't think it does harm to emphasize, sometimes we pass a tax bill and less money comes into the Federal Treasury and we might have a bigger deficit. This bill does not do that. Not one dime is added to the current deficit.

Thank God, the President has been in the forefront of this, asking for a bill that would be revenue neutral. We have delivered for our colleagues who believe in revenue neutrality of tax bills. We have delivered for the President.

The JOBS bill provides over $112 billion in business tax relief which is paid for by shutting down tax shelters and by closing abusive loopholes. Let me emphasize that because people are reading about this every day in the newspaper, companies setting up shell corporations overseas, with nothing but a cabinet and maybe an address, a post office box, for the sole purpose of avoiding taxation. They dash and stash the cash, whereas we have all these other patriotic companies staying in America.

There are other schemes I will not go into, but we deal with those schemes in this legislation, bringing in additional revenue that can be used, then, to make our international taxing regime more fair and do it in a way that creates jobs in the United States of America, not overseas.

It is a fact of life with most bills that come to the Senate, there is never complete agreement on an approach. There is always 20 percent on the right and 20 percent on the left that might disagree with something that comes to this Senate. What this Senate is all about is moving things to the center, to get a consensus to get something passed. In the process, there is never complete agreement.

For instance, some Members did not favor including this Homeland Reinvestment Act which Senators SMITH, ENSIGN, and BOXER have written. We have included it in this bill. So we may have votes on that.

Our bill contains a temporary haircut on the rate reduction some Members would like to remove and others would like to retain. We will probably have that divisive issue before the Senate. Some Members prefer a reduction in the top corporate rate in place of all these international tax reforms and manufacturing rate cut deductions. Now, that is a more simple approach than we have, but this approach misses a couple of factors.

First, the top level rate cut would only go to the biggest corporations of America. It would not go to the local family-held S corporation or partnership as our finance bill does. We think we ought to help small business in the process.

Second, FSC/ETI repeal will not create a large tax increase on the service industry. That repeal will be a $50 billion tax increase on manufacturing. If we redirect the FSC/ETI repeal money to an across-the-board corporate cut, as a couple of my colleagues will offer an amendment to do, then the manufacturing sector will be the revenue offset for the services sector of tax cuts. It is a fact that we have a struggling manufacturing sector and I don't think a sector of our economy that is slowly recovering ought to be hit with this sort of a revenue offset for the benefit of the service industry. We have to face what is the current crisis in manufacturing.

Working families are living in financial fear. We owe a secure future to these hard-working men and women. For them, we have a secure future. Their employers must be able to compete and thrive both at home and abroad. Then their future is secure. Their employers cannot thrive if these companies are burdened with excessive tax rates at home and international tax barriers abroad.

Our bipartisan JOBS bill presents the best opportunity to end that burden and to make a downpayment on putting Americans back to work. Let's hope the Senate gets to work, puts American manufacturing back in the game. That is why I am here, urging my colleagues to support a bipartisan JOBS Act and cooperate to get this bill on the President's desk.

In closing, I have one message for the 39 Democrats who are not on the Finance Committee and may not see this, other than just a piece of legislation voted out of the Senate Finance Committee. I say to the 39 Democrats who are not on the committee, they have an opportunity to help us very quickly move a bill to the other body, very quickly help us pass a bill to help manufacturing, help us pass a bill to create jobs for American men and women in manufacturing, which is slow to recover. They have an opportunity to help with bipartisanship in the other body because there are bills in the other body, but they are short of the number of votes they need. Part of the reason is maybe the other body does not see the need to pass a bipartisan bill as we do in the Senate. There are Republicans and Democrats in the other body who are working on a way to do this, a way that is not far removed from our legislation.

If we have a real strong vote over here and we get this done quickly, we might be able to help the House of Representatives pass some legislation and to do it in a bipartisan way. Helping to pass legislation in a bipartisan way is not a bad goal for Senators, since we practice that.

Also, those 39 Democrats will have an opportunity to help the Senate Finance Committee do something we want to do because we can get it done in this bipartisan way and it is not exactly the way the White House wants us to get it done. Here again, we share governing responsibilities with the President and with the House of Representatives, and so Democrats working with Senator BAUCUS and myself, Democrats who are not on the committee, can help get a bill to the President, help the President to see maybe the aspects about this bill they do not like, they ought to take a second look at to see the good work, and help get a bipartisan bill through the House of Representatives.

I don't say that in a defensive way because I don't know of any reason the other 39 Democrats do not want to help us accomplish what we want to accomplish. What I have just said is not for that purpose, but only said for the purpose of those Democrats who are not on this committee, there is a larger aspect than just the language of the legislation that is before the Senate. It benefits them for a lot of goals they want to accomplish that sometimes cannot be accomplished as a minority part of this body.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to make a few remarks about the JOBS bill before the Senate. With this bill, we join in the work of improving the economic well-being of Americans.

This bill is about creating good jobs in America. This bill is about improving the standard of living of all Americans.

Let me begin with the economic context for this bill. In a series of statements over the coming week, I will address particular aspects of the legislation. We begin with the dignity and importance of work. Our jobs often define who we are. They are where we spend much of our waking hours. As the preacher teaches in the book Ecclesiastes, ''A man can do nothing better than to . . . find satisfaction in his work. This . . . I see, is from the hand of God. . . .''

Job creation is fundamental to our ability to live a good life. It is through the creation of good jobs that Americans have come to enjoy remarkable advancements in income and comforts. The American job creation machine makes our shores the shores to which immigrants swarm. We don't see people heading for the door. Rather, people from around the world want to live in America.

Ours is a dynamic economy. This economic growth is the key to our Nation's success.

I point out this chart. I will raise it up so people can see it. This chart shows the picture I have just basically described. In 1900, in the wake of the industrial revolution, America already stood at the pinnacle of the world economy. Already in 1900, believe it or not, we had the highest per capita income in the world, slightly more than Britain or Australia, and almost double that of France or Germany.

But even adjusted for inflation in today's dollars, not 1900 dollars, America's per capita GDP—a rough measure of our average income—was only about $5,000 a year in today's dollars. Measured by today's standards, we lived in poverty: Walking and horseback was how one got around; electricity lit only 3 percent of homes in 1900; only one-third of Americans had running water; only 15 percent had flush toilets; life expectancy was 47 years.

In 1900, America had one of the best educated populations in the world. But 1 in 10 were illiterate. The typical adult had left school after the eighth grade. There were only 382 Ph.Ds awarded in the entire country in 1900.

Even though in 1900 our economy was at the top of the world, Americans had an average income then that the average person in Mexico has today.

If our economy had not grown, our standard of living would be unacceptable by today's measures. Economic growth made a huge difference.

Because of economic growth, inflation-adjusted, our per capita income today is roughly seven times now what it was 104 years ago.

With economic growth, electricity became available across the country, and automobiles made us a mobile nation and made much more of the Nation within reach of work.

It is incredible to see how much we have grown in real per capita GDP since 1900. You can see a dip on the chart in 1929. But we have grown at a rapid rate.

The next chart is very interesting as well. This is private sector employment. American economic growth created 108 million new jobs, net, since 1900. In 1900, the American economy employed 27 million people in its civilian labor force. By January 2004, 104 years later, the American economy employed almost 140 million Americans.

Two-thirds of Americans participate in the labor force—substantially higher rates than in Europe. That is up from 55.5 percent in 1900. Americans are hard-working people. We work.

The American economy has, on average, created more than a million net new jobs every year since 1900. Since 1935, we have done better; America has created 1.5 million jobs every year. That is a net figure.

America's economic growth springs from our people, our freedom, our unity. The American people are smart and as hard working as any in the world. Our free market has given this great people the freedom to achieve their best potential. Our unity has protected its huge internal market from robbers, foreign and domestic.

We are lucky to be Americans, very lucky. Our Nation is still a magnet for immigrants. This country is still a beacon to countries around the world.

We can pride ourselves in our independent judiciary, which helped make this country strong. We can be proud of our system of government—this long-lived democracy. We have a dynamic, mobile society.

In a number of ways, America has it right. More times than not, Americans have struck about the right balance between government protections and private freedoms, to contribute to economic growth.

Our society provides an environment for success. Bill Gates, for example, might be a pauper in Sri Lanka. But America provides the environment and infrastructure and, of course, the political system and markets where a Bill Gates can succeed. We should not take this lesson for granted. This is not true in all countries. Our society, economy and, yes, the Government contributed to the successes of people such as Bill Gates.

Government does have a role to play, for good or evil, either to foster or to impede this economic growth.

Government can impede growth. By running large continuing budget deficits, the Government can suck vital capital out of the economy, robbing individuals and businesses of funds that can be used for investment.

Thus, the record budget deficits that the Government is now running pose a threat to our Nation's economic growth. We have to recognize that. These deficits decrease national savings, decrease private sector investment, and raise interest rates. The resulting slower economic growth and increased cost of borrowing harm businesses, large and small.

Foreign governments can impede our growth when they deny Americans access to their markets, when they don't let us sell products in their country, when they artificially depress the value of their currency, flooding our lands with their imports and denying our exports a fair opportunity to compete.

Our Government can foster growth by investing in education, by opening markets at home and abroad, and by removing barriers to our economic greatness. We can foster growth in America.

That is what this bill is about—removing barriers to economic growth and creating jobs.

It is no secret that in the past few years the engine of American job creation has ground to low gear; manufacturing has been particularly hard hit.

This next chart shows the story of private sector job creation in the American economy over the last decade. Beginning in March of 1993, here at the lower left, the American economy steadily created new jobs throughout the rest of the decade. The economy grew. People had jobs and families had more money in their pockets. In fact, from January of 1993 to January 2001, about 20 million—net jobs—were created in America.

Private sector employment peaked at 111.6 million jobs in December of 2000. The Bureau of Labor Statistics reports that since the end of the year 2000, the private sector of the American economy lost 3 million jobs. You can see that on the chart. Our peak was here in 2000 and we have lost jobs—3 million. Three million jobs were lost in the American economy since that peak in December of 2000. In January of this year—the month for which we have the latest statistics—the American economy employed 108 million private sector workers, which means 1 out of every 40 private sector jobs have disappeared since the end of 2000.

The manufacturing sector has disproportionately borne the brunt of these job losses.

This next chart shows the story. This is manufacturing jobs from 1993 to 2004. We can see the dramatic decline in roughly 2001, since July of 2000.

Since July of 2000, the American economy has lost 3 million manufacturing jobs. That is a net loss. The Bureau of Labor Statistics reports that in January, America employed 14.3 million workers in manufacturing, and that is down from the 42nd straight month from the high of 17.3 million in July of 2000. That is a drop of 17.5 percent in manufacturing employment. More than one in every six American manufacturing jobs has disappeared since July of 2000. Again, one in every six manufacturing jobs in America has disappeared since July of 2000.

Manufacturing jobs have disappeared in all 21 industries that constitute the manufacturing sector. It is in all sectors. We lost jobs in computer and electronics products. We lost jobs in transportation equipment. We lost jobs in machinery. We lost jobs in fabricated metals. We lost jobs across the board.

My home State of Montana has suffered more than most. It has had a 19-percent reduction in manufacturing jobs since January of 2000.

This next chart also shows job losses happening all across the country; not just across all manufacturing sectors but all across America. Every State in the Nation but one has lost manufacturing jobs since July 2000. The darker the shade, the greater the job loss; the lighter the shade—orange and yellow—there is less job loss. But every State in the Nation has lost jobs, except one.

The manufacturing jobs we are losing are good jobs. This next chart shows

manufacturing jobs pay more than service jobs on the average. We all know we are moving from a manufacturing society to a service job society. Regrettably, those new jobs, service jobs, pay quite a bit less than manufacturing jobs, and that has been true from 1994 all the way up through the current date.

This next chart shows manufacturing employment is now at its lowest absolute level since July of 1950. Fewer Americans are employed in manufacturing today than at any time in more than half a century. We can see from the line from 1950 to today there is essentially the same number of jobs. Clearly, we are not doing very well.

Why do I mention all this? First, it is fact. Second, we have to deal with it. We have to do something about it, and that brings us to the bill before us, the JOBS bill. We have targeted the provisions of this bill directly at manufacturing employment. Why? Because that has been the greatest problem.

This bill will not be a complete solution. By no stretch of the imagination will this bill be a complete solution to job loss in America. To help create and keep manufacturing jobs, we also need to do many other things in addition to passing this bill. We need to open foreign markets to American goods much more aggressively than we have done in the last couple of years. We need to improve education, to preserve the comparative advantage of American workers. Clearly, we have to be the smartest—hopefully at least try to be the smartest—in the world. To do that, we have to educate our kids and keep education at all levels, and to retrain workers.

We also need to make health care more affordable. Health care costs in the United States are too high. They place a big burden on employment, on businesses. The cost of health insurance and the cost of health care is way too high and should be lowered. We also need to provide assistance to displaced workers. They need to be retrained.

This bill will do two things that will make an important contribution to creating and keeping manufacturing jobs in America. This bill will contribute to economic growth and increased demand. This bill will help reduce manufacturers' tax burdens. It will reduce the tax rate for domestic manufacturers by 3 percentage points. Basically, it is a 9-percent reduction for domestic manufacturing income, which translates to about a 3-percentage point break for corporations. The JOBS Act will thus help all manufacturers who produce goods in the United States.

Cutting taxes for domestic manufacturers will help prevent layoffs. It will help. It will not solve the entire problem, but it is going to certainly help. It will help preserve jobs, and this bill is paid for. It will not contribute to the deficit. It thus will not raise interest rates. It thus will not levy that hidden tax of higher borrowing costs for business.

This is an important bill. It comes none too soon. American manufacturing is calling out for help. This bill is part of the answer.

To ensure continued prosperity and well-being, the American economy needs to start growing again, and this bill is part of that solution.

This bill is an important first step to address the economic circumstances in which we find our country. Over the days to come, I look forward to working with my colleagues on this bill. I particularly thank the chairman of the committee, Chairman GRASSLEY, who has done a terrific job in putting this bill together in a way that focuses directly on the problem.

We know we are here in large respect because of the WTO ruling which says we must repeal the so-called FSC/ETI regime because it is WTO illegal and replace it with a system that helps our domestic manufacturers in a way that is legal under WTO. There are various ways to fashion a replacement bill, and the other body has a replacement bill which gives the break to American corporations, C corporations, big corporations. We have a different bill. Our bill says if you are a C corporation, if you are an S corporation, sole proprietorship, partnership—whatever—if you manufacture products domestically in the United States of America, whether you export is irrelevant. You get the same reduction in your tax rate. That is to help small business as well as big business. So business together across the board is helped, not just big business.

We all know that is important because most new jobs are created by small businesses. There are many more small business people in this country than there are big business. Small business tends to be more creative in creating new jobs and expanding rather than big corporations.

I will stop here. There is much more to say about this bill.

One final point. I mentioned it is paid for. It is paid for by measures which in themselves should be good public policy and we should pass, anyway. What are they? They are corporate tax loophole closures. They are shelters legislation. They are post-Enron provisions that have not yet been enacted into law. There is something else called silos, to shut down another abusive international transaction.

Not only is this bill paid for, it is paid for in ways that will help restore consumer and investment confidence in American business which, in and of itself, will help create and keep jobs in America.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Madam President, I have a few more comments I would like to make about this bill. I hope, though, we can get an agreement put together, a list of several amendments that would then be in order. I know various Senators and leadership are now discussing that. It would be my hope we could reach that agreement fairly soon so we can get on with this bill.

Let me just discuss for a few minutes what this JOBS bill is really all about. It is a bill which the Finance Committee reported last November. It is something we simply must pass due to the WTO decision. I hope we can get it enacted into law as soon as possible.

I think this bill is important for three reasons. First of all, it will cut taxes for domestic manufacturers. That is important. The bill will also simplify taxes for American companies operating overseas. That, too, is important. And it will bring us into compliance with an unfavorable ruling of the World Trade Organization—no small matter. The JOBS bill, the bill before us, reduces the tax rate for domestic manufacturers by 3 percentage points. So if you are in the top bracket, it is 3 percentage points. If you are a company or corporation in a lower bracket, it is still about the same. Actually, it is a 9-percent deduction for the cost of producing or manufacturing products in the United States, which translates to about a 3-point reduction. Cutting taxes for domestic manufacturers will help prevent layoffs. It will help preserve jobs. As we all know, this country has lost 3 million—think of that, 3 million—manufacturing jobs since July of 2000. That is net loss. We have lost a lot more and gained some, but the net loss is 3 million manufacturing jobs lost since July of 2000.

When I talk to manufacturers in my home State, as I know the Presiding Officer does in her own State, they say the rising cost of doing business is one of the biggest impediments to business. It is a big problem business has. By cutting the cost of doing business, this bill will help alleviate the job loss.

This bill will help companies do their job. This bill helps small businesses as well as larger businesses. The Tax Code treats different kinds of businesses differently, as we all know. C corporations, as you well know, are companies that exist as a separate entity from their owners, thus limiting the owners' liability. The corporations can be liable for various actions, but the stockholders themselves, the owners, are not. That is the reason why companies organize themselves, very often, in that manner.

This chart shows about 26 percent of companies in the United States are organized as C corporations; that is, they limit their owners' liability, the shareholders themselves. The owners are not liable.

Sole proprietorships and partnerships are businesses where the owners of the

business are fully liable for its debts. S corporations are smaller businesses that are incorporated for liability purposes but taxed as a partnership. The S corporations, partnerships, and sole proprietorships are collectively known as passthrough entities. These are generally smaller businesses, while C corporations are larger concerns.

Why do I mention all of that? I mention all that because, as I earlier stated, about a quarter of companies are organized as C corporations, but about three-quarters of American companies are organized differently, either as sole proprietorships, as partnerships, or as S corporations. We want to make sure that not just standard, garden-variety C corporations get the benefit of this bill but that all companies that manufacture domestically get the benefit of this bill, so we have changed the underlying bill.

Currently, today, under the FSC/ETI regime, which has been declared illegal by the WTO, the C corporations are the ones that get the benefit of the tax break. It helps them export products overseas. But in the Finance Committee, we felt, not just big companies but all companies should get the benefit of reduced taxes.

Nearly three-fourths of the manufacturers in this country are S corporations, partnerships, and sole proprietorships. About three-quarters of all new jobs that are created are by these small businesses. This chart shows that. About one-half of all employees in this country are employed not by big C corporations, they are employed by the other passthrough entities I mentioned. About three-quarters of all the jobs created and held in the United States are not by the big companies but by all the other smaller companies.

That is why we have extended this bill to include so-called passthrough entities. Our smaller businesses are the backbone of my State's economy and certainly the backbone of the economy of the Presiding Officer's State. I think they deserve tax relief just as much as larger businesses do.

In addition, by including partnerships and sole proprietorships, more of our agricultural producers will become eligible for this tax relief.

The JOBS bill that is before us also includes long overdue international tax reform. We are not just talking about the domestic manufacturing reduction rate; we are also talking about international tax simplification. That is for bigger American companies that do operate overseas. We want to make sure our American companies are competing on equal ground with rivals from other countries. One way to do that is to limit double taxation. When our companies are taxed twice, that makes them less competitive. We have included international tax simplification and reform provisions that will help American companies compete with foreign companies overseas.

A number of provisions will help companies better utilize their foreign tax credits. Foreign tax credits prevent income from being taxed twice. There is a repatriation provision that encourages companies to bring back overseas profits for investments in the United States. There is also a provision that will ease the tax compliance burden for small businesses looking to gain access to overseas markets. These are worthwhile, and they are measures that will help restore fairness and integrity to our American tax system.

As I mentioned, the bill repeals the current FSC/ETI laws. Why? To bring us into compliance with WTO obligations. Our bill replaces a tax incentive that was dependent on exports with a tax incentive that is not dependent on exports. A company can utilize this tax benefit in this bill whether the product it manufacturers is exported. So long as it is manufactured in the United States, that company qualifies. We will partially offset the loss of tax benefits to U.S. exporting companies, therefore, by the repeal of the current law, which I said is inconsistent with WTO, and will also provide benefits to all American manufacturers, providing a needed boost to our economy.

Another point: This legislation is completely paid for. Repealing the old FSC/ETI regime will cover most of the cost for the new tax incentive. By repealing the current law, that almost pays for what we are doing here.

The international provisions are paid for; that is, the additional provisions of the bill are paid for with offsets that curb abusive tax shelters. We have offsets in this bill. They will not just create revenue, but they are also good provisions, good tax policy in and of themselves—clamping down on shelters, the inversions provisions, post-Enron reforms, something else called SILOs, which is a gimmick, frankly, that international American companies are using to shelter their income. All that is shut down, and that pays for the rest of the bill. Again, these shelter provisions are absolutely critical to be enacted.

Let me mention in a little bit more detail the three reasons for supporting this bill. I mentioned it is fully offset and the revenue goes to manufacturing. I think that is a principle we should maintain. We should not put incentives in this bill or change this bill in a way that deviates from that. We should also not change this bill in any way that reduces or diminishes stopping the abuses of tax shelters. That is a principle we should absolutely maintain.

I might say something about our budget deficit. Our current budget deficit is projected at about $521 billion this year. We all know that is basically an understatement. It is going to be much worse. Why? Because the administration's budget, as well as the budget resolution pending in the Senate Budget Committee, does not include several factors which more accurately reflect the true deficit our country is facing. What are those? First, both the budgets of the administration and the Budget Committee, which will be coming before the floor on Monday, will not include the cost of the war in Iraq. It will not include war costs. In fact, defense spending is going to be cut a little bit. One might wonder why, when costs are going up. My guess is the administration will come back with a supplemental next year with a big increase in Iraq costs and war costs. This budget does not include that and it should. That would be more honest.

Second, the budget does not include the cost of making expiring tax cuts permanent. That is the view of the administration, that they should be permanent. The budget does not include that.

It doesn't include providing alternative minimum tax relief. We all know this Congress is going to have to enact alternative minimum tax relief soon, and it is very expensive. That also is not included, to say nothing of the cost of paying for the baby boomers when they start to retire in the not too distant future.

Deficits are going to be a lot larger than contemplated in either the administration budget or the budget resolution that will come to the floor.

I say that because it is all the more reason why this bill must be budget neutral. I say that also because there are other Members of Congress who have a different view about that. They would not like this to be budget neutral. They would like there to be further tax cuts but not paid for. I think that is not wise. Frankly, psychologically, as well as actually, the American people will appreciate us having a budget-neutral bill and trying to work toward a balanced budget. That means people around the country are saying those guys and gals in Washington maybe have their heads screwed on straight. Maybe they are doing something right back there. Maybe they are not frittering away taxpayer money.

The more we do what is right, by keeping this budget neutral, not succumbing to the siren song of lowering taxes but not paying for them, the better off we will be in so many respects.

Another point: We have a heck of a job ahead of us, a huge challenge. What is it? It is how to create more jobs in America, how to keep jobs in America, and how to help those who have lost jobs—no easy task. It is extremely difficult. We all know the statistics. Three million manufacturing jobs lost in the last several years. We have to do something about that. The real question is, what do we do? What is the right thing to do? Some say it is OK. That is the way things are. That is international competition. That is globalization. It just happens. In the long run we are all better off. Some say that.

Essentially that was a statement of Mr. Mankiw the other day that has been bandied about so much. He said that is the way it is. There will be new

technologies. Companies will be able to compete better. They have to lower their costs, and they can lower their costs if they can compete any place in the world. If that means jobs overseas, lowering costs, that makes American companies more competitive.

I have a different view. I think we have to face up to the challenge of creating more jobs and retraining Americans so they can have jobs, and keeping those jobs in America. That is, we cannot be passive. We have two choices: try or do nothing.

I say we try to create more jobs in America; we try to keep more jobs in America; we try to retrain people and help people who have lost jobs. We have to do something about it.

The administration thus far has been passive. It has gone AWOL. It does not seem to really care. I do not see any affirmative programs to create jobs in America. We need them. It is a hugely complex problem in both the short term and long term. In the long term, it is education—science, math, engineering. Did you know we don't graduate nearly as many engineers as does Japan, Europe? And China graduates about three times the number of engineers we do. Did you know that? How long can we continue that? In the long term, we cannot. It is unsustainable.

I must also say the amount of financial aid or the amount of support in basic research has dropped tremendously in America. The number of engineers who graduate in America is now about 30 percent less than it was not too many years ago. The figure is worse than that. We are not going to be able to compete in the long run if we continue that. It can't be done. There are lots of other long-term measures we have to undertake.

There are also in the midterm things we could be doing and we are not. What are they? No. 1, we are not opening foreign markets. Look at India, look at other countries in the world that are closed to America, particularly the country of India. We hear about all the call centers going to India. We don't hear about goods being exported to India for a very good reason: India is by and large closed. They are closed to intellectual property rights, closed to so many markets, so many products. India is closed. What are we doing about that? Not much.

The same can be said for other countries—China. Remember the WTO? They are a member of the WTO. We gave them PNTR. China has a lot more to do.

What are we doing in trade? Basically looking to countries—with no disrespect—such as Bahrain and Morocco. These smaller countries don't have huge commercial benefit to the United States. It is easier to reach trade agreements with those countries. It is much more difficult to go after where the real problem is. As I mentioned, this country is not doing that, and it should do that. It should start working more aggressively to open markets so we can sell products overseas. When we start selling products overseas, that means more jobs in America. It is pretty doggone simple, but it is not being done.

I might also add that there are other things we could be doing that we are not doing. I mentioned education. We are cutting education in this country. We are not fully financing No Child Left Behind. How are we going to compete in the world if we don't give full due to education? We have all gone overseas and visited high schools in countries worldwide. I have. The graduates in Pusan, Korea, are bright as the dickens, and they are hungry.

We have great schools and great teachers. But there is so much more we can do. In my State—and this may be true in other States—teachers are leaving because their salaries are so low. They cannot teach. A lot of schools in the country are cutting back on gifted children programs. They don't have any money. Why are we cutting back on gifted kids? That certainly helps all kids, including the underprivileged.

Madam President, I will yield the floor because I see our Democratic leader in the Chamber. He has a lot to tell us. Certainly, it will add immensely to this discussion. I urge us to think critically about the real problem. We cannot close our borders and put our heads in the sand. We have to meet this challenge head on. This is part of that effort.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Madam President, I compliment the Senator from Montana for his words. I have not heard all of his remarks this morning, but I could not agree more that this is a problem that has to be addressed head on. As he noted, this legislation gives us an opportunity to do so. It may not be the ultimate solution, but it is a critical building block in our effort to restore the economy and create new jobs.

I hope that very shortly we can get on with the debate. We had an agreement not to offer amendments, of course, until people have had a chance to make opening statements. I intend to make a short one. I hope in the not too distant future we can begin the real debate. We don't have a lot of time. We have 3 days. Senator FRIST is right that we have a lot to do in a short period of time. If we are going to maximize the use of these 3 days, it is time to get on with amendments. I know Senator HATCH is prepared to offer the first one. We hope that certainly before the end of this noon hour, we will have offered the first amendment.

Mr. President, these are very difficult times for millions of American families.

Nine million Americans can't find jobs. We have the highest long-term unemployment rate in 20 years. And in the last 3½ years, our economy has lost 2.9 million jobs; 2.8 million of those jobs were manufacturing jobs.

These aren't abstract numbers. They have real world, dramatic impacts in South Dakota and across our country. And the millions of affected families are looking to us for answers. They don't want hand-outs; they want jobs.

Unfortunately, American has lost manufacturing jobs every month since this administration took office—every single month. This is unprecedented. It's also dangerous for our economy.

Manufacturing is more productive, it pays higher wages, and provides more benefits than other sectors of the economy. Manufacturing jobs are the kind of jobs you can raise a family on. They're the kind of jobs that make it possible for middle-class families to put their kids through college, and put something away for retirement.

We have clear choices in facing this problem. We can let jobs move overseas—or we can fight to keep them here. We can try to create jobs here, or we can do nothing in the face of globalization.

We can provide help for workers who are losing their jobs, or we can look the other way. And we can strengthen worker protections, or we can strip away overtime and other benefits that have been a hallmark of the American workplace.

A couple of weeks ago, President Bush and his economic advisors weighted in on this issue and told Americans it was a good idea to ship jobs overseas and we ought not worry about it. I don't see it that way, and I know people in South Dakota don't see it that way. And we need to do something about it.

Today's legislation is the second step in this process. The first step was the creation and the passage of a very important highway bill, which will create hundreds of thousands, if not millions, of new jobs over the course of the next 6 years. This is the second step.

The foreign sales corporation regime was created to counterbalance provisions in the Tax Code that create incentives to move operations overseas. It provided tax advantages for American companies that keep their jobs in America and ship their products overseas.

But the World Trade Organization has decided that these advantages were an unfair subsidy and needed to be eliminated. And if they weren't eliminated, international sanctions would follow. Those sanctions kicked in beginning March 1.

The question before us is what to replace the old export tax regime with?

The Bush administration is completely focused on overseas activities and has proposed nothing to encourage manufacturing job creation at home.

But thanks to Chairman GRASSLEY and Senator BAUCUS, we have another solution before us.

The centerpiece of their legislation is creating tax incentives for manufacturers that will keep and create good jobs in America. Their proposal is one of the most important opportunities we

will have this year to begin addressing America's manufacturing crisis.

Just as importantly, this bill gives us an overdue opportunity to do more.

We need to accelerate and increase domestic manufacturing tax incentives, and establish a strong job creation tax credit.

We need to prohibit tax deductions for outsourcing expenses, and require notice to employees about outsourcing plans. Every community has a right to know how many employees are losing their jobs, why then are losing their jobs, and where those jobs are being sent.

We need to restrict outsourcing of government contracts.

We need to help workers who are hurt by outsourcing, and make sure they have access to training and health care while they get back on their feet.

And we need to reverse some of the Bush administration's worst policies—like eliminating overtime for 8 million workers, including veterans who have been given training in the military and are now ineligible for overtime pay as a result of this regulation. We need to do that. American workers have the same rights they have always had. That fact needs to be reemphasized with the legislation we will offer on this bill.

We can't wait until next year to make these improvements. Millions of American families need them today. And I have seen firsthand, in South Dakota, why this is so important.

I recently toured a manufacturing plant in Sioux Falls. Graco Incorporated is the world's leading manufacturer of fluid-handling systems and equipment. They've been in business for 78 years. They employ about 165 people.

The plant manager showed me two, nearly identical parts. The first was made in Sioux Falls. The other—made overseas—wasn't quite as high-quality, but it cost a little less because the people who made it were paid less, with no benefits.

The manager showed me those two parts. Then he introduced me to the workers who would lose their jobs if Graco took the easy, offshoring route. He said, ''I don't want to be the one to have to tell them they don't have jobs anymore.''

The people at Graco are resisting the temptation to export their workers' jobs. They're doing everything they can think of to be good, responsible corporate citizens of my State. The last thing the Federal Government should do is make that job any harder.

Our responsibility is to make it easier for Graco and thousands of other companies to keep and create jobs here at home.

As I said, this bill is one step in a long process. By itself, it will not completely reverse the unpredecented decline in American manufacturing that has occurred since 2001. That will require a comprehensive plan and sustained bipartisan cooperation over a period of time.

In the short term, we have to work together to restore fiscal sanity to the budget.

The Federal deficit this year will be half-a-trillion dollars—with no end in sight to the red ink. This debt could cripple our economy and destroy our children's future.

In the longer term, our Government should assist people with education and training so they can seize the opportunities that rapid change creates. We need to help people who are displaced by change, and we need to make sure America remains on the cutting edge of innovation.

The administration is not facing either of these challenges. We have the largest budget deficits in all of American history, and the administration is drastically underfunding training and education.

The President's budget recommends $9.3 billion less for the President's own educational reform plan than the new law calls for.

By choosing tax cuts for those at the top over assistance for States, the President has forced drastic increases in tuition at public colleges and universities.

The administration has fought Democratic efforts to help dislocated workers upgrade their skills at community colleges.

At a time when other countries are feverishly trying to challenge America's preeminence in critical technology, the administration, through neglect and politicization has weakened America's science and technology infrastructure and undercut America's scientific edge.

The decline in American manufacturing isn't just happening on President Bush's watch. It is happening in part because of President Bush's policies.

Our choices are clear. We can follow the administration's path and make it easier and cheaper for companies to ship American jobs overseas, or we can fight to keep good jobs in America. We can turn our back on millions of workers and families who cannot find jobs, or we can help them get back on their feet and get back to work.

It is our hope that, in a bipartisan way, we can find ways to ensure that these goals can be achieved, not only with this legislation but certainly beginning with the amendments we will offer throughout the debate on this bill and hopefully with final passage accorded this legislation someday soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, before the distinguished Democratic leader leaves the floor, I would like, through you, to pose this to him: We have been here now for approximately 2 hours on this very important legislation. The Democratic leader has talked about how important it is, the distinguished chairman of the committee has talked about how important it is, our ranking member has talked about how important it is, and we are doing nothing. We have a gentleman's agreement that this would be for debate only, but I think the Democratic leader would agree with me, and I think everybody should be put on notice that this cannot go on all day long, that this is ridiculous; would the Senator agree to that?

Mr. DASCHLE. Madam President, I respond to the Senator from Nevada, the distinguished assistant Democratic leader, that the schedule is clear. We have this afternoon, we have tomorrow, and, let's face it, honestly, we only have Friday morning, and we will be under great pressure, I am sure, not to have any amendments offered beyond midmorning on Friday.

So for all intents and purposes, we have a little bit more than a day to debate this critical legislation prior to the time the majority leader has already indicated we are going to be moving to the budget, setting aside this legislation.

We are going to be assessed $4 billion in tariffs beginning this week if we do not correct the current situation. So this legislation is urgent. It needs to be addressed.

I think we have some very critical amendments that ought to be offered in this very narrow window to accommodate concerns on both sides of the aisle. I hope we can do so. Frankly, as the Senator suggests with his question, we need to do it soon.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, it is true also, is it not, that we have made—and I would like to hear the Democratic leader respond to this—a fair response? The majority has an amendment they want to offer, sponsored by Senator HATCH, dealing with extension of some tax credits. We then said we would like to offer an amendment to stop what—it is not a crime but it is close to it in our country today with all the outsourcing of all these contracts, and we want to make sure the U.S. Government contracts are not outsourced unless there are certain limitations placed upon them.

Then they would come back with another amendment sponsored by Senator BUNNING. Then we would come back with another amendment sponsored by Senator HARKIN dealing with overtime, and this is no secret; this is an issue about which we have great concern as to what the administration is doing with American workers with overtime.

Is there anything in this agreement the Democratic leader sees that should prevent us from moving forward on this critical legislation? We have even agreed to time limits; is that not true?

Mr. DASCHLE. The Senator from Nevada is correct. We have agreed with our Republican colleagues to limit the amount of time devoted to each of these amendments.

I see the distinguished chair of the Finance Committee, and it looks as if

he may be about to propound a unanimous consent request. Perhaps we can yield the floor to accommodate his interests in doing so. I think we all hope to achieve the same goal. Let's move this bill forward. Let's have a good debate about amendments, up or down, and let's see if we can complete our work on this legislation in a timely way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I ask the following unanimous consent request. We have perfecting amendments that have been cleared on both sides. Therefore, I ask unanimous consent that the first-degree and second-degree perfecting amendments that are at the desk be considered and agreed to en bloc and that the motions to reconsider be laid upon the table; provided further that the committee substitute be agreed to and considered as original text for the purpose of further amendment. I further ask unanimous consent that the next first-degree amendments in order be the following: a Senator Hatch and Senator Murray amendment on R&D, with a Bingaman second-degree amendment which is relevant to the first degree; then Senator DODD dealing with outsourcing; then Senator BUNNING and Senator STABENOW dealing with accelerating manufacturers' tax cut; and then the fourth amendment will be Senator DASCHLE or his designee.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Madam President, reserving the right object, I wish to express my appreciation to the chairman of the committee. He, in the statement he has made so far, along with the ranking member, underscored the importance of moving this legislation, and this is movement in that direction.

As we indicated in the dialog between Senator DASCHLE and this Senator, we will agree on time limits anytime the Senator wants to work something out in that regard. We will be happy to do that. This is a very good first step, and we do not object.

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

The amendment (No. 2646) was agreed to.

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

The amendment (No. 2645), as amended, was agreed to.

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

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. REID. Madam President, we now have an amendment that will be offered as soon as Senator HATCH arrives. Senator BYRD saw we were not doing a lot on the floor, and he asks, through me, that he be able to speak for up to 20 minutes at this time.

Mr. GRASSLEY. Madam President, I feel as if I owe that to the Senator from West Virginia because I already made arrangements for him to speak before we completed this agreement.

Mr. REID. Madam President, I propound that in the form of a unanimous consent request, with the understanding that the first amendment be offered as soon as he finishes. That will be good.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Democratic whip and I thank the distinguished chairman of the committee for his courtesy.

INDEPENDENT COMMISSIONS ON NATIONAL SECURITY ISSUES

Most of us are familiar with the Aesop's fables, having read some of them at one or more times during our lives. Aesop once told the story of a jaybird that ventured into a yard where peacocks used to walk. There the jay found a number of feathers fallen from the majestic birds when they had last molted. He tied them all to his tail and strutted toward the peacocks. His cheat was quickly discovered, and the peacocks harassed the imposter until all his borrowed plumes had fallen away. When the jay could do no more than return to his own kind, having watched him from afar, they were equally affronted by the jay's actions.

The moral of the story, said Aesop, is that it takes more than just fine feathers to make fine birds.

It is an age-old lesson that the Congress should hold in its mind as we consider how best to investigate the distorted and misleading intelligence that the administration used to build its case for war in Iraq.

On February 6, the President announced the creation of his own commission to investigate our intelligence agencies to find out, in the words of Dr. David Kay, why we were almost all wrong about the administration's prewar claims of huge Iraqi stockpiles of weapons of mass destruction. If Congress is serious about getting to the bottom of this apparent intelligence failure and the administration's rush to war, we must realize that once stripped of its dazzling plumage, the White House proposal for its own so-called independent commission is a real, honest to goodness turkey. It is not only fine feathers that make fine birds.

The President has described the panel that he created as being an independent commission. Well, nothing could be further from the truth. This commission is 100 percent under the thumb of the White House. Who created the panel's charter? The President. Who chooses the panel members? The President. To whom does the panel report? The President. Whom shall the panel advise and assist? The President. Who is in charge of determining what classified reports the panel may see? The President. Who gets to decide whether the Congress may see the panel's report? The President.

To describe this commission as independent is to turn that word's definition on its head. In fact, the deeper one delves into the text of the Executive order that creates the President's so-called independent commission, the more one finds that the commission is ill-equipped to discover just what went wrong with the prewar intelligence on Iraq.

At first glance, the charter of the President's commission appears very broad. It is to assess whether the intelligence community of the United States is sufficiently authorized, organized, equipped, trained, and resourced to tackle the threats of terrorism and weapons of mass destruction. As part of that goal, the commission is to compare prewar intelligence on Iraq with what has so far been discovered.

That mission sounds like a mouthful, but it really misses the point of why the American people are calling for a commission to investigate in this matter.

The public has a right to know why our intelligence on Iraq was so wrong, how the administration may have misrepresented its intelligence, who is going to be held accountable for misleading our country into war, and what will be done to fix the problems with our intelligence. Those are exactly the questions an independent intelligence panel should be investigating, and yet the President's commission only skirts those key issues.

What is more, even though the President promised that his commission will investigate current intelligence on North Korea, Iran, and Pakistan, his Executive order, in fact, does not bother to direct the commission to review intelligence on those countries. Instead, the President's Executive order directs the commission to focus its energies on Libya and Afghanistan. Libya and Afghanistan are not countries that the President has labeled as part of his axis of evil. A real independent intelligence commission would shine new light on how we assess the threats of North Korea and Iran, not be distracted by sideshows that will keep the commission busy until March 31, 2005.

The President has carefully drafted this Executive order to allow himself to serve as the gatekeeper on what information the so-called independent commission might have access to. While the President directs Federal agencies to cooperate with this commission, he also has created a giant loophole that would prevent the most important intelligence products from being read by his commission.

The Executive order reads as follows: The President may at any time modify the security rules or procedures of the commission to provide the necessary protection to classified information.

I was born at night but not last night. All of America knows that the White House is in a dispute with the September 11 Commission over intelligence reports that were read by the President. The commission wants

them. The White House will not give them. The Executive order drafted by the President to create an intelligence commission makes sure that his own commission will never see documents that the President does not want them to see.

At least the 9/11 Commission has the power to issue subpoenas for critical information. The President's intelligence commission does not even have that power. The deck is being stacked against a full and open inquiry on the prewar intelligence on Iraq. Congress is not even assured of having access to the commission's report.

The President has required that the commission send its report to him in March 2005 and then within 90 days the President will consult with the Congress concerning the commission's report and recommendations.

Why can the Congress not simply read the commission's report? Why should the White House be given the opportunity to reword, reshape, redact, or even flat out censor the so-called independent commission's report before Congress can get their hands on it?

It is quite possible that if this so-called independent commission is allowed to proceed as the President has directed, Congress will never have the chance to review the commission's work.

Tucked away in the President's Executive order is a provision that intends to exempt this commission from judicial review. Let us not forget that the Office of the Vice President fought tooth and nail in Federal courts, and is still doing so, to keep the General Accounting Office, an arm of the Congress, from learning about the meetings of the Vice President's energy task force.

Could this provision be an attempt to hide the work of the President's intelligence commission from Congress? I would not put such a scheme beyond the White House, which has already demonstrated its zeal for secrecy.

The administration's case for war in Iraq appears to have been built upon cherry-picked intelligence, produced and massaged to hype the American people into going along with a war of choice. The President's so-called independent commission would allow the White House to do the exact same number on the commission's report as it did on prewar intelligence and analysis; namely, pick out only the parts that it wants the public to see and bury the rest.

It is bitter irony that a report on whether the administration covered up evidence that contradicted a rush to war might itself be covered up under the terms of the President's Executive order.

So what is next? An independent commission to investigate the President's own commission? Is that so? I wonder. Let us not make the mistake of ignoring the shortcomings of the White House's version of an intelligence commission on Iraq, only to be haunted by those problems later.

The revelation by Dr. Kay that he does not believe any stockpiles of weapons of mass destruction existed in Iraq has dealt a blow to the President's case for war. It has shaken the American people's faith in their Government. We owe it to the American people to get to the bottom of what went wrong with our intelligence agencies and whether the administration misused the intelligence that it was provided.

The President has simultaneously promised a commission to investigate these matters and stacked the deck against the independence of his very own panel. That is not the right way to gain the confidence of the American people in their Government. It is yet another in a string of attempts by this White House to mislead the American people on issues of national security.

Congress must step in and correct the grievous error that the President has made in creating a commission that is not equipped properly to do its job. Congress should use the independent 9/11 Commission, a commission that has shown itself to be fair, independent, and bipartisan, as a starting point for how to create an independent panel to investigate the Iraq intelligence failures. If the administration is serious about getting to the bottom of this debacle, this new commission might even be created in just a matter of days.

The American people deserve answers on why the administration relied on faulty intelligence to take this country to war without presence of an imminent threat. A commission that is designed to keep the inquiry under the thumb of the same White House that misled Congress and the public about the nature of the threat from Saddam Hussein will never be able to operate independently. So Congress should not allow the President to get away with posting a fox at the door to the hen house.

The structure of the 9/11 Commission is a solid foundation upon which to conduct an inquiry into the administration's prewar intelligence claims. The 9/11 Commission has been doing yeoman's work in digging into all of the events that led up to those catastrophic attacks on New York and Washington. In fact, the only real problem that the 9/11 Commission has faced is the lack of cooperation from the White House.

After refusing to meet with the full membership of the 9/11 Commission, the President and Vice President have reluctantly proposed to meet only with the chairman and vice chairman of the panel. And for how long? Just 1 hour.

The National Security Adviser has flatly refused to participate in any public discussions with the Commission. The White House position on dealing with the 9/11 Commission is so unreasonable that the administration is drawing criticism from both sides of that panel. There is even talk that former Senator Bob Kerrey, who once served as Chairman of the Senate Intelligence Committee, could resign because of the administration's refusal to let the Commission do its work. What could possibly be the reason for this stonewalling by the White House?

It is as if a whole swath of the Washington establishment has completely forgotten the horror of the terrorist attacks that killed 3,000 innocent people. But the American people have not forgotten. The American people have their priorities straight. They place getting at the truth of how that tragedy was carried out above election year politics.

Enough with the stonewalling. Enough with the foot dragging. Enough with the election year politics. The Senate acted correctly a few days ago to extend the life of the 9/11 Commission so that it can get its work done, and the House should promptly follow suit. Now Congress should act quickly to create an independent Iraq intelligence commission. The confidence of the American people in their Government, the people's government, hangs in the balance.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2647

Mr. HATCH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. CANTWELL, Mr. SMITH, Mr. BUNNING, and Mr. GRASSLEY, proposes an amendment numbered 2647.

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

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

The amendment is as follows:

(Purpose: To extend and modify the research credit)

At the end of subtitle A of title III add the following:

SEC. ___. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) (relating to termination) is amended by striking ''June 30, 2004'' and inserting ''December 31, 2005''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''June 30, 2004'' and inserting ''December 31, 2005''.

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(1) by striking ''2.65 percent'' and inserting ''3 percent'',

(2) by striking ''3.2 percent'' and inserting ''4 percent'', and

(3) by striking ''3.75 percent'' and inserting ''5 percent''.

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by paragraph (1)) for such year.

(f) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to amounts paid or incurred after the date of the enactment of this Act.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2004.

Mr. HATCH. Mr. President, the amendment I am offering today is an important and appropriate one for any bill that has the word ''jobs'' in its title. It is a bill to extend and expand a tax provision that is central to creating and retaining U.S. jobs—the research credit. I am joined in this effort by Senators MURRAY, BAUCUS, CANTWELL, SMITH, BUNNING, and GRASSLEY.

This bipartisan amendment will help to ensure that businesses continue to increase research activities—and to create new jobs—in the United States. As many of our colleagues are aware, the current research credit expires in just a few weeks, on June 30, 2004.

I believe that if we fail to act to extend this credit, we surely will see the negative effects manifest in lower economic growth, fewer jobs, fewer innovative products, and opportunities lost as research is taken from this country to other nations that offer more attractive incentives.

Our colleagues many times have expressed their resounding support for the research credit and I hope they will again. This amendment not only would extend the credit for 18 months, until December 31, 2005, but also would allow businesses to choose a new way to calculate the credit so that more research-intensive companies can lower their costs of U.S.-based research activities.

The American taxpayer relies on us to make the right policy choices for the long-term health of our economy. We have faced and are still facing major challenges both to our national security and to our economic security. Time and again we have looked to the industries on the cutting edge of new and improved technologies to help us meet those challenges.

My home State of Utah is a good example of how State economies benefit from the research tax credit. Utah is home to a large number of firms that invest a high percentage of their revenue on research and development.

In Utah, 5 percent of the workers—51,000 people—work in the research-intensive high technology sector. That includes over 10,000 people working just to design computer systems, and over 6,000 producing medical equipment. And there is a lot of R&D taking place outside of Utah's high-tech sector.

Just to give one example, more than 7,000 people work in Utah's chemical industry, and workers in that industry benefit from research and development taking place in Utah and throughout the country. Aerospace and the pharmaceutical industries are two more examples of big Utah employer groups that reap the benefits of R&D.

I want Utah companies to be able to buy better manufacturing equipment, more reliable electronics, and have access to more efficient quality control techniques. The workers who use new inventions will get just as many benefits as workers who create those new inventions. And the evidence clearly shows, that the research credit will increase innovation.

In short, there are tens of thousands of employees working in Utah's thousands of technology based companies, with tens of thousands more working in other sectors that engage in R&D. Beyond that, practically all of Utah's hundreds of thousands of workers benefit from higher productivity coming from the innovations that researchers both inside and outside of Utah produce. Research and development is clearly the lifeblood of our economy throughout the Nation.

Since 1981, when the research credit was first enacted, the Federal Government has joined in partnership with businesses, large and small, in those industries to ensure that the research dollars were expended in the United States so that the jobs were created here. We as a nation have reaped the benefits of that research.

It seems clear to me that if we want to keep our Nation and our economy strong and growing, it is vital that we maintain and even enhance our position as the world leader in technological advances. Our Nation simply must continue to invest in research and development, especially in the private sector. And, the Federal Government must affirm its role as a partner in those private-sector endeavors.

I believe the best way to ensure that private-sector investment in R&D continues at the health rate needed to fuel further productivity gains is to extend the current-law research credit and make that credit more widely available. Ideally, the credit should be made permanent.

I have long advocated a permanent credit and this body is overwhelmingly on record for a permanent research credit. During the Senate's debate on the 2001 tax cut bill, I offered an amendment to provide for such a permanent credit that the Senate adopted. Unfortunately, that provision was dropped in conference and we lost a great opportunity.

Given our budget deficit situation, I do not believe it is possible politically to make the research credit permanent on this bill. Ironically, though, a permanent credit costs no more than one that is regularly extended. Because of the urgency and importance of this matter, however, this amendment seeks only a temporary extension.

Let me point out a few key points for our colleagues so they can understand the importance of the research credit. These are according to the staff of the Joint Committee on Taxation.

The primary category of expenditures that qualify for the research credit are wages paid to employees performing research in the Unites States. In 2001, more than 15,000 taxpayers claimed the research tax credit—42 percent of these businesses were engaged in manufacturing.

However, of the total $6.5 billion in research credits claimed in 2001, 66 percent of those dollars were claimed by manufacturers. When you look at the size of the companies claiming the credit in 2001, you see that 68 percent of the firms claiming it had assets of $10 million or less.

The research credit translates into real jobs in the United States and, as the statistics show, it is our small- and medium-size domestic manufacturers that most benefit from the research credit.

A great deal of the reason our economy grew so rapidly in the second half of the last decade was because of a strong surge in our productivity rate. This surge is continuing into the present and has been a marvel to most economists.

This increase in productivity has allowed the economy to continue to grow at a rapid pace without the increase in inflation that usually accompanies such growth. Moreover, increases in productivity growth are the key to future economic security, particularly in light of the huge entitlement challenges we face in the coming years. A very large factor in that productivity growth is innovation, which of course, requires R&D.

As I mentioned, this amendment would extend the current credit until December 31, 2005, giving businesses that utilize this important incentive some certainty in the short-term so that they can hire the needed personnel to take research activities off the drawing board now.

Over the years, the research credit has proven to be a powerful incentive for companies to increase their research and development activities. Unfortunately, it does not work perfectly. Part of the reason is that this is an incremental credit, designed to reward extra research efforts, not just what a company might do anyway. From a good tax policy point of view, I believe this is the best way to provide an incentive tax credit.

However, it is difficult to craft an incremental credit that works as it should in every case. While the regular credit works very well for many companies, it does not help some other firms that still incur significant research expenditures. This is because the credit's base period of 1984 through 1988 is growing more distant and some firms' business models have changed.

There is no good policy reason why research should be more expensive for some industries than it is for others. To partially solve this problem Congress enacted the alternative incremental research credit, AIRC, in 1996, and now we propose a way to address the rest of that problem.

In addition to increasing the AIRC rates, this amendment allows taxpayers to elect, in lieu of the regular credit or the AIRC, an alternative simplified credit that is based on a rolling average of the prior 3 years' qualified research expenses. This provides companies that are increasing their R&D with another way to take advantage of the credit when the 20-year-old base period proves to be irrelevant.

This is an important amendment. It is important to our economy, both now and in the future. It is important to good, high paying jobs in the United States.

We need to continue to be the world's leader in innovation. We cannot afford to allow other countries to lure away the research that has always been done in the United States. We cannot afford to have the lapses in the research pipeline that would result if we do not take care of extending this credit before it expires on June 30. I urge all of my colleagues to support this amendment. It is the right thing to do. We have done it before. We certainly should do it now. I wish it were permanent. But under the circumstances, this is the best we can do. I have every confidence my fellow Members of the Senate will vote for this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I rise today to join with Senator HATCH to strengthen and extend the research and development tax credit. We are all concerned about our slow economy. Every day we learn of more American jobs that are being shipped overseas. We worry about American companies losing out in the global marketplace and the impact that has on our workers and on our economy.

Today, we are offering a way to fight back and help our workers and companies continue to lead the world in innovation. Today, I am proud to offer an amendment that will support high-wage jobs for American workers at home and make our products more competitive around the world.

Anyone who wants to support good-paying American jobs, and anyone who wants to help American companies compete and win in the global marketplace should vote for the Hatch-Murray amendment. We all know research and development is a critical part of any business's success, but investing in R&D is not cheap. Our foreign trade competitors offer substantial tax and financial incentives to encourage American companies to make their research investments elsewhere. But we need those jobs in the United States and this amendment gives us a chance to support American workers in the face of foreign competition.

That is why the R&D tax credit is so important. It provides a real incentive for companies to increase their investment in U.S.-based research and development. The credit helps stimulate innovation, wages, and exports which all contribute to a stronger economy and a higher standard of living for American workers.

This is about investing in America. Because this tax credit is only available for R&D performed in the United States, it provides a discount on qualifying expenditures, and it is a proven incentive for U.S. companies to increase their R&D investment in the United States.

Unfortunately, the existing research and development tax credit will expire this June. Unless we take action, in just a few months we will be throwing away one of the best incentives for spurring investments at home. I have always supported making the R&D tax credit permanent, but because of budget constraints, we are not in a position to do that today. But we can do the next best thing and extend and strengthen this incentive.

The Hatch-Murray amendment does three things: First, it extends the traditional credit for 18 months through December 31, 2005; second, it increases the alternative incremental credit rate starting in January of 2005; and finally, again starting in January of 2005, it provides an alternative simplified credit to encourage even more research-intensive businesses to spend more on research in the United States.

The R&D tax credit is a great example of how we make the Tax Code work for American workers and American families right here at home.

I have a letter from the R&D Tax Credit Coalition, and I ask unanimous consent to have it printed in the RECORD after my remarks.

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

(See exhibit No. 1)

Mrs. MURRAY. Mr. President, this letter is actually signed by over 500 companies and associations and urges Congress to permanently extend the R&D tax credit and make the modifications contained in S. 664.

I share with my colleagues a portion of the letter:

> The technological innovations made possible by the R&D Credit enable companies to bring more products and services to market, increase employment, and raise the standard of living for all Americans.
>
> R&D helps manufacturers and services companies with U.S. operations maintain a competitive edge over lower-cost foreign competitors.
>
> It allows a small, medium or large company to reduce its financial risk in expensive, labor-intensive R&D investments.
>
> Since the credit was created in 1981, investments in technology and innovation have spurred economic growth and contributed greatly to our country's high standard of living. Continued R&D spending is a necessary element in our country's ability to invest for our future.

This is not some abstract economic principle. It is a real incentive that creates jobs and helps workers in America. I have seen it firsthand at companies throughout Washington State. This year, Microsoft plans to invest $6.8 billion on R&D. Because this tax credit is targeted almost exclusively at wages, the credit will translate into additional jobs in Washington State and in the United States. That will mean jobs not just at Microsoft but at many other local companies.

In fact, according to a February 25, 2003, article in the Seattle Times, one study found that every job at Microsoft supports 3.4 other jobs in the economy. It also found that from 1990 to 2001 Microsoft was responsible for more than a fourth, 28.3 percent, of King County's growth. That is an example of how one company's investment in R&D is supporting good family wage jobs throughout the region.

That is just one company. There are many other companies engaged in R&D in Washington State and in the United States. Their investment in R&D will help our workers and help our economy.

I want to share some other figures that show the importance of R&D investment, especially in Washington State.

In the year 2000, companies performed almost $200 billion in R&D; $9.8

billion of that research was performed in Washington State.

Let me shed some light on types of employers that are doing that work. Thirty-three percent of the research done in Washington State was performed by manufacturers. We have seen a terrible loss of manufacturing jobs over the years, and this credit is one way to help them stem the tide. Mr. President, 11.4 percent of the research done in Washington State was done in the professional, scientific, and technical service industries.

This is about moving our economy forward. Technological innovations have accounted for more than one-third of our Nation's economic growth during the last decade. We know innovation is critical to sustained growth in the future.

Extending and improving the R&D tax credit is one of the most important steps we can take right now to foster investment at home and job creation throughout the country.

I urge my colleagues to give American workers a fair shot in the global marketplace by voting for the Hatch-Murray amendment.

Mr. President, I yield the floor.

EXHIBIT 1

R&D CREDIT COALITION,
Washington, DC, February 9, 2004.

Hon. BILL THOMAS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.
Hon. CHARLES GRASSLEY,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.
Hon. CHARLES RANGEL,
Ranking Member, Committee on Ways and Means, House of Representatives, Washington, DC.
Hon. MAX BAUCUS,
Ranking Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR CHAIRMEN THOMAS AND GRASSLEY, AND RANKING MEMBERS RANGEL AND BAUCUS: We urge you to make the enactment of a permanent research tax credit (R&D Credit) with the modifications contained in companion bills H.R. 463/S. 664 an early legislative priority in 2004.

As you know, the technological innovations made possible by the R&D Credit enable companies to bring more products and services to market, increase employment, and raise the standard of living for all Americans. R&D helps manufacturers and services companies with U.S. operations maintain a competitive edge over lower-cost foreign competitors. It allows a small, medium or large company to reduce its financial risk in expensive, labor-intensive R&D investments.

Since the credit was created in 1981, investments in technology and innovation have spurred economic growth and contributed greatly to our country's high standard of living. Continued R&D spending is a necessary element in our country's ability to invest for our future.

The growth of our economy is inextricably tied to the ability to companies to make a sustained commitment to long-term research. Congress has consistently demonstrated support for the R&D credit. This year, in order to provide stability and to ensure that all companies performing intensive research in the United States are able to benefit from the credit, Congress should make the credit permanent, increase the Alternative Incremental Credit (AIRC) rates, and provide an alternative simplified credit calculation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, just a parliamentary inquiry: I understand we are on the FSC bill, and we are on an amendment that has been laid down; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I thank the Chair.

America is stuck in a jobless recovery and this jobless recovery is not an accident. It is in large measure the result of failed economic policies, policies that the administration stubbornly clings to despite the loss of nearly 3 million private sector jobs over the last 3 years.

This administration has embraced outsourcing. It is against extending unemployment insurance for the long-term unemployed. It is adamant against raising the minimum wage. And it is determined—any day now—to eliminate time-and-a-half overtime pay for millions of American workers.

It is time for Congress to step in and chart a new course. It is time for Washington to listen to ordinary working Americans. They are telling us loudly and clearly that their No. 1 issue is economic security. They are telling us that they fear losing their jobs, health care, and retirement.

Now they also fear losing their right, which has been their right since 1938, to time-and-a-half compensation for work over 40 hours a week. They fear, with good reason, that under the Department of Labor's new rules, they will be obligated to work a 50-, 55-, 60-hour week with zero additional compensation. For millions of working Americans and their families, this is unacceptable. It is, indeed, the last straw.

Accordingly, at the appropriate time, I will offer an amendment to this bill that will stop the administration from implementing its proposed new rules to eliminate overtime pay protection for millions of American workers.

This amendment will be very familiar to my colleagues. Late last year a similar amendment I offered passed the Senate by a vote of 54 to 45. It was endorsed in the House by a vote of 226 to 203. It also won the overwhelming support of the American public. Yet despite this clear expression of the will of Congress and of the public, my overtime amendment was stripped from the omnibus appropriations bill in conference.

Today this overtime amendment is back by popular demand. It amazes me that wherever I travel, anywhere in the country, people come up to me to talk about this overtime issue. They know now what the administration is trying to do. They are upset. Working families are angry and they want action. They want us to take action to stop the implementation of these new rules that will take away their protection so that they can get time and a half when they work overtime.

Frankly, at this point the administration has zero credibility on this issue. The Department of Labor claims that it simply wants to give employers clear guidance as to who is eligible for overtime pay. But ordinary Americans are not buying this happy talk. They know that the administration is proposing a radical rewrite of the Nation's overtime rules. They know these new rules will strip millions of workers of their right to fair compensation.

The people are right. They are correct. Plain and simply, the new overtime rules are a frontal attack on the 40-hour workweek, pushed aggressively by the administration without a single public hearing. Yes, that is correct. Last year these proposed rules came out, drastically changing our overtime pay protections, the rules that had been implemented since 1938, without one public hearing anywhere in the United States.

These new proposed rules could effectively end overtime pay in dozens of occupations, including nursing, police officers, firefighters, clerical workers, air traffic controllers, social workers, journalists. Indeed, the new criteria for excluding employees from overtime are deliberately vague and elastic so as to stretch across vast swaths of the workforce.

Listen to Mary Schlichte, a nurse in Cedar Rapids, IA:

> Many nurses just like me work long hours in a field with very stressful working conditions and little compensation. . . . Our patients rely on us. Our families depend on us. We need overtime pay so we can stay in the profession we love and still make our ends meet.

Ms. Schlichte told me about her Cedar Rapids nurse colleagues who also rely on overtime pay. One nurse is married to a struggling farmer. She relies on her overtime pay to cover their insurance premiums. They already fear losing their farm, and now they fear losing their health care coverage also.

Dixie Harms is a longtime trainer of nurses in Des Moines. Ms. Harms told me:

> If overtime is changed for hospital nurses, we will see a mass exodus of registered nurses from the hospital setting because they will get fed up and refuse to volunteer so many hours to what they really love doing.

Two and a half years ago, after the terrible September 11 attacks, many in this body spoke eloquently about the heroism of our firefighters, police officers, public safety workers. Ever since, America's first responders have worked long hours to protect us from terrorists threats. But now the administration apparently wants to deny them time-

and-a-half compensation for those longer hours. Simply put, this is wrong.

Since passage of the Fair Labor Standards Act in 1938, overtime rights and the 40-hour workweek have been sacrosanct, respected by Presidents of both parties. But nothing, it seems, is sacred to this administration when it comes to workers' rights.

For 65 years, the 40-hour workweek has allowed workers to spend time with their families instead of toiling past dark and on weekends. At a time when the family dinner is becoming an oxymoron, this standard is more important than ever.

These radical revisions are antiworker and antifamily. Given the fact we are stuck in a jobless recovery, the timing of this attack on overtime could not be worse. It is yet another instance of this administration's economic malpractice.

Bear in mind that time-and-a-half pay accounts for some 25 percent of the total income of Americans who work overtime. With average U.S. incomes declining, the proposed changes would slash the paychecks of millions of American workers.

Moreover, the proposed new rules are all but guaranteed to hurt job creation in the United States. This is basic logic. If employers can more easily deny overtime pay, they will push their current employees to work longer hours without compensation.

With 9 million Americans currently out of work, these proposed regulations will give employers yet another disincentive to hire new workers. Why hire a new worker if you can get your present workers to work overtime and not have to pay them time and a half? That would be cheaper than hiring a new worker.

It is bad enough to deny 8 million workers their overtime rights, but what is really striking about these proposed rules is the mean-spiritedness of the language included in these proposed rules from the Department of Labor.

For example, the department is offering employers what amounts to kind of a cheat sheet—helpful hints on how to avoid paying overtime to the lowest paid workers, the same workers who are supposedly helped by the new rules.

Let me be clear about this. There is a part of the proposed changes that we all support, and that is raising the minimum pay level by which a worker would not be exempt from any overtime rules. For example, right now, if you make below about $7,000 a year, no matter what your job is, you cannot be exempted from overtime, from overtime rules—even if you are a professional or if you fall into one of the exempt categories. If you make below about $6,900 or $7,000 a year, you have to be paid time and a half overtime, no matter what your job is. The administration is proposing to raise that to about $21,900, close to $22,000 a year. It has not been raised for a long time, so that is all well and good. But, in so doing, the administration has put out technical advice to employers on how they can get around paying the lowest paid workers time and a half.

For example, the department suggested in writing that an employer might cut a worker's hourly wage so that any new overtime payments will not result in a net gain to the employee. It also recommends if the worker's salary is close to the threshold, you might want to raise their salary slightly to meet that threshold and then their protection for time and a half would end, and then they could be exempt.

This is kind of disgraceful. This would be like the IRS putting out advice to would-be scofflaws, or people or entities that might want to get around paying their fair share of taxes, telling them how to avoid paying their taxes, saying here is how you can effectively cheat. What would we say if the IRS started putting out advice to employers, saying here is how to get around paying your fair share of taxes?

That is what they are doing on overtime. They are putting out advice to employers, saying here is how you get around it. It is disgraceful. There is one part of this new proposed rule that I find probably more disgraceful than just about anything. I know that when I say this, people are going to say: HARKIN, this cannot be right, this cannot happen.

The more I dig into the nuts and bolts and fine print of this proposed rule for changing overtime, the more astounded I am at what we are finding, in terms of who is now being exempted, or trying to be exempted from overtime pay.

Would you believe it if I told you that the administration, for the first time since 1938, is changing the rules to make it harder for veterans to get overtime pay than their counterparts who did not serve in the military? Let me repeat that. Mr. President, generally, people would not believe me if I told them this administration, in their proposed rules, is making it harder for a veteran to qualify for overtime than someone who didn't serve in the military. People say: HARKIN, that cannot be right.

Read the proposed regulation. I have the old one. Here is the old rule that covers overtime pay. There is a section called ''Learned Professions,'' and it is talking about who basically would be not barred from exemption. It talks about members of the professions, such as graduates of law school and different things like that. It says here the word ''customarily'' implies that in the vast majority of cases a specific academic training is a prerequisite for entrance into the profession. It makes the exemption available to the lawyer, the chemist, and things like that. But it does not in any way mention veterans in the old rule. There is no mention of veterans.

Here is the new rule. I have it blown up on the chart. It says:

However, the word ''customarily'' means that the exemption is also available to employees in such professions who have substantially the same knowledge level as the degreed employees, but who attained such knowledge through a combination of work experience, training in the Armed Forces, attending a technical school.

Et cetera, et cetera. These words, ''training in the Armed Forces'' have never been in the rules before. In other words, since 1938, we have gone through World War II, the Korean war, cold war, Vietnam war, the gulf war, Dominican Republic war, Grenada, and a whole bunch of other things. And our veterans—people who have served in the military, who went in there, who the Army asks to ''be all that you can be in the U.S. Army.'' How many ads do we see enticing young people to come into the military because they can get training which will increase their ability to earn more money later on in life, after they get out of the military—specialized training that will make them more desirable in the workforce?

Well, guess what. They are running those same ads to be all you can be, learn a specialized training, and be more valuable in the workforce, and at the same time the administration is promulgating a rule saying: Wait a minute, if you get training in the Armed Forces, guess what. You are now covered under this new rule that says you can be exempted from the overtime pay protection because now you fall into the same kind of category as lawyers and architects and people who went to school for a long time to receive specialized training.

Again, don't take my word for it. Read it. ''Training in the Armed Forces''—those five words have never been in the rules before, never. We said before if you get training in the Armed Forces, you can now be exempt from overtime pay. That is what is coming down the pike. That is what is in these rules. That is why so many of us feel so strongly that this proposed overtime rule should not be adopted.

According to the proposed rules, employers can consider specialized training and knowledge gained in the military as equivalent to what is learned in professional schools. This will allow employers to reclassify veterans as ineligible for overtime. I started looking at some of the comments made regarding this. I wondered where it is coming from. Here are comments on behalf of the Boeing company:

Boeing observes that many of its most skilled technical workers received a significant portion of their knowledge and training outside the university classroom, typically in a branch of the military service, where through a combination of classroom training and field experience they become ''learned experts'' on very sophisticated aerospace products or services. Oftentimes, such experts are actually more knowledgeable than colleagues with advanced degrees— Master's degrees and Ph.D.s.

and are viewed by the customers as the company's experts on the product. Boeing thus supports the Department's—

That is the Department of Labor—

focus on the knowledge used by the employee in performing her job, rather than the source of the knowledge or skill.

What Boeing is saying is we have a lot of people who work for us who got their training in the military. They have become skilled in their profession. But because they did not go to graduate school, because they got their training in the military, we still have to pay these people overtime. We have to pay them time and a half, and we do not want to pay them time and a half. We want to treat them just like Ph.D.s and all those other people. So, therefore, they support the proposed rule change that would allow them, Boeing, to reclassify these former veterans as being exempt from overtime pay protections.

This is a letter from Thomas Corey, the national president of the Vietnam Veterans of America:

Therefore, we would like to make you aware that the proposed modification of the rules would give employers the ability to prohibit veterans from receiving overtime pay based on the training they received in the military. . . . The proposed rule changes will make these veterans and their families unfairly economically vulnerable in comparison with their non-veteran peers.

Let me repeat that:

The proposed rule changes will make these veterans and their families unfairly economically vulnerable in comparison with their non-veteran peers. We hope you will agree that the men and women who have served our Nation so well in military service should not be penalized for having served.

That is Thomas Corey, national president, Vietnam Veterans of America. I think that is the crux of it. You could have two people, both skilled in a certain area, let's say aerospace or whatever it might be. One got his training in the military and one got his training in some other way outside the military. So the person outside the military would be covered under overtime. The person who served in the military would not be covered by overtime.

I wish someone would make some sense out of that. It is just a slap in the face to the men and women who served in the military and were told: Be all you can be, get specialized training in the military, but what they are not telling them is once you do that, they are going to take away your right to overtime pay once you get out of the military.

This is outrageous—outrageous not just to our veterans but to most Americans. Veterans organizations are deeply disturbed by this, not just the Vietnam veterans but all veterans organizations.

Picture this: The Commander in Chief has mobilized thousand of reservists and National Guard troops from Iowa and from across America. They left their regular jobs as police officers, firefighters, nurses, clerical workers, on and on, and are deployed in Iraq for a year or more. But if the administration has its way, when these troops come back home from Iraq or wherever to resume their civilian jobs, they are going to find that if they received specialized training in the military, they have been stripped of their right to time-and-a-half overtime pay.

It is punishing veterans precisely because they were dedicated soldiers who pursued specialized instruction and training while in the military. The Department of Labor is preparing quite a welcome home present for many of the guardsmen and reservists returning from Iraq. It might read this way:

Dear Returning Veteran: While you were away we reclassified your job so that you no longer qualify for time-and-a-half overtime pay. Thank you for serving our country.

There is another group I talked about last year—and it is still true this year—who are disproportionately harmed by the proposed new overtime rules—women.

The fact is, women tend to dominate in retail services and sales positions which would be particularly affected by the new rules. Married women in America increased their working hours by nearly 40 percent from 1979 to 2000. As women have increased their time in the paid labor market, their contribution to family income has also risen. These contributions are especially important to lower and middle-income families—important for housing, health care, heating bills and, of course, for sending kids to school.

Yet now the administration's new rules would take away overtime protections from millions of American women. Women in the paid workforce would be forced to work longer hours for less pay and, of course, this means more time away from families, more childcare expenses with no additional compensation. Not surprising, prominent women's groups are adamantly opposed to the new overtime rules.

The American Association of University Women, the National Organization of Women, the National Partnership for Women and Families, the YWCA, and Nine to Five, and the National Association of Working Women are all strongly supporting my amendment to stop the administration from implementing these new overtime rules.

There is a broader context to this discussion of overtime. There is a bigger picture. As I said, the No. 1 issue for Americans today is economic security, and with good reason, because it is abundantly clear that America is stuck in a jobless recovery.

Since this administration took office, nearly 3 million private sector jobs have been lost, including one in every seven jobs in manufacturing. George W. Bush has presided over the largest job loss of any President since Herbert Hoover. Yet the President remains wedded to policies that are making the problem worse. He remains wedded to policies that are destroying jobs, driving down wages, and threatening the economic security of the American people.

A couple of weeks ago, the White House issued its annual economic report signed by the President explaining why we should welcome the ''offshoring'' of U.S. jobs. The President's top economic adviser assured us that the outsourcing of high-end, white-collar jobs to Asia is ''a plus for the economy in the long run.''

The President's economic report praises the virtues of a ''level playing field for goods and services,'' arguing that when a good or service is produced more cheaply abroad, it makes more sense to import it than to make or provide it domestically. That is from the President's report.

We have a very serious question to ask ourselves: Do we really want American workers competing on a ''level playing field,'' head to head with factory workers in China working for 20 cents an hour, with software engineers in India working for $10,000 a year, going head to head with countries that employ abusive child labor to make products?

In reality, is this not a race to the bottom, with nations competing to slash salaries and benefits in order to win more jobs? Outsourcing is not the only thing hurting job creation and suppressing wages. These new overtime rules will have the same effect. Eight million workers will be stripped of their right and their protection to overtime pay.

Of course, the employers can deny overtime pay. As I said, they simply push their current employees to work longer hours without compensation. This is a powerful disincentive to hire new workers. So as with outsourcing, the idea of sending so many of these jobs overseas, where they are paying 20 cents an hour, no health benefits, no retirement benefits, no Social Security, no environmental protections, killing overtime pay is the same thing. Just keep in mind if an employer can work an employee more than 40 hours and not pay time and a half, we can see that an employer would then say, well, why should I hire new workers? I will just work my present workers longer. If I can get 4 or 5 more hours a week out of each employee and not pay time and a half overtime, that is better than hiring somebody else.

That is exactly what this proposed overtime rule is all about. It is terrible for job creation. I do not know why this administration does not see that. Yet in the face of facts, in the face of all of the reports we have gotten, in the face of what Americans are saying, which is that they want their overtime protected, the administration is surging ahead. They are going to strip people in this country of their right to overtime pay.

Since we have had no public hearings on it, we are not certain why the administration is doing this. Why are they moving ahead with the most profound change in our overtime laws since 1938? Now, I use my words carefully. I said the ''most profound change.'' There have been changes in overtime rules and laws since 1938,

since the Fair Labor Standards Act was passed, of course. Many occupations that existed then no longer exist, and they were taken off. I understand.

New occupations came in like computer software writers, computer engineers, which were not around in the late 1930s, 1940s, 1950s, or 1960s. So there have been changes.

Every time we have made a change in the overtime rules, we have done it through open hearings, through open collaboration between the administration and Congress and labor, all working together to do what is right for our people and our country.

So, yes, we have made a number of changes since 1938, but as far as my research shows, this is the first time since 1938 that an administration has made this profound a change, and it is the first time since 1938 that the administration has proposed these changes without having one public hearing. It is the first time since 1938 that any administration, Republican or Democrat, has proposed changes such as this in the overtime rules without consultation and working closely with Congress to develop a consensus as to what has to be done.

I am left with, perhaps, some conclusions: The administration really does not want to create a lot of new jobs; that by driving down labor costs, perhaps we can increase corporate profitability. It allows corporations to export cheap labor overseas with outsourcing. The administration puts pressure on U.S. workers to accept lower wages, less generous benefits, longer working hours. This is true of outsourcing, and it is true of eliminating overtime.

Right now, American workers work longer than any workers in any industrialized country in the world. We now work longer than workers in Japan, Germany, Great Britain, and our neighbor to the north, Canada. Guess what we are being told. Guess what our workers are being told by this administration. That they are going to work even longer, and they will not have any right to overtime pay.

There is more. The President refuses to extend benefits for the long-time unemployed, and opposes any increase in the minimum wage. It has been frozen at $5.15 an hour for years. This is not a living wage; it is a poverty wage. It keeps downward pressure on wages all across the spectrum.

All this means, again, is fewer jobs for U.S. citizens. It means downward pressure on wages for all of our workers.

Something is missing. What is missing is ordinary, hard-working Americans are not participating in this so-called economic recovery. More and more Americans live in fear of losing their jobs, their health benefits, and losing their retirement. The truth is, we cannot build a sustainable recovery by exporting jobs, by driving down wages, and by making Americans work longer hours without compensation.

Moreover, such a recovery, if it even could take place, is not desirable. As one individual said, my time with my family in the evenings and on the weekends is premium time. Yes, I work during the week to make a living, but the time with my family is premium time. If I am going to be asked to give up my premium time with my family, do I not deserve to have premium pay, time and a half, something out of the ordinary?

As this person said to me, I get my wages, which are ordinary, for my ordinary working hours that I have agreed to work, but I should not get ordinary pay for my premium time, which is the time I spend with my family. That is why I say a recovery that means that our American workers are going to work longer, spend more time away from their families, and not get paid any more for it is not a desirable recovery.

A true recovery must include all working Americans. It can only be built on a foundation of good jobs with good wages in America, not overseas. It can only be built on a foundation that includes a minimum wage that is a living wage, not a poverty wage. It can only be built on a foundation that preserves American workers' rights to time and a half overtime pay.

Shortly, I will be offering this amendment. Obviously, this FSC bill is touted as a JOBS bill. That is all well and good. Let us have an open and good discussion about that. We have some amendments to offer that a number of us believe will help increase jobs in this country. The one I will be offering will be protecting the overtime rights of American workers. So I am hopeful we can move on to that.

On this issue, the administration ignores the pleas of the public. It has brushed aside the clear wishes of both Houses of Congress. Last year, we passed the amendment in the Senate to disallow the Bush regulations on taking away overtime pay protections. The House emphatically approved of that. Yet it was stripped out in conference. Again, this is not acceptable. I hope we can have a strong bipartisan vote in support of my amendment that would disallow taking away overtime pay protection for American workers. We can save the administration from making a terrible mistake. We can protect American workers' time-honored right to overtime compensation, and we can support an economic recovery that includes all Americans, a recovery that respects and preserves the American way.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from New Mexico.

AMENDMENT NO. 2651 TO AMENDMENT NO. 2647

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2651 to amendment No. 2647.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To expand the research credit)

At the end of the amendment add the following:

SEC. ___. EXPANSION OF RESEARCH CREDIT.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41(a) (relating to credit for increasing research activities) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to a research consortium.''.

(2) RESEARCH CONSORTIUM DEFINED.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

''(6) RESEARCH CONSORTIUM.—

''(A) IN GENERAL.—The term 'research consortium' means any organization—

''(i) which is—

''(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

''(II) organized and operated primarily to conduct research in the public interest (within the meaning of section 501(c)(3)),

''(ii) which is not a private foundation,

''(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for research, and

''(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for research.

''(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).''.

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting ''(other than a research consortium)'' after ''organization''.

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

''(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

''(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

''(I) an eligible small business,

''(II) an institution of higher education (as defined in section 3304(f)), or

''(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

''(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible

small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

''(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

''(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

''(iii) SMALL BUSINESS.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

''(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

''(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2004.

Mr. BINGAMAN. Mr. President, I thank my colleagues, Senator HATCH and Senator MURRAY, for their leadership on extending and strengthening the research and development, R&D tax credit. The ability of our Nation to remain a world leader in technology and innovation is directly related to the investment we make in research and development. The R&D tax credit is an important component of this strategy as it creates an incentive for private companies to invest in research they might not otherwise have invested in but for that tax credit. This is an efficient way to accomplish a goal in our society that is increasing funding for research.

Senator DOMENICI and I have been working here for the last several years to make some changes in the R&D tax credit law. The amendment I have sent to the desk incorporates those changes we have worked on. The amendment is based on legislation we filed in each of the last several Congresses, most recently S. 515 in the 107th Congress. This amendment addresses two weaknesses in the current R&D tax credit.

The first part of the amendment provides participants in a research consortium with a flat 20-percent research credit. A consortium is defined as a group of five or more unrelated companies which are working together on a specific type of mutually beneficial research. Under current law, these companies are unable to take advantage of the full R&D tax credit. That does not make good sense. We should be encouraging companies to work together to share the costs of research instead of requiring that each of them bear the full capital expenditure to which they would be entitled in order to get the research tax credit. The amendment I have sent to the desk which Senator DOMENICI and I have been working on would correct this and would encourage this type of private research teaming.

The second part of the amendment would be to get rid of a restriction that allows companies to only consider 65 percent of their research expenses for purposes of calculating their tax credit when the funds are paid to an outside party such as a Federal laboratory or university or a small business.

Again, as with consortiums, this provision makes no sense as it exists in current law. In many if not most cases it is far more efficient and economical for a company to have their research done at a facility that is already equipped to do this type of experimentation and development. We ought to be encouraging businesses to utilize these resources instead of discouraging that use. For this reason, the amendment would allow a company to consider 100 percent of all of their expenses when contracting with a lab or university or small business to handle their research projects.

The amendment would come into effect at the end of the year. It would continue for as long as the R&D provisions are in effect which, under the Hatch-Murray amendment which is what this proposal would amend, is the end of 2005.

I look forward to working with my colleagues, Senators HATCH and MURRAY, on their R&D amendment. I very much appreciate their support for these small changes Senator DOMENICI and I would like to see made in this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

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

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

Mr. ENSIGN. I ask unanimous consent the time until 3:30 be equally divided in the usual form and that if the Bingaman amendment has not been previously disposed of, the Senate would then vote in relation to the Bingaman second-degree, to be followed immediately by a vote in relation to the Hatch first-degree, as amended if amended, provided further no additional second degrees be in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

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

Mr. ENSIGN. Mr. President, I understand the Senator from Tennessee is going to seek recognition. I ask unanimous consent that following the Senator from Tennessee, I be recognized to speak on the R&D amendment.

Mr. REID. Reserving the right to object, we have no problem with that except we now have an hour and 10 minutes. We don't want those two Senators to use the entire 70 minutes so we should have some idea how long they are going to speak.

Mr. ENSIGN. For myself, I would only need 5 minutes.

Senator ALEXANDER?

Mr. REID. I think it would be appropriate if my friends agree the time be equally divided between now and 3:30 between the proponents and opponents of the measure.

The PRESIDING OFFICER. Under the order, the time is equally divided.

Mr. ENSIGN. I ask to be recognized after Senator ALEXANDER.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. ENSIGN. I yield to Senator ALEXANDER.

Mr. ALEXANDER. Mr. President, my intention was to ask unanimous consent to speak as in morning business for 7 or 8 minutes, which may not be appropriate at this moment.

The PRESIDING OFFICER. Under controlled time that is the Senator's right. The Senator is recognized.

Mr. ALEXANDER. I ask unanimous consent to speak as in morning business for up to 7 minutes.

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

(The remarks of Mr. ALEXANDER are printed in today's RECORD under ''Morning Business.'')

Mr. ALEXANDER. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, I want to speak on the R&D tax credit that is in this bill—the proposal to extend that tax credit which is scheduled to expire. I want to talk about some of the benefits.

This is a tax credit that has been supported by both sides of the aisle and by both bodies. There are many benefits to keeping this R&D tax credit as part of our Tax Code; first of all, the industries that benefit from this tax credit. I am the chairman of the Republican High-Tech Task Force in the Senate, and I hear about this issue all the time from very important parts of our economy and how important it is to the creation of jobs.

The industries that benefit from this include—it is not limited to the aerospace industry—the agriculture industry, biotechnology, chemical industry, electronic, energy, information technology, manufacturing, medical technology, pharmaceuticals, software and telecommunications, as well as others.

It is not just big business that benefits from this R&D tax credit; it is also many small businesses. The companies that perform significant amounts of R&D perform that research and development in the United States. They pay very good wages to the people who do the research and development.

This tax credit should be made permanent in the long run. That is my goal—to someday make this tax credit permanent. We keep extending it. I think it has been extended 10 different times over the years. It was allowed to actually lapse once, but it has never been made permanent. I believe it should be made permanent. Unfortunately, we can't do that in the context of what we are doing today. But we should at least make sure that R&D tax credit is extended for the 18 months the bill calls for.

Why is it important? New vaccines, faster Internet, and other communications capabilities, safer transportation, enhanced energy-efficient appliances, higher quality entertainment, better homes, improved national security. The list of societal benefits as a result of R&D is endless.

R&D is the lifeblood of the U.S. economy. We really should encourage not only adoption of the extension but also eventually making permanent this tax credit.

The revenue analysis, according to the economic benefit of the R&D tax credit prepared by Coopers & Lybrand in 1998 says:

> In the long run, $1.75 of additional tax revenue would be generated for each dollar the Federal Government spends on the credit, creating a win-win situation for both the taxpayers and the government.

I will conclude with this: We should do the right thing for the economy and allow companies some level of predictability. We keep telling them we are going to extend it, we are going to extend it. But, frankly, it is hard when research and development is usually planned long term. It is hard to do that when we keep coming up to the deadline and then finally extending the tax credit.

I encourage us to do what we are doing today—extending it for 18 months but also be looking for ways to make this R&D tax credit permanent.

I yield the floor.

Mr. BAUCUS. Mr. President, I yield myself about 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. BAUCUS. Mr. President, I ask my friend from Wyoming how much time he has. It is my understanding that there was an agreement before I came to the floor.

The PRESIDING OFFICER. Under the previous order, the time until 3:30 is equally divided between the majority and minority leader.

Mr. BAUCUS. Mr. President, I will be very brief.

I am very happy to be supporting the pending amendment. This is an amendment that the author of the amendment, Senator HATCH, and I have introduced many times over many years. I have been a cosponsor of this amendment for years. Senator HATCH has been a cosponsor of this amendment for years. It is critically important that we finally get a major research and development tax stimulus enacted into law. This provision has been in law for various years, but it has always been extended—on and off again. It has been a yo-yo tax provision—a yo-yo incentive. Sometimes companies get it, sometimes they don't. Sometimes we enact it—all the way back to the expiration previous times—sometimes we don't. It is very irresponsible, in my judgment, for this Congress not to give permanent research and development tax credit to American companies. Other countries do. The Government of Canada, for example, has a R&D tax credit which is much more generous than the one we give to American companies.

There are other countries that also have stimulus incentives to research and development—more generous than we have in our country.

I urge adoption of this amendment.

I also agree with my good friend from Nevada. This provision should be permanently extended. It makes no sense not to be permanently extended. It should be a permanent fixture in the law.

I say that because the stakes are getting so high. We are losing jobs to overseas companies in lots of ways.

One way to create jobs in America is to have a very aggressive research and development tax credit for research and development in America. It is clear that jobs tend to be where the research is. The more research we have in America, the more likely it is we will have more jobs in America. It will also help to maintain jobs.

We do not want jobs to go overseas. This will help us maintain jobs in America. We should not erect barriers to our companies going overseas. We should not stick our heads in the sand. That does not work. We are facing an immense challenge, and one good way is to pass this amendment.

In addition to passing the underlying bill, this JOBS bill before the Senate is not going to be the silver bullet many would like but it will help significantly.

With respect to the R&D credit, 62 percent of total industry research and development is performed in manufacturing industries. That includes computer and electronic products, transportation, equipment, and chemicals. It is disproportionately helpful to manufacturing jobs. We clearly want more manufacturing jobs in this country. Manufacturing jobs are important to the entire economy.

The multiplier effect in manufacturing jobs is extremely high. For every 16 million manufacturing jobs in this country, another 9 million are created in retail, wholesale, finance, and other sectors. That is not as true in other sectors. Most of the R&D effect is manufacturing, and manufacturing has a very high multiplier effect, which is all the more reason to get this passed.

Workers employed in manufacturing plants with more technologies also earn 63 percent more than workers in plants using lower level technologies. It is a question not only of the number of jobs but the wages the jobs pay, the amount of income those workers will receive.

I can go on at great length as to why this is so important. I am not going to expand anymore on it because I think Senators realize how important it is. I expect this to pass by a very large margin, and well it should.

Once we pass this amendment, it is incumbent upon us to start looking for other ways we can help give stimulus and help American companies keep jobs in America. I am certainly going to be a part of this. It is something we desperately have to do.

What is the remaining time?

The PRESIDING OFFICER. The majority has 27 minutes remaining and the minority has 30 minutes remaining.

Mr. BAUCUS. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I will talk about an amendment that has not been laid down. There were comments about overtime a while ago, and I want people to know the rest of the story.

The bill we are on has the catchy name of FSC/ETI. What we are trying to do is comply with some World Trade Organization requirements that allow penalties to be put on our exports overseas and agricultural products are a big one. They always get targeted when this sort of thing happens. We need to correct our law so we are not being penalized, so we do not eliminate business that the United States can have.

Penalties went into effect on March 1 and go up 1 percent per month on U.S. businesses if we do not change the law. We are trying to change the law. It needs to be done quickly. It should be done pretty cleanly. It obviously is not going to be.

We keep talking about jobs, but our actions do not match our words. I point out one very important jobs program we have that affects Americans who want to improve their skills and get a better job. We have the Workforce Investment Act, and that has the potential each and every year to retrain 900,000 people so they have the skills and talents to handle the jobs available, the well-paying jobs available in this country that we are having to fill from overseas.

Do you know what has happened to that bill? Let me give Members a brief history. We passed it out of the Health, Education, Labor, and Pensions Committee unanimously. How often do you think that happens in that committee? It can be a very contentious committee. It passed out of the committee unanimously. What happened in the Senate? We passed it in the Senate by

unanimous consent. That means not one person in the Senate wanted to amend the bill; not one person in the Senate wanted to vote against the bill. It was unanimous. That is as bipartisan as we can possibly get.

Where is that bill now? We cannot appoint a conference committee. That is the committee made up of Republicans and Democrats who would meet with Republicans and Democrats from the House to work out differences between what they passed and what we passed. We cannot have a conference committee to do that.

That is 900,000 jobs in this country that are being stalled out; 900,000 opportunities we are not going to give to Americans. Instead, we are going to talk about a whole bunch of amendments to this bill that are going to slow down this bill and increase penalties on American businesses trying to ship goods overseas. In fact, all American businesses.

Keep that in mind. If we want to take care of jobs in this country and make sure jobs stay in this country, we would get a conference committee appointed on the Workforce Investment Act and get that thing resolved and get people trained and to work.

One of the examples of what will happen on this is the overtime amendment that we have been promised. I could wait until it actually came up, but there were some comments made and there is a need to respond on the 40 minutes we have already heard about the overtime amendment.

It is time to strip the rhetoric from the reality and consider who is really helped and hurt by this amendment which prohibits the Department of Labor from updating the rules exempting white-collar employees from overtime pay. It is not all that simple.

When I am back in Wyoming, I like to hold town meetings to find out what is on the minds of my constituents. At each town meeting, there is usually someone in attendance who is quite concerned about government regulations. I am often told to rein big government in, keep the rules and regulations simple, keep them current and responsive, and make sure they make sense in today's ever changing workplace.

Most of the people I talk to are small businessmen, but that is most of business in this country. They are being killed by the rules and regulations, and, in some cases, by trial attorneys.

Today we are reviewing an amendment that takes the opposite approach. Instead of keeping it simple and current, it will prohibit the Secretary of Labor from updating the rules exempting white-collar employees from the Fair Labor Standards Act and overtime requirement in some cases, an attempt to reject the new, turn back the clock, and look to yesterday for the answer to tomorrow's problems. It is an approach that is doomed to failure before it is even applied. I am opposed to the amendment.

There is no question that the workplace has dramatically changed during the last half century. The regulations governing white-collar exemptions remain substantially the same as they were 50 years ago. The existing rules take us back to the time when workers held titles such as straw boss, keypunch operator, legman, and other occupations that no longer exist today.

Our economy has evolved. New occupations have emerged that were not even contemplated when the regulations were written. A 1999 study by the General Accounting Office recommended that the Department of Labor: Comprehensively review current regulations and restructure white-collar exemptions to better accommodate today's workplace and to anticipate future workplace trends. That is precisely what the Department of Labor's proposal to update and clarify the white-collar regulations will do.

While the Department's proposal will update and clarify, this amendment will do neither. Instead, it will set the clock back to 1954 and try to force the square peg of the 21st century jobs into the round hole of the workplace of 50 years ago.

I am a former shoe salesman and I know how to tell when something will not fit. This just will not fit. It is like trying to force a size 10 foot into a size 6 shoe. It will not fit no matter how hard you try.

Through the course of the debate on overtime over the next several days, we will hear a lot of numbers. Some of them are statistics and we know how statistics work. I am an accountant so I will try to give some good numbers and hope you will put up with me with the numbers, but there are numbers you need to know.

Let us be clear about what this amendment will do. The amendment will undermine the Department of Labor's efforts to extend overtime protection to 1.3 million low-wage workers. Under the current rules, only those rare workers earning less than $8,060 a year are protected for overtime pay. That is how old this rule is. You are protected if you are making less than $8,060 a year. Now the administration's proposed rule will raise that threshold to $22,100 a year.

Doesn't that sound more common sense in today's market? Doesn't that sound like a number that covers more people? If the old rule covered those making less than $8,060, a new rule, covering those making less than $22,100, would cover more people.

As a result, 20 percent of the lowest paid workers would be guaranteed overtime pay. The overtime provisions of the Fair Labor Standards Act were originally intended to protect lower income workers. The proposed rules will provide lower income workers with the protection they deserve.

That also makes it easier for businesses to know when they are complying with the law. And that is important, particularly for small businesses. They need to know. They should not have a bunch of different criteria that they need a special accountant or attorney to interpret for them so they can tell whether they are violating the law.

This rule, the one proposed—proposed; it is not finalized yet—by the Department of Labor will make it easier for businesses to know when they are complying.

By undermining the administration's efforts to better protect lower income workers, who will this amendment protect? The supporters of the amendment—the amendment that is going to be laid down, I guess—claim that an estimated 8 million workers will become ineligible for overtime under the proposed rules. However, this estimate is based on a study by the Economic Policy Institute, and it is riddled with errors. For example, the study includes in its calculations at least 18 percent of the workforce who work 35 hours or less a week. These part-time workers do not work more than 40 hours a week and, therefore, they do not receive overtime in the first place.

The study also claims the proposed rule will deny overtime pay to white-collar employees earning more than $65,000 a year. However, not all the employees earning over $65,000 are exempt under the proposed rules—only those performing office or nonmanual work and one or more exempt duties. This means workers, such as police officers, firefighters, plumbers, Teamsters, carpenters, and electricians will not—will not—lose their overtime pay. The Department of Labor acknowledges the possibility that 644,000 highly educated workers making over $65,000 a year might lose their overtime. Mr. President, 1.3 million get picked up on the bottom end; 644,000 drop out on the top.

Supporters of this amendment claim that the proposed rules will strip overtime pay for first responders and nurses. If we look behind the rhetoric, we find there will be virtually no change in status for first responders and nurses under the Department of Labor proposal. Under both the current and proposed regulations, only registered nurses are exempt from overtime pay.

Supporters of this amendment claim that military personnel and veterans will lose their overtime pay under the proposed rules. However, military personnel and veterans are not affected by the proposed rules by virtue of their military status or training. Nothing in the current or proposed regulation makes any mention of veteran status.

Who will this amendment protect, if not low-income workers, first responders, nurses, veterans, or millions of other working Americans? The antiquated and confusing white-collar exemptions have created a windfall—a windfall—for trial lawyers. Ambiguities and outdated terms have generated significant confusion regarding which employees are exempt from the overtime requirements. The confusion

has generated significant litigation and overtime pay awards for highly paid, white-collar employees. Wage and hour cases now exceed discrimination suits as the leading type of employment law class action. Let me repeat that again. Wage and hour cases now exceed discrimination suits as the leading type of employment law class action.

This amendment—the amendment that Senator HARKIN is going to put in—will not preserve overtime for millions of working Americans. The amendment will not help employers and employees clearly and fairly determine who is entitled to overtime. The only clear winners from this amendment will be the trial lawyers who will continue to benefit from the current state of confusion. We are spending taxpayers' dollars sorting through what could be solved with clarity.

I stress that these are proposed rules—proposed rules. The Department of Labor has received, and is currently reviewing, around 80,000 comments to their proposed regulations. We should allow the regulatory process to continue and give the Department a chance to complete its review of the proposed rules. Once the review is completed, the Department will align the white-collar regulations with the realities of the 21st century workplace, the intent of the Fair Labor Standards Act, and—this is most important—what they have learned from the comments.

They have 80,000 comments. I expect them to read those. I expect them to react to those, and make sure that it becomes a part of the rule.

Now, supporters of this amendment are, in effect, denying the public a voice in the regulatory process. This amendment will deny the Department of Labor an opportunity to respond to public comments. I happen to believe that public comments play a critical role in the regulatory process.

I will tell you, I go back to Wyoming most weekends. I go out on Friday, travel to a different part of the State, and come back on Sunday. It is the most valuable thing I do around here, and that is because I get to talk to the person who has the problem firsthand. Do you know what? They are working on that all day, every day. And the advantage is they have usually thought of some kind of a solution. Now, when I bring it back, quite often, the comment is: It is too simple. It will never work. Where did you come up with a crazy idea like that? And I have to explain: From the guy with the problem who works on this every day and knows the commonsense approach to solving that problem.

Those are the people writing in with comments. Those are the people who are saying: This is where it is right. This is where it is wrong. Fix it where it is wrong. Leave it in the new context where it is right. That is how the process is supposed to work.

We want the Department of Labor to look at those comments and respond—respond by changing the rule, or respond by letting the people know how that will not work or how it is covered a different way. We have to have that process work.

Now, I hope if there are substantial changes it gets put out one more time for comments. There is not anything around that says they cannot reissue them for comment. The public comments are what help us get it right. We do not do these jobs, so we do not know all the right answers. But the people out there working on them do. The answers can be made right.

Now, if the final rule has gone astray, after all of this process, we can use the Congressional Review Act to reverse it. And we have done that before. That is where we say: You did not pay attention to the process. You did not pay attention to the comments. We are going to jerk you back to reality. But now is not the time or the vehicle for making that determination.

I hope my colleague will not put down the amendment, but if he does, I hope my other colleagues will support me in allowing the Department to move forward with the review and response that they need to be doing. They do need to be paying attention to all of this debate. But we do need to bring that rule into the current century and make sure people are working at jobs and the rules are understandable, particularly with small businesses that are trying to provide a service, not figure out Government regulations.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to yield myself such time as I may consume from the time under the control of the Democratic side.

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

Mr. DODD. Let me say to those who may be listening in the offices of Members who want to come over and wish to be heard on this matter, I will be prepared to yield some time. I am here to discuss an amendment that will come up after 3:30. I thought I would move things along while we have this dead time, while we are waiting for this vote to occur, to discuss upcoming amendments and encourage those who may want to participate in some of those debates to come to the floor and share some of their thoughts.

I will be offering at the appropriate time, sometime after 3:30, an amendment that deals with the outsourcing of jobs. I note the presence of the Presiding Officer who comes from the same region of the country I do. We have all been feeling it in our States, not just in the Northeast, but across the country, the tremendous pinch that is occurring as a result of job loss and the growing number of jobs that are being outsourced. I am told by those who cover these issues that the coalition opposed to any legislative efforts to stop outsourcing is coming up with some new language. They don't like the word, ''outsourcing,'' so they are calling it worldwide sourcing, to take some of the sting out of the language. They may succeed in taking the sting out of the language by changing the vocabulary, but you cannot take the sting out of finding out that your job has been lost and that others offshore are taking those jobs because it enhances the bottom line in a quarterly report someplace. We need to address that.

I fully understand that outsourcing to some degree is going to go on. I expect that to be the case. But I don't think the Federal Government ought to be subsidizing that effort. I am one who has believed in and supported free and fair trade agreements over the years. I take great pride in that. In a global economy, you have to do that. But I also understand if we don't have the services or provide the manufactured goods with which to trade globally because we have given up a significant part of our manufacturing base or given up a critical area of technology in the service areas, for instance, we are necessarily going to be great competitors in a global marketplace in the 21st century.

You may say we are nowhere near that yet. The rest of the world doesn't even come close to producing the quality and high value goods we do in the United States. They can't come close to providing the high technology we do.

I think we have all learned over the last number of years that technology and productivity is highly portable, and it is moving at warp speed. What was true a year ago, 5 years ago, certainly 10 years ago, is no longer the case. I suspect this rate of speed of change is going to continue to grow.

At this particular juncture, I think it is important that we speak to this issue and that we try to find some balance on how we maintain our global leadership role, continue to provide opportunities for American workers, while simultaneously not allowing the exportation of jobs overseas.

I was terribly disheartened to read a report, the Economic Report of the President, February 2004, just last month, this publication that comes out. It is designed to give an overall economic report of the Nation, with various suggestions and ideas. I am not making up these quotes from some news article or some demagogue or pundit out there when talking about these issues. These are actual conclusions reached by the top economic advisers to the President of the United States when it comes to the issue of manufacturing and outsourcing.

First on outsourcing, chapter 12, on page 229 of this economic report of President Bush and his economic team, it says:

When a good or a service is produced more cheaply abroad, it makes more sense to import it than to make or provide it domestically.

I would suggest that is a conclusion with which some economists may agree. Some have drawn the conclusion that that is inherently a far better idea, just thinking in terms of quarters or yearly reports, I suppose, and the bottom line. That may be OK. But if you are worried about generational change, if you are worried about trying to establish a bedrock of job opportunities, stability, and security in the 21st century, then it absolutely makes no sense to export that job rather than to provide it domestically.

I note in this morning's Wall Street Journal—so you don't think these ideas are merely being spouted by a Democrat in disagreement with the President's economic report—a March 3, 2004, article, ''Lesson in India.'' I ask unanimous consent to print the full article in the RECORD.

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

[From the Wall Street Journal, Mar. 3, 2004]

LESSON IN INDIA: NOT EVERY JOB TRANSLATES OVERSEAS

(By Scott Thurm)

When sales of their security software slowed in 2001, executives at ValiCert Inc. began laying off engineer in Silicon Valley to hire replacements in India for $7,000 a year.

ValiCert expected to save millions annually while cranking out new software for banks, insurers and government agencies. Senior Vice President David Jevans recalls optimistic predictions that the company would ''cut the budget by half here and hire twice as many people there.'' Colleagues would swap work across the globe every 12 hours, helping ValiCert ''put more people on it and get it done sooner,'' he says.

The reality was different. The Indian engineers, who knew little about ValiCert's software or how it was used, omitted features Americans considered intuitive. U.S. programmers, accustomed to quick chats over cubicle walls, spent months writing detailed instructions for overseas assignments, delaying new products. Fear and distrust thrived as ValiCert's finances deteriorated, and coworkers, 14 time zones apart, traded curt e-mails. In the fall of 2002, executives brought back to the U.S. a key project that had been assigned to India, irritating some Indian employees.

''At times, we were thinking, 'What have we done here?' '' recalls John Vigouroux, who joined ValiCert in July 2002 and became chief executive three months later.

Shifting work to India eventually did help cut ValiCert's engineering costs by two-thirds, keeping the company and its major products alive—and saving 65 positions which remained in the U.S. But not before ValiCert experienced a harrowing period of instability and doubt, and only after its executives significantly refined the company's global division of labor.

The successful formula that emerged was to assign the India team bigger projects, rather than tasks requiring continual interaction with U.S. counterparts. The crucial jobs of crafting new products and features stayed in Silicon Valley. In the end, exporting some jobs ultimately led to adding a small but important number of new, higher-level positions in the U.S.

In F2003, ValiCert agreed to be acquired by Tumbleweed Communications Corp., a maker of antispam software with its own offshore operation in Bulgaria. Today, the combined Tumbleweed is growing, and again hiring software architects in Silicon Valley with six-figure salaries, as well as engineers overseas. Without India, Mr. Vigouroux says, ''I don't know if we'd be around today.''

ValiCert's experience offers important insights into the debate over the movement of service jobs to lower-cost countries, such as India. Such shifts can save companies money and hurt U.S. workers. But the process is difficult, and the savings typically aren't as great as a simple wage comparison suggests. Some jobs cannot easily or profitable be exported, and trying to do so can risk a customer backlash: In recent months, Dell Inc. and Lehman Brothers Holdings Inc., for example, moved several dozen call-center and help-desk jobs back to the U.S., after employee and customer complaints.

Founded in 1996, ValiCert specializes in software to securely exchange information over the Internet. Banks use ValiCert's software to safeguard electronic funds transfers, health insurers to protect patient medical records. Although still unprofitable, ValiCert conducted an initial public offering in July 2000, in the dying embers of the dotcom boom. In two months, the stock doubled to $25.25.

In 2001, however, sales growth slowed, as corporate customers reduced technology purchases. ValiCert had projected that it would break even with quarterly revenue of $18 million, according to Srinivasan ''Chini'' Krishnan, founder and then-chairman. Quarterly expenses had grown to $14 million, but revenue was stalled at less than half that figure. Executives began considering shifting work to India. The ''motivation was pure survival,'' says Mr. Krishnan, who left the company after the Tumbleweed merger.

India was a natural choice because of its large pool of software engineers. Moreover, both Mr. Krishnan and ValiCert's then-head of engineering grew up in India and were familiar with large tech-outsourcing firms.

Some, including Mr. Jevans, harbored doubts. The Apple Computer Inc. veteran says he preferred ''small teams of awesome people'' working closely together. Nonetheless, that summer, ValiCert hired Infosys Technologies Ltd., an Indian specialist in contract software-programming, to supply about 15 people in India to review software for bugs, and to update two older products.

With no manager in India, ValiCert employees in the U.S. managed the Infosys workers directly, often late at night or early in the morning because of the time difference. ValiCert also frequently changed the tasks assigned to Infosys, prompting Infosys to shuffle the employees and frustrating ValiCert's efforts to build a team there.

Within a few months, ValiCert abandoned Infosys and created its own Indian subsidiary, with as many as 60 employees. Most employees would be paid less than $10,000 a year. Even after accounting for benefits, office operating costs and communications links back to the U.S., ValiCert estimated the annual cost of an Indian worker at roughly $30,000. That's about half what ValiCert was paying Infosys per worker, and less than one-sixth of the $200,000 comparable annual cost in Silicon Valley.

To run the new office in India, ValiCert hired Sridhar Vutukuri, an outspoken 38-year-old engineer who had headed a similar operation for another Silicon Valley start-up. He set up shop in January 2002 in a ground-floor office in bustling Bangalore, the tech hub of southern India. The office looked much like ValiCert's California home, except for the smaller cubicles and Indian designs on the partitions. There were no savings on the rent. At $1 a square foot, it matched what ValiCert paid for its Mountain View, Calif., home offices, amid a Silicon Valley office glut.

Misunderstandings started right away. U.S. executives wanted programmers with eight to 10 years of experience, typical of ValiCert's U.S. employees. But such ''career programmers'' are rare in India, where the average age of engineers is 26. Most seek management jobs after four or five years. Expertise is security technology, key to ValiCert's products, was even rarer.

By contrast, Mr. Vutukuri quickly assembled a group to test ValiCert's software for bugs, tapping a large pool of Indian engineers that had long performed this mundane work.

But the Indian manager heading that group ran into resistance. It was ValiCert's first use of code-checkers who didn't report to the same managers who wrote the programs. Those U.S. managers fumed when the team in India recommended in June 2002 delaying a new product's release because it had too many bugs.

By midsummer, when Mr. Vutukuri had enough programmers for ValiCert to begin sending bigger assignments to India, U.S. managers quickly overwhelmed the India team by sending a half-dozen projects at once.

Accustomed to working closely with veteran engineers familiar with ValiCert's products, the U.S. managers offered only vague outlines for each assignment. The less-experienced Indian engineers didn't include elements in the programs that were considered standard among U.S. customers. U.S. programmers rewrote the software, delaying its release by months.

In India, engineer grew frustrated with long silences, punctuated by rejection. Suresh Marur, the head of one programming team, worked on five projects during 2002. All were either cancelled for delayed. Programmers who had worked around the clock for days on one project quit for new jobs in Bangalore's vibrant market. Of nine people on Mr. Marur's team in mid-2002, only three still work for ValiCert. ''The first time people understand,'' he says. ''The second time people understand. The third time it gets to be more of a problem.''

In the U.S., executives lurched from crisis to crisis, as ValiCert's revenue dipped further. Each quarter brought more layoffs. By year end, the California office, which once employed 75 engineers, was reduced to 17; the India office, meanwhile, swelled to 45. Engineers ''felt the sword of Damocles was swinging above their cube,'' recalls John Thielens, a product manager.

Executives knew they could save more money by exporting more jobs. But they were developing a keener sense of how critical it was to keep core managers in the U.S. who knew ValiCert, its products, and how they were used by customers. ''Even if you could find someone'' with the right skills in India, says Mr. Krishnan, the ValiCert founder, ''it wouldn't make business sense to move the job.''

Frustrations came to a head in September 2002, when a prospective customer discovered problems with the log-on feature of a ValiCert program. The anticipated purchase was delayed, causing ValiCert to miss third-quarter financial targets. The India team had recently modified the program, and the glitch prompted U.S. managers to question ValiCert's entire offshore strategy.

Relations had long been strained between the U.S. and Indian product teams. John Hines, the Netscape Communications Corp. veteran who headed the tight-knit U.S. product team, thrives on quick responses to customer requests. As his team shrank to six

engineers from 20, Mr. Hines was assigned three engineers in India. But he viewed the Indians' inexperience and the communication delays, as more a hindrance than a help. ''Things we could do in two days would take a week,'' he says.

Mr. Vigouroux, who became CEO in October 2002, admits to a touch of ''panic'' at this point. ValiCert's cash was running low. ''We didn't have a lot of time,'' he says. He conferred with Mr. Hines, who said he wanted to be rid of India, even if it meant a smaller team. Mr. Vigouroux agreed to hire one engineer in California. When he learned of the decision, Mr. Vutukuri says he felt as if he had failed.

By contrast, Matt Lourie, who heads ValiCert's other big programming group, welcomed additional help in India. He was struggling to keep pace with customer demands for new features on his product and new versions for different types of computers.

At the same time, ValiCert executives were streamlining operations and changing how they divided work between California and India. They gave the India team entire projects—such as creating a PC version of a program initially built for bigger workstations—rather than small pieces of larger projects. U.S. managers began writing more detailed specifications for each assignment to India.

ValiCert also killed its three smallest-selling products to focus resources on the remaining two. To improve morale in the U.S., Mr. Vigouroux crowded the remaining employees into one corner of the half-vacant office and installed a ship's bell that he rang each time ValiCert recorded $10,000 in revenue. He made sure the India employees received company-wide e-mails, and conducted multiple sessions of monthly employee meetings so the India group could listen at a convenient hour. Engineering-team leaders began conferring twice a week by telephone, shifting the time of the calls every six months so that it's early morning in one office and early evening in the other.

Toward the end of 2002, Mr. Vigouroux began to ring the bell daily, as customers such as Washington Mutual Inc. and MasterCard International Inc. purchased ValiCert's software.

By early the next year, ValiCert executives believed the company had stabilized. Revenue increased to $3 million in the fourth quarter of 2002, up 27% from the previous quarter. Expenses declined, and the company neared profitability. Investors detected a pulse, and the stock rose to 46 cents on the Nasdaq Stock Market at the end of January, from a low of 20 cents in August 2002.

But with just $3 million in cash, ValiCert remained precarious. Mr. Vigouroux started meeting with potential new investors and began talks with Tumbleweed CEO Jeffrey C. Smith.

Tumbleweed also had been through significant layoffs and retrenchment, and in February 2003, the companies agreed to merge. The combined Redwood City, Calif., company's 150 engineers today are almost evenly divided among California, the Tumbleweed operation in Bulgaria, and the India office started by ValiCert. In Bulgaria, engineers write and test software, and scan millions of e-mails daily for traces of spam. In India, engineers test software, fix bugs and create new versions of one product. Last September, Tumbleweed released its first product developed entirely in India, a program that lets two computers communicate automatically and securely. Mr. Marur's team had worked on it for over 18 months.

Core development for new products remains in California, where engineers are closer to marketing teams and Tumbleweed's customers. Since July, Mr. Lourie's U.S. team has grown to nine engineers, from six.

Tumbleweed's fourth-quarter revenue grew 69% from a year earlier, as its net loss shrank to $700,000, and cash increased by $2.4 million. Shares have risen five-fold in the past year.

Brent Haines, 36, is a new hire. He joined in October as a $120,000-a-year software architect, charged largely with coordinating the work of the U.S. and India teams. That often means exchanging e-mail from home with engineers in India between 11 p.m. and 3 a.m. California time, as Mr. Haines reviews programming code and suggests changes. Such collaboration requires extensive planning, he says, ''something very unnatural to people in software.''

''Nine months ago, people would have said [moving offshore] was the biggest . . . disaster,'' says Mr. Thielens, the product manager. ''Now we're starting to understand how we can benefit.''

Mr. DODD. This is a story written by Scott Thurm. It is about a company, ValiCert, that learned key roles must remain in the U.S. for outsourcing to work. And the thrust of the article is this company rushed, like everybody else. Forty percent of the top 1,000 companies in America are now outsourcing their jobs, sort of like chasing into Mexico back in the 1980s when the financial service sector thought that was the place to be, without much thought. Once these trends begin, they are sort of like sheep following one after another without much thought involved.

This company ValiCert went racing off to outsource its jobs, reduced its employment, saved a lot of money, according to the article, expected to save millions annually while cranking out new software for banks.

I am quoting from the article now:

When sales of their securities software slowed in 2001, executives at ValiCert began laying off engineers in Silicon Valley to hire replacements in India for $7,000 a year.

ValiCert expected to save millions while cranking out new software for banks and insurers and government agencies. Senior Vice President David Jevans recalls optimistic predictions that the company would ''cut the budget by half here and hire twice as many people there [in India].'' Colleagues would swap work across the globe every 12 hours, helping ValiCert ''put more people on it and get it done sooner,'' he says.

The reality was different. The Indian engineers, who knew little about ValiCert's software or how it was used, omitted features Americans considered intuitive. U.S. programmers, accustomed to quick chats over cubicle walls, spent months writing detailed instructions for overseas assignments, delaying new products. Fear and distrust thrived, and ValiCert's finances deteriorated and coworkers, 14 time zones apart, traded curt e-mails. In the fall of 2002, executives brought back to the U.S. a key project that had been assigned to India, irritating some Indian employees.

''At times we were thinking, what have we done here?'' . . .

The article goes on; I won't read all of it; the point being sort of buyer beware. This notion that you might be hiring people for a fraction of what it would cost to hire someone in the Silicon Valley and it is going to allow you to make millions because of laid-off American workers and you hire someone 8 or 10 time zones away, has been, certainly in the case of this particular company, proven to be untrue.

So to the point that when a good or service is produced more cheaply abroad, it makes more sense to import it than to provide it domestically, I would suggest that the people who wrote the economic report for the President may want to talk to the people at ValiCert. I don't suspect that is one company. I suspect that is true of many companies. So it is not Biblical.

I agree that in certain cases you will make a lot more money by firing people in the United States and getting rid of them. Why should you worry about that? Your job is to provide a bottom line. That is your job.

My job is a little different than your job. My job, as a Senator, is to not only watch out for you and your company, to make sure you live in an environment where you can make a profit, I have an obligation to those people who work for you as well. I didn't get elected to the Senate just to guarantee you a bottom line. My job is setting public policy, not quarter by quarter, not just bottom line and yearly report to yearly report, but longer than that. That is what we are supposed to do in a Chamber such as this, to think a little longer, to worry about this country, those who are the children of the 21st century and what kind of a Nation are they going to inherit after you and I have left. They are going to ask us about what we did at the beginning of the 21st century when we saw the trend lines reaching out to cause literally millions of people to lose their jobs.

One report indicates that in the next 10 years or so we may lose as many as 4 million jobs, a loss of $140 billion in wages, just by outsourcing alone.

That number may be low, according to those who have done this. I will get to the charts in a minute and identify the source of that. I will get to the amendment at an appropriate time and talk about the specifics of it. I know I am going to hear that your amendment goes too far, it is too heavyhanded, because I am going to suggest that maybe the use of Federal tax dollars—we ought to have second thoughts about subsidizing this rushing to go overseas to outsource. I cannot stop a private company with its own dollars deciding to do that. You can make it less of an attractive thing through the Tax Code or more attractive for people to stay here, but I certainly cannot stop you from doing it.

But I ought to be able to say something about how American taxpayer money is being used. If their money is being used to cause somebody to lose their job and to hire someone for the attraction of the salary someplace else, maybe taxpayers have a right to be heard on this issue. This amendment says Federal tax, for the purpose of outsourcing—with the exceptions of national security and other provisional

waivers, which I will explain—ought not to be something we are supporting. If you want to do it as a private company, that is your business. I don't think you ought to necessarily have a right to Uncle Sam's taxpayer money to do that at the expense of critical jobs that are important for this Nation's future.

I will go on in this economic report because I may not have time, when we get to the amendment, to talk about it. I cited chapter 12, page 229, where you have this emphatic statement that it automatically, in every case, as I read this, makes more sense to import. They don't talk about outsourcing. They act as if it were a good or a service. I know economists like to suggest that is all it is. But I think people in Ohio, Connecticut, or Pennsylvania are more than a good or a service. They may have a family, a home mortgage they are trying to pay, and they may have other obligations; and they worry about their future retirement and health care. So to have the cold eye of an economist saying a person out there who has a job in America may find it gone because the quarterly report would look a lot better if we can hire that person for $7,000 a year rather than paying you $40,000, $50,000, $60,000, or $70,000 a year, and you are really nothing more than a good or a service—I think many of us here believe otherwise.

These are not just goods or services; these are human beings who help to strengthen this country, provide us the kinds of liberties and opportunities we enjoy as Americans. I think it is about time we stood up for them and what their interests may be—not at the expense of others, but to merely strike a balance. This is not about being against trade, being an isolationist at all. It is merely saying strike some balance before this sort of giddy trend, where company after company is sort of playing follow the leader and runs amuck as they send these jobs willy-nilly offshore; we ought to say let's look at what we are doing and at what ultimate price we may pay.

The second point I want to make out of this economic report is a reference with regard to what is manufacturing. I don't have the page number, unfortunately, on this, but I will get it before I finish my remarks. It is a highlighted box, and the title of the box that is framed out here is ''What Is Manufacturing?'' This economic report says the definition of a manufactured product, however, is not straightforward. When a fast food restaurant sells a hamburger, for example, is it providing a service or manufacturing a product? You may say that is only a question. You know, if this is your question and the example you would cite in your question, what are you thinking of? Do you think it is a debatable item as to whether or not producing a hamburger or a hot dog involves manufacturing? This is not some op-ed piece; this is the official economic report of this administration's economic policy. In bold print in this economic report they suggest there is a legitimate question over whether or not working at McDonald's or Burger King flipping hamburgers ought to be classified as a manufacturing job. If you don't think we are in trouble on these issues, just read that.

That is an example of the kind of terribly naive at best, at worst rather callous, thinking when it comes to talking about the importance of manufacturing. I don't belittle a job somebody holds down working in a fast food restaurant. For many people out there, that is the only job they can get to provide for themselves and their families. They would be the first to tell you that they hardly think of themselves as being in the manufacturing business. Yet, in the administration's official report, it raises the question of whether or not it is a manufacturing job. At least this Member gets a sense they are lost on this issue, when they raise questions as foolish as that.

Let me go to some of these charts, if I may. Let me just give you a suggestion of what is happening on the issue of manufacturing. The first chart I raise here points to the fact that in the last 36 months, we have now lost in the United States of America 2.8 million manufacturing jobs—since January 2001, up until now, the winter of 2004. That is 2.8 million manufacturing jobs that have gone in this country. I believe that is the single largest loss of manufacturing jobs that has occurred since the Great Depression. I understand transitions in the economy. Things happen and move in different directions. But I don't think you can wash your hands of this and say I am sorry, but that is the trend line and that is the way life is—sort of a laissez-faire approach.

We ought to analyze why things are happening, where are the jobs going, and what are the implications for our country. I understand where the CEO of a company is coming from, and the board of directors or the administration of a company. Their concern is the bottom line and whether you have a profit to show the next quarter. I think Members of Congress ought to have a different set of questions from whether the quarterly report is all right—whether this trend line is going to continue, and what it means to our country. If this trend line continues and we end up losing a manufacturing sector, we will deeply regret it.

I come from a State where I have 5,400 small manufacturers—or I did—in Connecticut. Most of them are small operators, with 5, 10, 15 people, third and fourth generation, producing not just flowers or some other item but, rather, significant products, many of which are used in the aircraft engine industry of my State, the manufacture of the sophisticated submarines we produce in Connecticut, or other high value products. These manufacturers employ highly skilled people, producing very valuable pieces of equipment used in some of our most sophisticated defense and nondefense products. So when I see these jobs and these businesses going, I have to be reminded that we are not going to create this overnight. You don't reconstitute the manufacturing base overnight. Again, I accept we have to make changes and you cannot say we are going to stop this altogether. But I think we have an obligation to express our concerns and worries about where we are headed, if we don't speak up and begin to address what this may mean for our country.

I am very worried about where these trend lines are going and what it may mean. If we end up continuing to lose jobs and manufacturers, I am concerned about what it may mean for our country if we end up having to import not only the jobs but the products themselves. That is another subject matter we can discuss later. We ought to worry about it as a country. If we don't do something soon in this area, that is going to be a continuing problem.

Let me point out further, to give some idea of where this is all happening, because it is not, as I mentioned, just my State of Connecticut. I mentioned my friend and colleague, the Presiding Officer, comes from New Hampshire up in our area. Just to highlight, his small New England State as well had some 22,300 jobs in the manufacturing sector lost in New Hampshire. In my State of Connecticut, it is about 32,800, about 10,000 more. That is in the last 36 months.

The trend lines are: Pennsylvania, 132,000; Ohio, 153,000 jobs have been lost; California, 272,000 manufacturing jobs lost; the State of Washington, 59,000; Oregon, 21,000; Texas, 149,000; Florida, 52,000; Georgia, 67,000; 142,000 jobs lost in the small State of North Carolina. This is all in the last 36 months.

I won't go through State after State, but you get some sense of this. It is not isolated to our corner in Connecticut, our small State, or the area of New England: New York State, 115,000 jobs; Michigan, 121,000; Wisconsin, 168,000; Illinois, 115,000 jobs. It is a worrisome trend. It is going on all across the country.

Again, we cannot say this is transitional, I am sorry, America, you are going to have to live with this. We ought to respond in a way that acknowledges this trend and tries to offer some ideas on how we might turn this trend around.

I will be glad to share with my colleagues, if they are curious about their States—I will not go through all 50 States, but there is not a State in the country that has not lost manufacturing jobs. Some have lost very few. The State of Wyoming lost 700 jobs; North Dakota, 500. That may be the lowest. Arizona, 34,000; New Mexico, 5,000; Colorado, 37,000; Kansas, 19,000; Arkansas, 29,000; Missouri, 38,000. These job losses have been very painful.

We talk about these jobs, and I think the tendency is to talk about them in

and of themselves, the job loss in any manufacturing sector in any given State. Each manufacturing job supports three other U.S. jobs. When we end up losing these jobs in the manufacturing sector, there is a ripple effect.

I won't dwell on this, but I think most of my colleagues are aware of this already. When someone loses their source of income in the area of manufacturing, the effects are felt in retail trade, personal/business services, and other manufacturing sectors with the inability of people to purchase goods. It is not as if these jobs exist or, when they are lost, the only people paying that price are the people who lost the job. In effect, it is being felt across the economy as well.

Mr. President, 14 million additional jobs are in danger.

Now we get into the question of jobs going offshore. I want to give some indication of what is happening. Let's get back to the outsourcing question. I mentioned manufacturing because a lot of these jobs are moving in that area.

We are told—and this is from Time magazine in their February 22 issue—that by the year 2015, more than 3 million American jobs are projected to be shipped overseas. We begin to see these trend lines. In 2005, it moves up to 588,000 which will be outsourced overseas. A few years later that number of jobs goes to 1.6 million, and projections are, with no effort being made to change this direction, the number gets up to 3 million. We are worried that if we do not speak up now and do something about this trend, we are going to find a continued erosion and continued loss of these jobs overseas.

Let me point out where they are coming from because this may be helpful as well to those interested in this subject matter. There are 14 million additional jobs in danger of being shipped overseas, as I mentioned. Where are they coming from? Office support areas, some 8 million jobs; business and financial support, 2 million; in the area of computer and math professionals, close to 3 million; in the area of paralegal, legal assistance, diagnostic support, medical transcriptions and the like, the numbers are in the thousands, to give some idea where we are going with all of this.

It isn't just these low-wage jobs that are going. They are also going in the more sophisticated areas as well. I mentioned earlier the story in the Wall Street Journal talking about ValiCert. They were talking about jobs in Silicon Valley. I guarantee you we are not talking about low-wage jobs at all. Those are jobs that are fairly well paid, and they are being lost. The trend lines are not good in just raw numbers, but also in sectors of the economy where these jobs are being lost.

At the appropriate time, I will offer a very specific amendment to address the issue. Very briefly, the amendment would do the following: It will restrict anyone from using Federal tax dollars to ship jobs offshore in three different ways. First, the Federal Government may not use Federal taxpayer dollars to procure goods or services to fulfill contracts that use overseas workers at the expense of American jobs.

Second, we tell State and local governments that any Federal dollars they receive in the form of a grant or in the form of an appropriation by formula or in any other way are not to be used to promote the loss of American jobs.

I point out that today 40 States outsource jobs. I am told that in the State of Minnesota, if you lose your job and you call up the unemployment office, you are going to talk to someone in India about what your rights and benefits are. I do not need to tell you the reaction of those people in that State who lost their job and they are talking to someone offshore to tell them what their benefits are.

The third way is, any agency seeking to privatize a government contract being paid with U.S. taxpayer dollars may not enter that contract if it again displaces American workers in favor of offshore workers.

In all these cases, we have exceptions on the grounds of national security and we allow the Governor or a Federal agency head to, in effect, waive these provisions if there is bona fide lack of goods and services in the United States. There is an escape clause here.

The obvious question arises, one, on national security, or, two, if no one is producing these goods and services here, what are we supposed to do? Rather than have the President have to waive the provision, we allow a Governor or head of an agency who would be in charge of this particular area to do so.

Let me take a few minutes to explain why this is a timely amendment and why it is deserving of our support. A gentleman by the name of John Bowman dedicated 25 years of his life to becoming an information technology professional, and he was very good at it, I might add. He, like hundreds of thousands of Americans, lost his job because of outsourcing. John looked around and realized what happened to him was not an isolated incident. It was part of a massive trend, and he decided to do something about it.

John will tell you he would be the last person in the world leading a grassroots organization that has practically become a grassroots movement in this country, not just in my State but all across the Nation. These are white-collar professional people, highly trained, who are watching their jobs lost day after day, flying offshore, being outsourced.

Fortunately, John is now being joined in this fight from people of all walks of life—labor unions, small business owners, Republicans and Democrats alike. I had a meeting in my State a few days ago on this issue. I had people in the same room that I could not put in the same town in Connecticut a year ago—people from the manufacturing sector, from labor unions, and the private sector coming together. They differ on a lot of issues, but on this one they are joined in common cause. They recognize what we are experiencing is different from what we experienced before.

Today, advances in technology and fewer trade restrictions have made it far easier to move goods, information, and jobs around the globe. Foreign countries are aggressively enticing American businesses with promises of lower wages, lax worker protections, and weak environmental laws. Countries such as India and China have figured out if you want to compete in the global marketplace in the best jobs, you need to invest in the best education and training of your workers. Rather than trying to find a meaningful way to address these new circumstances, this administration would rather pretend the world is still functioning as it always did and actually that our economy is on a path to recovery. As a matter of fact, our country is hemorrhaging jobs at an alarming rate. As I mentioned already, according to one estimate, by the year 2015, 3.3 million, close to 4 million jobs and $136 billion in annual wages will have moved offshore if we do not do something about it. Four hundred of the largest 1,000 companies are already sending jobs offshore, with more planning to do so every single day.

In a short time I will get a chance to go into this in more detail as to why I think this is an important amendment and why I hope my colleagues will support it.

I realize it is a loud shout at this moment, and I know others will argue that maybe it is louder than it need be, but I do not know any other way to express my deep concern about what is happening in my State and all across this country if we do not begin to say that at least with taxpayer money you are going to have to act differently. You may decide to do it on your own dime, but you are not going to do it on the dimes of my taxpayers, to send jobs overseas when they are not necessary. You do not need to do that in order to survive.

I see my colleague from Montana in the Chamber. I yield the floor and at an appropriate time I will come back to this discussion.

The PRESIDING OFFICER. Under the previous order, the time for the minority has expired. The majority controls an additional 9 minutes 20 seconds.

Who yields time?

Mr. GRASSLEY. I suggest the absence of a quorum and that it come off of our time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2647

Mr. HATCH. Mr. President, there are several aspects of U.S. job creation and retention on which many of us may disagree. I do not believe, however, that the need for an effective research credit is one of them. It will do more for workers, more for jobs, more for high technology, more for opportunities, and more for the economy than most anything else we could pass. In this jobs bill it seems very appropriate for us to add this particular amendment to it.

This amendment has strong support from both sides of the aisle. It has the unified support of the whole business community. It is the right thing to do for U.S. workers, for the U.S. economy, and for our children and our grandchildren. This amendment will open a door for small businesses, where most of the jobs are created anyway, to create more jobs, more opportunities, more good products, more high technology, more ways of keeping the United States at the forefront, economically, in this world than almost anything else we could do.

This jobs bill, which itself is an excellent bill that will do a lot for jobs, will be much better for having this amendment added to it. I hope my colleagues will all vote for it. It is a worthwhile thing to do. It is something that every one of us ought to vote for.

I thank those who have cosponsored this with me, those who have amended it with their excellent suggestions and the members of the Senate Finance Committee who have been champions of this for many years. I believe over the long run this type of amendment is going to pay off in great dividends.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

VOTE ON AMENDMENT NO. 2651

The PRESIDING OFFICER. Under the previous order, the hour of 3:30 having arrived, the question is on agreeing to amendment No. 2651.

The amendment (No. 2651) was agreed to.

VOTE ON AMENDMENT NO. 2647

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2647, as amended.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KERRY) would each vote ''yea.''

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

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—93

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Bingaman	Feingold	Murray
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Brownback	Frist	Pryor
Bunning	Graham (SC)	Reed
Burns	Grassley	Reid
Byrd	Gregg	Roberts
Campbell	Hagel	Rockefeller
Cantwell	Harkin	Santorum
Carper	Hatch	Sarbanes
Chafee	Hollings	Schumer
Chambliss	Hutchison	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith
Coleman	Jeffords	Snowe
Collins	Kennedy	Specter
Conrad	Kohl	Stabenow
Cornyn	Kyl	Stevens
Corzine	Landrieu	Sununu
Craig	Lautenberg	Talent
Crapo	Leahy	Thomas
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wyden

NOT VOTING—7

Biden	Graham (FL)	Nelson (FL)
Breaux	Johnson	
Edwards	Kerry	

The amendment (No. 2647) was agreed to.

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, may I inquire what is the business before the Senate?

The PRESIDING OFFICER. The bill, as amended, is currently pending.

AMENDMENT NO. 2660

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 2660.

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

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

The amendment is as follows:

(Data not supplied.)

Mr. DODD. Mr. President, I offer this amendment on behalf of myself, Senator COLEMAN of Minnesota, Senator KENNEDY, Senator CORZINE, Senator MIKULSKI, and others.

Let me say to the floor managers, if I may, I know they are interested in the time. I am prepared to agree to a 1-hour time agreement. I do not necessarily expect to take the hour. I know there are others who may want to be heard. I know you want to move things along, so I am prepared to have a time agreement and move on my amendment, give my remarks, and then others can speak, and then vote on it, if you would like.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, with this amendment, we are moving along on this bill. I very much appreciate the Senator's generosity in suggesting a time agreement. At this point, apparently, that is not advisable. But I thank the Senator for making his generous offer and for proceeding nevertheless.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I will move forward. If, at any moment you would like to have a time agreement, let me know and I will try to accommodate you so you can move on to other matters.

I have already spoken about the amendment during the time between 2:30 and around 3:30, describing, in a sense, what the amendment would do and the rationale for the amendment. I will be glad to go back over this amendment again for my colleagues and then engage in any debate or discussion about it.

In a sense, I am preaching to the choir when I talk about this issue to my colleagues on both sides of the aisle because we all painfully know what has happened in the last 36 months in our country. We have lost around 2.8 million manufacturing jobs in the United States. I have laid out on this chart I have in the Chamber how that breaks down State by State across the country.

In my home State of Connecticut, we have lost some 32,000 jobs in the manufacturing sector; California, 272,000; Ohio has lost around 153,000 jobs; in Illinois, 115,000; Texas—the Presiding Officer's State—150,000 jobs.

So certainly we all appreciate the fact there has been a tremendous erosion in a very critical area in our economy.

We also know there is another phenomena occurring, and at an accelerated pace; that is, the outsourcing of many jobs, including some manufacturing jobs, around the globe, and it is accelerating at warp speed.

We now know there are literally 400 of the top 1,000 companies in the United States outsourcing their jobs to India or China or other nations around the globe. Mr. President, 40 of the 50 States now outsource jobs.

My amendment simply says—and there are waivers in here and the like. I understand, although I do not like it, if a company decides on its own dime it is going to outsource a job. I disagree with that. I think they are wrong to do it, but it certainly is their right to do it. We can offer tax incentives to encourage people to stay here, tax disincentives so they do not go offshore, but ultimately a company can decide for itself.

It is another matter with taxpayer money, with the money that American taxpayers send to Washington. The idea that we would use their dollars to outsource an American job is something on which I think we ought to speak loudly and clearly. We ought to say: Look, we disagree with that. We don't think you ought to be able to do that.

So this amendment, in three different areas, very simply says: First, the Federal Government may not use Federal taxpayer money to procure goods and services to fulfill contracts that use overseas workers at the expense of American jobs. Second, we tell State and local governments that any Federal dollars they receive in the form of a grant, in the form of an appropriation, or any other way, that they are not to use those Federal dollars to promote the loss of American jobs for the creation of offshore jobs. And, third, we say any agency seeking to privatize a Government contract being paid with U.S. taxpayer dollars may not enter into that contract if it, again, displaces American workers in favor of offshore workers.

Now, very quickly, in anticipation of some of the arguments we may hear, we provide waivers and exceptions on grounds of national security, and we also allow Governors or Federal agency heads to waive these provisions if there is a bona fide lack of comparable goods or services in the United States.

In this legislation, we also, of course, make it clear that the Government procurement agreements between the United States and some 27 other nations, that are predominantly Western Europe countries, are not affected by the prohibitions contained in this bill. Those 27 nations do not include, I would point out, India or the People's Republic of China.

So the major sources of outsourcing are not affected by those provisions. Thus, we are in complete compliance with the WTO and every other formal agreement we have. We are not in violation of any of those agreements as a result of this amendment.

Now, I had a meeting in my State—and I assume my colleagues may have had similar kinds of gatherings—where people came together who you could not have put in the same county a year ago on this issue. I am talking about my chambers of commerce, my manufacturing associations, and my labor unions—all coming together saying: When is Washington going to say something about this outsourcing that is going on?

If we continue to allow these jobs to flow out of our country, then I think we run the risk, at critical junctures, of having the human talent necessary for us to provide those services and to produce those goods which will allow us to compete effectively in the 21st century. Once you lose jobs, particularly in the manufacturing sector, or some of the high-skilled areas, it is very difficult to go back and re-create those jobs, to re-create those manufacturing centers.

Let me point out an article that appeared in the Wall Street Journal this morning. In fact, I have already included it in the RECORD. But the ValiCert company—and I think this is a front-page story or nearly a front-page story in the Wall Street Journal—discovered that outsourcing was no great success for them. They did it and discovered that the value they were getting for the jobs and products being produced did not equal that produced here in the United States. They have reversed that decision.

So when you read in this economic report, prepared for the President of the United States, last month, in February— and I will quote the report for my colleagues where they state, in absolute terms, on page 229 of this report:

> When a good or service is produced more cheaply abroad, it makes more sense to import it than to make or provide it domestically.

Well, tell that to the ValiCert company. They did not discover that. Certainly, while that may be true of a bottom line of a company, if you are trying to preserve jobs in this country, which is a responsibility we bear in this body, and not just to those companies but to the people who work for them—an American job is not just a good or a service. An American job has implications that go beyond just the dollar amount lost of income in wages or salaries. It means also that a family may not pay their home mortgage and may not be able to provide the goods and services that allow our economy to grow and expand. It means families are under more strain and stress because they have lost the source of income to provide for themselves.

So this ought not be a partisan issue. This ought to be something on which we stand united. This is not being an isolationist. I am a free trader. I have been so in the years I have been here. I have supported many, many free trade agreements, and I opposed some as well, but I honestly believe if you are going to be an effective trader, a free and fair trader in the 21st century, then you ought not squander and give up the very jobs that make it possible for you to compete in this global economy.

So I am deeply concerned that if we do not say something, particularly with U.S. taxpayer money that is being used to subsidize this outsourcing of jobs, then we are failing to understand what is going on across this country. In State after State after State, the trend lines are there in manufacturing. It is also occurring in other sectors in the economy.

Let me share with my colleagues, as shown on this chart, indication of where the outsourcing of these jobs is occurring. Presently, it is occurring in areas such as office support. The estimate is 14 million additional jobs, by the way, will be lost and shipped overseas over the next several years. The estimates are about 8 million will occur in office support areas; in computer and math professionals, close to 3 million jobs lost in that area; business and financial services, over 2 million jobs; paralegals, diagnostic support services, medical transcriptions, over 94,000.

So it is not just low-wage, low-salary jobs that are going but very sophisticated, high-technology jobs that could be leaving our country as well. That makes us weaker. It is not in the national security interests of the United States to be losing these critical jobs at a time when we need them most in order to provide for the economic growth of our own Nation.

So while I understand, from a business perspective, your job is to look at quarterly reports, to try to improve the bottom line, our job in the Senate and the Congress of the United States goes beyond looking at quarterly reports.

We should look generationally. I don't want my generation to be the first generation of Americans which leaves the coming generation less well off than every other succeeding generation has left their children and their grandchildren. We are at risk of doing that if we don't step up at this juncture and say we need to stop or at least discourage this outsourcing of jobs that is occurring at a rapid pace every single day.

It is hard not to pick up a U.S. newspaper in any city and read where one corporation, one business after another, is making the decision to outsource more jobs. I think we ought to say, let's slow down. Let's have some balance. Let's not use taxpayer money to allow these jobs to be lost. That is the thrust of the amendment.

I hope we will have overwhelming support for this idea. This bill is an appropriate place to be debating it. It is something that could make a huge difference for those who are worrying whether we are paying attention at all. We have just debated over the last 5 weeks medical malpractice, providing immunization for gun manufacturers. We have had a bill on pensions. But we have not spent 5 minutes debating the issue of what is happening to America's jobs. That is the big issue.

Look at any survey right now. Ask the American people what they worry

about the most. It is the loss of jobs. They are outraged we have nothing to say when it comes to outsourcing of jobs to other nations, and we are not standing up and defending our own workforce.

In this same economic report I cited earlier, to give you some idea of why people get discouraged, I mentioned earlier the quote suggesting it was an automatic thing that outsourcing of jobs was good or, as they call it, importing of jobs. That is the way they describe it. I mentioned already a company identified in a Wall Street Journal article this morning, ''Lesson in India, Not Every Job Translates Overseas.'' I encourage my colleagues to look at that article as one example of a company that discovered outsourcing was bad for business, not good.

In this same economic report prepared by the President's top economic advisors, they raised the following question:

> The definition of a manufactured product, however, is not straightforward. When a fast food restaurant sells a hamburger, for example, is it providing a service or inputs for manufacturing a product?

If this was some sort of cartoon in the paper, I might have laughed at it, but it is part of an official document, an economic report prepared by the President's top economic advisers which suggests through the question that flipping a hamburger or cooking a hot dog is a manufacturing job. You get some idea and sense of where the outrage of the American public is coming on why we are unable to speak to this issue.

Again, I don't care if you are a Democrat or Republican, what your politics or ideology is. We have to stand up and defend our country in a moment like this. I worry about losing these jobs.

I mentioned earlier I had some 5,400 manufacturers in my State employing well over 240,000 people. We have lost about 35,000 jobs in the last 36 months. My manufacturers produce critical components for some of the most sophisticated defense technologies in the Nation. If you lose that manufacturing base, it is not just the loss of a manufacturing job or the loss of a good little company, it is also a critical issue when it comes to national security needs. Many of these small manufacturers produce critical components and parts for some of the most sophisticated defense technologies in our Nation.

I mentioned earlier my friend and colleague from Texas. The number of jobs there, 150,000. I know this Senator has many of these small companies that are producing those parts for defense companies, defense technologies. There is a ripple effect. We know as well, beyond the implications for our national security, for every one of these jobs that are lost in the manufacturing sector, there are jobs lost in other sectors. It is not just that job that is lost or that family that is affected. Each manufacturing job supports three other U.S. jobs. So when we lose these jobs, we also feel it in the retail trade, in the professional services, and in manufacturing as well.

I apologize if I get heated about this subject, but it is painful to read some of this cold-eyed analysis that suggests somehow you just have to stomach this or weather this, that this is just one of these cyclical or structural occurrences in the national economy, and these statistics, as troublesome as they are, are nothing more than that, statistics.

Behind every one of those statistics, behind every one of those numbers I cite, is usually a head of household or people trying to keep their families together. They are not just statistics. These are American citizens. These are human beings who are doing everything they can to live by the rules and provide for their families. They want to know whether their Congress—they don't identify themselves when they get up in the morning as a Democrat or Republican; they get up in the morning and worry about their families and their future—gets it, if we understand it, and whether we are willing to do anything about it.

This is an attempt by myself and my colleague from Minnesota and others to say at least when it comes to your tax dollar, we are going to say to the States, localities, and other businesses with waiver provisions here, you are not going to use those dollars to outsource an American job, not on our watch. You may decide to do it with your own money, but you will not do it with American taxpayer money. That is why we offer this amendment.

I yield the floor to my colleague from Minnesota for any comments he would like to make.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I rise in support of the amendment offered by my colleague from Connecticut. I am proud of working with the President to grow jobs. I firmly believe, from my days as a mayor, when you cut taxes, you shape an environment in which folks invest. And when they invest, mom and dad have a job. The best welfare program is a job. The best housing program is a job. Access to health care comes with a job, most often. So we have to do what is necessary to grow jobs. We are moving in that direction. Clearly, more needs to be done.

Changing the economy at times reminds me of turning around one of those oar boats in Lake Superior: You have to get it moving in the right direction. I believe we are moving in the right direction, but more has to be done.

We have an opportunity with the Dodd amendment to do more, to make sure we use taxpayer dollars wisely, in a way that prevents the outsourcing of American jobs and grows jobs here.

The underlying bill we are dealing with, the Jumpstart JOBS Act, is moving us in that direction. We have to do more. We are doing it right here.

I am one who has supported and supports expanding markets. I understand the importance of trade in terms of growing jobs. This initiative is not designed to step in the way of our efforts to expand and broaden our capacity to find new markets for our products. On the contrary, what it does is ensures those firms which have exemplary goods and services to sell have a fair shake at contracts involving Federal dollars.

This issue has come up in Minnesota. From conversations with my Governor, it is clear—and I understood this when I was a former mayor—we have an obligation to get the best possible value for taxpayers. We have to look at the bottom line. But at the same time we have to be concerned about the impact on our State and national economy of foreign offshoring when other options are available, when the work can be done here.

I call this commonsense legislation. Again, I support trade as a way to create wealth and jobs. But for a government at any level to contract out with foreign entities for delivery of federally funded U.S. programs is tantamount to Detroit, MI buying a fleet of foreign-made squad cars. It doesn't make any sense. It flies in the face of common sense.

Recent news reports noted that under a $16.8 million contract with an Arizona firm, calls to a Minnesota toll-free number for help with lost and stolen food stamp cards are being routed to Bombay, India. Under a $13.3 million contract, software programs in India are helping build a Web-based system to automate eligibility for Medicaid and other health care benefits to low-income Minnesotans.

The administration of U.S. Government programs ought to be done here at home in the U.S. Even if some of the work is outsourced to private vendors, the thought of our Medicaid or food stamp programs being run out of someplace in India would offend most Minnesotans' sensibilities, and it offends mine.

We have an opportunity to talk about what we do with taxpayer dollars. Would you use those taxpayer dollars in a way that fosters the growth and development of American jobs or do we send them overseas? I think common sense says we use them here.

My colleague and I may disagree at times on tax policy or on a range of issues. But this is an issue that should cut across partisan lines. We have an interest in growing jobs in this country and this is a way to make commonsense use of taxpayer dollars. I am proud to stand in support of my colleague's amendment to this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I also rise to support the amendment of the Senator from Connecticut. It is very hard for people in my State and across this country to read the President's

economic report and hear economic theory that is pronounced in economics 101, that somehow or another 19th century comparative advantage is the basis on which we ought to be working jobs in this country.

Folks are very concerned when they don't have work. That is a very simple principle of economics. We are seeing so many of our manufacturing jobs go, and now 40 out of 50 of our States are taking jobs that are government jobs and shipping them overseas and undermining our economy here. That is not highfalutin economics. That is taking money out of the pockets of people who drive our economy and make a difference in our communities. It has all those multiplier effects other economists might talk about. Then you don't collect tax revenues, you don't have people spending money back into the economy and driving it. A Senator talked about manufacturing jobs, but there is a leverage or multiplier effect on government jobs as well.

This is really out of touch with the American people, when we believe our policy ought to be to encourage outsourcing. Here, with taxpayer dollars, in the Federal Government, we have an opportunity to say, no, this is not the direction we ought to take. We should not be moving jobs overseas that would be very properly done here at home. We see it in the manufacturing sector. I am not sure I totally agree we ought to let everybody look at their quarterly bottom line and move. I think we need to understand there are national security interests at stake on jobs we have right here at home. We need to make sure we have a manufacturing sector that can actually produce steel, manufacture the weapons that protect our men and women when they go to war. We need to have that strength and it needs to be substantial.

We need to work to make sure our technology is under our control, the privacy of the information that flows in. I think we ought to push back against all this outsourcing for a lot of reasons that don't just deal with economics. But it is absolutely unfathomable that we would take State and local folks, Federal Government people, and ship their jobs overseas at the cost of not being able to have the overall economic impact of this. I think, particularly with the waivers the Senator from Connecticut has built into these programs, we have a program that will make a difference.

It is not enough to talk about translating hamburger-flipping jobs into reclassifying manufacturing as a means to solve an outsourcing problem. It is incredible, absolutely incredible, the illogic we see running through this economic report.

I think the Senator from Connecticut has put together a response that makes sense. We are going to use U.S. taxpayer dollars to make sure when we have Government jobs, they stay here. I am proud to be a cosponsor. I think it is absolutely essential the American people know we are fighting for their best interests at home on the floor of the Senate. This is the most direct, clear method of pushing back against what is a very wrongheaded approach to creating jobs in America.

Again, I am pleased to be a cosponsor.

Mr. DODD. If my colleague will yield, I thank my colleague from New Jersey for his support, and my colleague from Minnesota as well.

My colleague from New Jersey is no stranger to these issues. I made note before of what is happening in Minnesota and other States. In Connecticut, we have lost 32,000 manufacturing jobs. New Jersey has lost over 55,000 manufacturing jobs.

Mr. CORZINE. If the Senator will yield for a quick statement, on Friday, we closed the last Ford production facility in New Jersey, and we are on track to have complete closure of the auto industry in New Jersey, which used to be one of the heartlands of auto production, outside of Michigan. It is very much reflected in the kinds of numbers the Senator is talking about.

We were supposed to be replacing those jobs with technology, information systems and telecommunications equipment, and now we see those jobs moving offshore just as much, and some are reflected in those numbers. That is why it is so important to stanch some of that movement by the kind of action that would be taken in reflection of the amendment of the Senator.

Mr. DODD. I mentioned earlier there was an article in this morning's Wall Street Journal entitled ''Lesson in India: Not Every Job Translates Overseas.'' I want to ask my colleague a question. Because of his background in business, he understands those issues better than most of us. This reads:

When sales of their security software slowed in 2001, executives at ValiCert Inc. began laying off engineers in Silicon Valley to hire replacements in India for $7,000 a year.

It says:

The reality was different. The Indian engineers, who knew little about ValiCert's software or how it was used, omitted features Americans considered intuitive. U.S. programmers, accustomed to quick chats over cubicle walls, spent months writing detailed instructions for overseas assignments, delaying new products. Fear and distrust thrived as ValiCert's finances deteriorated, and coworkers, 14 time zones apart, traded curt emails. In the fall 2002, executives brought back to the U.S. a key project that had been assigned to India, irritating many Indian employees.

''At times, we are thinking, 'What have we done here?'' recalls John Vigouroux, who joined ValiCert in July 2002 and became chief executive three months later.

Tell me a bit about this. I think the assumption is made automatically, and certainly in this economic report prepared for the President by his administration, it makes a categorical statement that outsourcing of jobs is always a good thing because it improves the bottom line. Here is an example of a company which had a very different example. Aside from the obvious reduction in payroll by hiring people in another country to do the job, and firing Americans, are there also examples where this kind of activity has actually been bad for business and not necessarily automatically good for business, as suggested by this report?

Mr. CORZINE. Well, the Senator from Connecticut raises a good point because I think when business decides it wants to outsource 14 time zones away or 12 time zones away, there are enormous synergies in business that are lost—the ability for people to work in similar space, to get the economies of the consolidation of ideas, working with people. It doesn't work nearly as well. As a matter of fact, a lot of businesses are consolidating so they can make a lot of their operations much more sympathetic with each other. These are business principles a lot of folks follow.

I don't think it is as obvious as is commented in the economic report of the President, but I guarantee sometimes the short-term benefits that somebody might see on a quarterly report, because they have lowered their loss, are grossly offset by long-term costs because they lose the technological innovation of having people work together. They lose the economies of scale, and the potential long-term costs, aside from the social costs the Senators from Connecticut, Minnesota, and New Jersey have been talking about, are huge.

Mr. DODD. I thank my colleague for those comments. They are very enlightening. It is further indication that these trend lines are moving forward.

There has been a report in Time magazine that indicates we are looking at, some indicate over the coming years as many as 14 million, 15 million jobs to be outsourced if we do not begin to do something about it. In the near term, I think the number is between 3 and 4 million with a loss, by the way, just looking at revenue loss, of wages lost—forget everything else, forget what happens when a person loses their job and the ripple effects that occur—just in lost wages it is about $140 billion.

We know what kind of budget deficit we are in already. I don't think this figure has been projected onto those numbers at all. We look at revenues coming in, and we look at what expenditures for which we have to account, and a loss of $136 billion to $140 billion in wages, lost because of outsourcing over the next decade or less, ought to be a matter of deep concern, even if you are not affected or moved by what happens to families or heads of households who are trying to provide for the needs of their families.

The fact that we lose that much salary and wages going out ought to be of great concern. I mention that as an additional implication of what is caused by outsourcing.

Again, I said earlier, we can offer incentives for people to stay, we can offer

disincentives in the Tax Code for them not to go, but I don't know, for the life of me, why we ought to be taking American taxpayers' money—we insult the taxpayer to say, I am going to use your money to fire someone in this company and hire someone someplace else to do the job at a fraction of the cost because it is going to improve your bottom line.

I don't know how the Senator feels, but the societal implications are profound. Our job is not only to make sure there is wealth creation in the country, but also we bear a responsibility beyond quarterly reports to see to it, from a generational standpoint, that we are going to leave this country at least as in good a shape as we inherited from our parents.

Mr. CORZINE. Will the Senator yield?

Mr. DODD. I will be happy to yield.

Mr. CORZINE. The $140 billion the Senator from Connecticut spoke about with regard to salaries on the chart the Senator previously showed, there is a multiplier effect. It is almost three times that value to the economy. The Senator had the chart which showed the full implications. It is remarkable what is given up when our Nation loses these jobs overseas. It is not just those salaries. When you take the full implication, because you also have to look at the tax revenues that come back into the coffers of State, local, and Federal governments, these numbers could be even larger. This is just showing the impact of what the multiplier effect is for the economy.

These numbers are huge. So the undermining of the well-being of our economy by this outsourcing element is just way more profound than I think is being discussed and is an extraordinary misrepresentation and a mistake for the administration to believe that this is something we ought to be embracing and encouraging.

There is another element that needs to be thought about. Every time those outsourcing jobs cost an American job, then that individual has to compete for another job. Right now, for all but the top 20 percent of our economy, we are seeing declining real wages.

The fact is, people are competing for lesser quality jobs that pay less than the jobs that are leaving. I think we have seen estimates that it is about 20 percent less that an individual makes in the next job they take after they have been laid off. It is profoundly wrong for the administration to embrace such a dangerous idea both for the economic power and also the real hurt that I think it brings to the individual loss.

Mr. DODD. I thank my colleague. It is worthwhile to make the point that actually watching the buying power, the wealth of individuals being reduced, overall our country suffers from that—obviously the families do—but when you reduce that buying power, that wealth, implications are being felt throughout our economy.

These happen from a structural standpoint. But when you allow it to go on with Federal money being used—again, as I say, I would not be party, as much as I may object, to companies that want to do this. I think they are wrong to do it. They are making a mistake. It is harmful to our country. On their dime, I guess they have a right to do it. But on our dime, they ought not have the right to do it, and this is the American taxpayers' dime.

I don't think we ought to be saying to them, You can take your Federal taxpayer money and pay somebody offshore to do it, losing an American job that could be done here. I don't think that is right, and that is the purpose of this amendment. I thank my colleague.

Mr. BAUCUS. My good friend from New Jersey has to leave the floor. I compliment the Senator for what he is trying to do. This clearly is the issue, the problem that faces our country as it will certainly for the rest of the year and probably for the indefinite future.

I am wondering, in addition to the approach suggested today—and there probably are additional proposals, too. This is a complex problem and requires a complex solution. It reminds me of a quote I am fond of making. H.L. Mencken once said: For every complicated problem there is a simple solution, and it is usually wrong.

In my judgment, this administration not only is sort of laissez-faire but kind of going AWOL on this issue. I don't see a plan. I don't see a way to deal with job loss that passes the smell test. In addition, wouldn't it help to be much more aggressive in enforcing our trade laws?

One thing that bothers me, frankly, is that we are going about getting trade agreements with minuscule economies. The big bang for the buck is enforcing our trade laws, say, with respect to India or China or maybe the European Union. There are lots of examples.

We hear about all the call centers in India. We don't hear much about many products by American companies being sold in India, and the Indians are very much violating the intellectual property agreements. Billions of dollars are being lost to American companies that could be spent in America because other countries are not living up to their international obligations.

I was wondering if the Senators agree that is one of the additional ways we can take to keep more jobs in America? Let's open up markets in other countries so we can export more.

Mr. CORZINE. The Senator from Montana is exactly right, some of the regulatory restrictions or ability to actually penetrate some of these markets, while they may meet the letter of the law with regard to trade agreements, are virtually impossible, particularly in the services where we supposedly have the comparative advantage.

I think unless we are prepared to deal on all fronts—enforcing our trade agreements, particularly with large economies—we are not going to see even the theoretical benefits coming back of open trade markets. The situation is very true in the old industry that I worked in, financial services. It is very hard to penetrate these large economies about which the Senator has talked.

So we give up the jobs in outsourcing, but we are not getting the ability to actually provide the services that would make up for some of those jobs back here at home.

It goes back to a miscast presentation of a concept that is fine in Economics 101 books on comparative advantage but makes no sense in the everyday lives of working men and women in America.

Mr. BAUCUS. The point I am trying to make is, we Americans pride ourselves on being fair and open, but I don't know that other countries are as fair and open when it comes to trade.

We are not pure. We do not wear a white hat. Other countries are not necessarily Darth Vaders and wear black hats. But I think it is also true the shade of gray of our hat is a lot lighter shade of gray than the shade of gray of their hats. They do not agree to fair trade in the main. I am talking about the bigger countries. India is the best example, the most blatant example.

Mr. DODD. I thank my colleague from Montana, as well, for his comments. I think they are poignant. While we do not specifically address those issues, he is absolutely correct. It is another piece of this puzzle on which we need to do a far better job. I have had some recent discussions with ambassadors from some of the Latin American countries and have suggested to them they ought to start talking to us about having labor standards and environmental standards from their perspective.

Mr. BAUCUS. Absolutely.

Mr. DODD. If free and fair trade is to work well, it ought to be raising the quality of life and the level of wealth accumulation by people in these countries with whom we are about to enter into trading agreements. That is good for us, and it is good for them. Instead of us having to fight for it here, they ought to be fighting for it and insisting upon it on behalf of their own constituents.

Mr. BAUCUS. Let me ask the Senator a question on that same point. Would the Senator agree that in the main, most of the countries we are talking about—we are talking about environmental standards and labor standards in these countries—generally do not most of those countries want to sign free trade agreements with the United States because it adds to their prestige; it helps them market their products and helps them gain standing in the world? Would the Senator agree with that?

Mr. DODD. I say to my friend from Montana, it is as obvious as anything. These are the shelves—this is the marketplace you want to be. If you are any

other country in the world, you want to be able to access the greatest consumer market in the history of mankind, which is the United States of America. This is the most inviolable place to which you can sale your services and your goods.

Mr. BAUCUS. Would the Senator also agree that it is the case that most of these countries probably want to enjoy the status or the prestige of having a free trade agreement with the United States? Certainly we are not going to negotiate an agreement that gives away the store. This is a bargain for an exchange. Is it not also true that it therefore is a mistake for the United States to in effect be negotiating against itself; that is, for some in the administration to say, no, we do not want those labor standards, we do not want those environmental standards, whereas in truth those countries, frankly, are the ones we should be talking with because they themselves want these agreements and would be much more willing to agree to them?

Mr. DODD. Absolutely. The whole point of these trading agreements, because we are a high value country, obviously, and we do not want to dumb down our system, we want to see improving quality products, you need to sell them to somebody. If the countries with whom you are entering trading agreements do not have a population that can afford to buy your higher value goods and services, then the trading arrangement is going to be all one way and not the other. So it is very much in our own interest, from a larger perspective, to be able to have it.

Too often it is U.S. interests that are insisting that labor and environmental agreements not be included because they want to be able to enter those markets and hire people at those depressed wages and be able to operate plants that do not face environmental regulations. So they see it as advantageous for them. They then turn around and sell those goods back here.

They are not thinking about an American corporation that wants to sell its quality product there. It is very shortsighted and, of course, it only leads to further encourage the outsourcing of jobs, which is exactly what is going on.

Mr. BAUCUS. The point being that the other countries themselves are much less concerned about this.

Mr. DODD. And they should be more concerned about it.

Mr. BAUCUS. Exactly.

Mr. DODD. My colleague would be interested to know, in my conversations, very informally at this point, but I am finding a great deal of receptivity to the point the Senator from Montana is making; that, in fact, they should be insisting upon these points. The politics of their own countries are changing and they are insisting if you are going to enter these agreements, that this be a part of it as well.

Mr. BAUCUS. Absolutely.

Mr. DODD. We may be looking at a new era where it is not going to be just people in this Chamber calling for these kinds of things, but, in fact, people in these other countries are going to be insisting upon it as well.

Mr. BAUCUS. I do not know how much time the Senator has, but I might ask, if the Senator does not mind, to address another subject with respect to jobs. Would the Senator agree, as we try to find a solution to this problem, that one of the issues we have to face and have to focus on is high health care costs that American companies pay and face? It is a very complex problem, clearly, but a lot of companies unfortunately are lowering their employee health benefits or their retiree health benefits because they say it is necessary in order to do business; the world is just so competitive.

The first casualty is those who lose their health benefits. They are scared to death, frankly, about lowered health benefits or no health benefits. On top of that, it is partly, it seems to me, because we do have high health care costs in America.

In fact, the last study I saw is that we pay twice as much per capita on health than does the next highest country. I do not know if we are twice as healthy as people in other countries, but we pay a lot, and that has to be the cost of doing business.

What I am getting at, is part of the solution of this some way to address efficiencies in health care and quality of health care, recognizing that employees of companies in other countries have their health covered by the government, where that is not true in our country; that that, too, is a part of the problem here? If we are honest with ourselves, we are going to have to figure out some way to get our hand on that one, too.

Mr. DODD. I appreciate the comments of my colleague from Montana. He is absolutely correct. I did not even get into the issue of what happens here. Obviously, when you fire someone, lay someone off, you hire someone offshore to do the job, there is absolutely no requirement that the fired or laid-off worker is necessarily going to be able to get any kind of health care coverage from the former employer. Even when you have retired with full benefits there is no guarantee, as we learned through the discussion of the Medicare bill that was before us only a few months ago.

So in addition to the lost jobs and wages—that is all I have been talking about today—there are benefits that are incredible, and when people lose those benefits it adds to the roles of the 44 million people in this country who have no health insurance.

They get health care. It might be showing up in an emergency room, which increases the costs of everyone else who has health care, as we all know. Fortunately, in this country if people get sick they can show up someplace and get some kind of coverage.

Mr. BAUCUS. Usually that is true.

Mr. DODD. It is not free, and it adds tremendously to the cost of others as well. So the implications, in addition to laying someone off—as we see now the thousands of jobs that have gone—the Senator from Montana is very accurate in pointing this out when looking at this issue.

Here we are taking Federal taxpayer money. That is what my amendment addresses. It says: With Federal taxpayer money you can lay someone off and hire someone else and pay them basically with Federal dollars. So we are, in a sense, not only causing that person to lose their job in this country but also their health care benefits and other benefits they may have, not to mention what it does to a family.

Talk about keeping families together, the single largest reason why families break up is economics. Every study in the world that has been done on that institution says it is economics.

As a matter of Federal policy, in effect we are saying we are going to outsource these jobs, causing a great disruption in America and families' lives. The Senator from Montana is so right to point out that the health care implications, because we have not yet sorted this out, are huge.

Again, I come back to the point, I do not accept it, I do not like it, but if someone on their dime wants to lay someone off and hire someone else, I do not like it and I wish I could do something about it and I certainly want to support measures that I know of the Senator from Montana and the Senator from California, such as giving tax incentives to encourage people to stay here, but when someone does it with Uncle Sam's nickel, with the taxpayers' money, then I say, no. I have some control over that.

I am offering an amendment today that says when it comes to U.S. taxpayer money, you are not going to lay somebody off and hire somebody else 12 time zones away to do the job. You may do it on your dime but not on their dime.

I will mention one other subject matter that I know my colleague from Montana and my colleague from California care about, and that is privacy. That is one of the things we have not talked about at all on this issue.

I pointed out earlier—I apologize to my colleague from California because she cannot see this chart, but I was talking earlier about where these jobs are going, from what sectors of our economy they are coming from, the 14 million additional jobs in danger of being shipped overseas. One of the areas we are talking about is in the area of medical, diagnostic and medical services. This covers a little more than almost 300,000 jobs in that area.

We all know what is happening. Today, with information technology, x-rays can be transmitted at the speed of light or faster.

Mr. BAUCUS. We are going to give you a Nobel Prize for that.

Mr. DODD. All sorts of medical information.

We have provisions of law in this country that say you cannot share certain private medical information with insurance companies or employers without consent. Medical information is now being processed by someone who has been hired 12 time zones away—all of a sudden that information is no longer well-protected. So as we see the increase in these diagnostic support services and medical transcriptions going offshore, then the very protections we ought to have as Americans are also being lost. I don't cover that in my amendment here, but we may offer some language on this bill at some point that would say you have to give people at least the opportunity to say I don't want my medical records being processed or handled by someone offshore. I want it kept in the United States because I don't want someone to be able to go in and find out highly sensitive information about me and my family that could be used against me.

Today the laws of the United States do not adequately protect you when this information is being processed and handled offshore. That is one of the major areas we are seeing these jobs moving.

Mrs. BOXER. Will my colleague yield for a question?

Mr. DODD. I am happy to yield.

Mrs. BOXER. First let me say how happy I am to hear you and our ranking member have this conversation. This is so important. In a way it is kind of a problem that snuck up on us. I took a look at the loss of manufacturing jobs in California and my heart sank.

Mr. DODD. There were 272,000 jobs lost.

Mrs. BOXER. Think about it, 272,000 jobs.

There is one area covered in your amendment. Since no one has mentioned it, I want to read into the record a letter and then answer the comment, and then I am done with my role here today other than to say thank you again for your leadership.

This is an interesting issue. It is covered. Your amendment is not reflected on the charts because it deals with agriculture, something in your State you don't have as much of as I have.

I want to read a letter I just wrote to Ann Veneman. I believe this will get you a lot of votes from agriculture country.

DEAR MADAM SECRETARY: I was shocked to learn that the U.S. Department of Agriculture purchased 70,000 metric tons of rice for the Iraqi people from abroad rather than purchasing this product from U.S. sources. At a time when U.S. farmers are facing increased economic pressures and food surpluses, our taxpayer money should be spent on U.S. commodities, not the commodities of other nations.

California, like many other States across our nation, is experiencing a surplus of commodities such as rice that could provide valuable nutrition to the Iraqi people while alleviating potential crop losses for our nation's farmers.

Then I talk about California's high quality of rice.

As we work to alleviate food shortages experienced by the Iraqi people, we have a unique opportunity to assist our own farmers. I request USDA reconsider this decision and instead purchase the needed quantity of rice from U.S. farmers. In the future, USDA should use taxpayer dollars to purchase U.S. rice before it spends taxpayer dollars on foreign commodities.

I wrote this letter on February 24. I am so pleased. I discussed this with your staff. Your amendment would cover this.

Here we have the sons and daughters of America's working people, including people on the farms for sure, going off to Iraq and putting their lives on the line. Now their families either see their jobs going abroad or in this case they are ready and willing to feed the Iraqi people. They are excited about it, they have great products, they have surpluses, and our administration, the Bush administration, goes outside.

I wanted to first of all ask if you were aware of this issue, and, second, say to you whether you were or you were not, I thank you on behalf of the people who make a living from agriculture, because we have our serious problems. We have the best products in the world and we have farmers who are ready to feed the hungry.

Mr. DODD. Let me say to my colleague I was not aware of it. I apologize for not being aware of it.

I know agriculture is a huge industry in the State of California, particularly in the area of rice. It is significant. So I am pleased to know we are covering this kind of activity as well.

Again, this is not being isolationist.

Mrs. BOXER. No.

Mr. DODD. Every time you try to stand up for an American job you are called an isolationist. There is a new coalition. They want to change the language, by the way. There was an article this morning that says, ''Business coalition rewrites lexicon for jobs outsourcing.'' They point out, they say the coalition is now rallying around ''worldwide sourcing'' as a less provocative term.

I apologize for sounding provocative, but we didn't make this up. What ought to be provocative is the fact that people like my colleague from California have constituents who are losing their jobs because we are not doing enough to protect these jobs—not from a protectionist standpoint, but protect them when in fact there is no loss to be incurred as a result of standing up and saying we ought to be doing what we can to protect these positions in our country. I commend her for it.

I thank you for raising it. It is an important point and I am glad our amendment covers it.

Mrs. BOXER. I will talk to those from agriculture states because they may not be aware this administration is taking the dollars this body voted on—I had problems with voting on it, but most people voted for it—they are taking that taxpayer money and taking it right out of this country. It is outrageous.

I thank you again for your leadership.

Mr. DODD. My staff gave me some other information. I have mentioned others. Tax experts now say Indian-chartered accountants, the subcontinent version of certified professional accountants, will prepare somewhere between 150,000 and 200,000 tax returns this year. That is up from 20,000 last year.

I am not making up these numbers. The trend lines are moving at a very rapid pace. In this case here I am not suggesting these are necessarily being paid for with Federal tax dollars. I don't know that. If it is not, obviously we are not covering the situation and these firms that want to continue doing it unfortunately will be able to continue. But if they were doing it with Federal tax money, I say no, just as my colleague from California says no.

If someone with their own dime wants to decide they are going to ship rice or whatever products and use someone else offshore, that is one thing. But when they are using taxpayer money to do that, that is when we have an obligation to stand up and say no.

Mrs. BOXER. Thank you.

Mr. DODD. I appreciate her very much for raising that issue.

Let me say I see my colleague from Iowa on the floor, and others. This Senator is prepared to vote. I talked about this. I have had colleagues come over and share some thoughts on it. I know there are other matters. I know Senators want to move on. I am certainly not engaged in any filibuster. I am prepared to ask for the yeas and nays and vote on this amendment and move on to other questions. Is there some opportunity? I don't want to go into a quorum call if other Members want to come over and discuss other matters, but if we want to vote on it, I would like to do it. What chance do we have, I ask my friend from Iowa?

Mr. GRASSLEY. I will be glad to respond to that. Some Members on our side have not studied the amendment as much as they felt they should and have some questions about it. I would say there are two things. One is understanding completely the impact of your amendment, which obviously is a legitimate concern. The other is that kind of makes a determination whether some Members on our side would want to take some action, maybe with an amendment to the amendment. That decision has not been made. My guess is that decision is not going to be made today. That decision will be made tomorrow.

Mr. DODD. I appreciate that.

Mr. GRASSLEY. Maybe I am being more candid than a Republican ought to be, but that is the way it looks to me. You have always been transparent with me. I think I ought to be transparent with you.

Mr. DODD. I thank my colleague and the manager of this bill for his candor

on the subject matter. He will certainly understand if I share with him—I know these were not his views, he is expressing the views of others who didn't understand the impact of this amendment. Let me say to him, my good friend—and he is a good friend. We have been in Congress together for many years—the impact of not doing something here is huge, on workers losing their jobs. I know my colleague knows that and shares my concern about it as well.

It is not terribly complicated what I am suggesting here. It is straightforward. It says when it comes to taxpayer money, it can't be used to subsidize someone offshore at the cost of an American job.

I know the coalition of the Chamber of Commerce and the National Association of Manufacturers and some other groups out there don't particularly like this amendment because 400 of the top 1,000 corporations are now outsourcing jobs, and I am sorry if they are disappointed by this amendment, but there are an awful lot of people losing their jobs.

That is the only reason I raise it. I have to wait until tomorrow. We will have to wait, obviously. I am disappointed because I thought it was pretty straight forward. Nonetheless, I appreciate my friend's candor.

I see my colleague from California.

Mrs. BOXER. Mr. President, I wanted to ask a question of my friend. I would be happy to defer.

Mr. GRASSLEY. Mr. President, I think maybe I answered too casually when I answered the Senator's question—that maybe I have a feeling there were not legitimate concerns by people on my side. There are a couple legitimate concerns. No. 1, the Senator's amendment does have some mandate on States. That creates a lot of concern—I will bet not only on my side but on his side as well. That is a very philosophical point of view of the impact which we make in the Senate on 50 States, and how many subdivisions I don't know. The other one is the extent to which this might lead to legitimate legal retaliation as a result of the Senator's amendment. That seems to me to be a reasonable, free, and fair trade consideration in any action this body takes.

I want to make clear that it is not strictly political. There are some concerns about his amendment. I enunciated at least two.

Mr. DODD. Mr. President, I yield to my colleague from California.

Mrs. BOXER. I have a question of my friend, Senator GRASSLEY.

While the Senator was out, I was telling the Senate that I had written to Ann Veneman because with taxpayer dollars the USDA went out and bought rice from a foreign country instead of from my rice farmers. I think that is wrong.

I ask this question of my friend: If there are legitimate concerns, I am sure my friend will sit down and work them out with somebody because you have been here a long time. There is no one who is more patient and more willing to sit down and figure things out. But I have a feeling it is deeper than that. I have a feeling you have touched a nerve today which is a very important nerve to be touched. I think it is being touched in the Presidential campaign. I think it is being touched in the campaigns across our country, and it is being touched here today.

If we don't stand up and do something about this, as my friend pointed out in his very chilling chart—and say there is some complication, there is a message being sent, it may be too late.

I say to my friend, if he is willing and if there is some concerns around the edges which can be worked out, I just hope he won't back off this amendment in a substantial way. If there is a difference between the parties, bring it on, I say. This is what people care about in my State, and I know also in my friend's State. Can he give me a sense of the thinking on how he is going to proceed since the majority will not allow a vote today?

Mr. DODD. I will make two points.

I appreciate my friend from Iowa telling me what the substantive concerns are about the amendment, one which I think we have addressed.

On the second question he raised, we included language which very specifically makes clear that the government procurement agreements between the United States and 27 other predominantly western European countries would not be affected by this legislation. India and China are not part of that problem. The major culprit in all of this is outsourcing of jobs. But my colleague from Montana raised the question that we could be found in violation of World Trade Organization policies, if we didn't include this language. So I think we addressed the concerns about whether or not we are going to run afoul of some international agreements to which we are a signatory.

The second part about mandating States, if you are going to use Federal money to lay off workers in your State and hire someone 12 time zones away to do the job, I don't consider that a mandate. That is Federal money. If you want to do it with State money, I can't keep you from doing that. That is your choice. If you are going to do it with Federal money that comes from grants and so forth, I think the American taxpayer would like to know that Federal dollars are being used to lay off one person in your State and hire someone 12 time zones away. You can call that a mandate, but I call it common sense at this particular juncture.

I think we have gone as far as we can go on this issue. We have covered the ground.

I thank my colleague from Wisconsin, Senator KOHL, for joining me in a bipartisan fashion on this amendment.

Today, 40 States outsource jobs. That is pretty alarming.

If you are unemployed in a State and you call up your unemployment office to find out about your rights, and you are talking to someone 14 time zones away to find out your rights, that is offensive to people in this country. They want to know what we are going to do about it. Do we understand what they are going through?

This is the first opportunity we have had since we have been back over the last 5 or 6 weeks to raise the one issue here. Night after night, Lou Dobbs on CNN, to his great credit, is talking about this issue. He is not talking about it and speaking to an audience that is not interested. The audience across this country is deeply interested in this subject matter. They want to know whether or not anybody is doing anything about it. I can't stop a private company from outsourcing with their own money. But I can stop you from using Federal taxpayer money to fire somebody here and hire somebody 14 time zones away. That I can try. I may not win, but I can try to do it. And that is what we are trying to do.

Mrs. BOXER. I am really relieved to hear my friend's response to the Senator from Iowa. As I understand his amendment, he has already gone a very long way in answering the concerns that were raised. I hope we will stick with it. I think the people in this country are watching. They are not only watching CNN, but they want to know what we are doing. It is an amendment that I have been looking forward to for a long time. We have to make a stand, and I think what my friend is doing is not overreaching.

I rise to say thank you to the Senator for sticking with it, and I will do all I can to help him get it passed.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Iowa.

Mr. GRASSLEY. Madam President, first of all, the Senator from Connecticut has been right in the sense that we have raised some concerns, and we are working with him. He has made some modifications. We are still hearing about some more concerns. I have expressed two of those already. I would like to express another concern that I have heard.

Yes, it preserves jobs in America if there is not outsourcing of service jobs that are involved. But this is a legitimate concern on our side: The extent to which there might be retaliation by countries that outsource some things to the United States. That goes on as well. We want to make sure if we are losing jobs, we don't have a greater loss of jobs in retaliation for Americans who are already employed by a company outside the United States which is using the services of American people in America.

These are concerns that need to be addressed. These are things that will be brought out in debate, and it may be possible to work on continuing modifications of the Dodd amendment so that hopefully we can get it passed without a great deal of opposition.

At this point, we are not prepared to vote.

Mr. DODD. Madam President, I don't believe I yielded the floor.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. My colleague from Nevada is in the Chamber. I didn't know if he wanted to speak.

Mr. REID. If I could make a brief statement without the Senator losing the floor——

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. For the minority, the majority leader has indicated there will be no votes tonight. Everyone should know that.

Mr. GRASSLEY. That is what my Blackberry said 5 minutes ago.

Mr. DODD. For the purposes of those who don't know what a Blackberry is, we will explain that.

I do not know whether my colleague from Texas has a question of me or not. I know he would like to speak on the issue. Does he have a question for this Senator on the subject matter?

Mr. CORNYN. If the Senator will yield, I will have a brief response but not so much a question at this time.

Mr. DODD. I will wrap up myself. I would like to come back, if I could.

Again, maybe I am wrong. But every survey I have seen over the last number of weeks has indicated that people—even people who have jobs—are worried about this issue.

To give you some indication of the disconnect that occurs when it comes to this issue, I quote from the Los Angeles Times story, which appeared elsewhere, but talking about this question, it says:

''The movement of American factory jobs and other white collar work to other countries is part of a positive transformation that will enrich the United States economy over time even if it causes short term pain and dislocation,'' the Bush administration said the other day.

It goes down and says from the economic report:

''Outsourcing is just a new way of doing international trade,'' said Gregory Mankiw, Chairman of the President's Council of Economic Advisers.

They prepared the report.

More things are tradable than were tradable in the past, and that is a good thing.

The article goes on.

I remember the statement being made; Mr. Mankiw apologizing. He said it was a bad choice of words, and we certainly accept his apology. The problem is, it was not the words. It is not a bad choice of words; it is a bad idea.

The idea of saying I am sorry I said only indicated to me they were sorry they said it out loud. They did not change their mind about the subject matter but merely said we got caught at something we should not have said because it was bad politics to say it. I misspoke politically but not substantively, and there is a fundamental disagreement on this point that outsourcing is a good thing.

These are not just goods and services to be tradable in the open marketplace. These are critical jobs which mean a huge difference to the families affected. We bear no greater responsibility in this Chamber than to do what we can to protect American families. When they are being threatened by unnecessarily shipping their job overseas, it is our obligation to speak out and try to do something about it that is responsible.

I made the point over and over again, and I will make it again, I have supported far more free trade agreements over my course of service here than not because I believe that is where you have to be in the 21st century. But they have to be fair agreements. We have to negotiate them far better.

The Senator from Montana and I have talked about how we might achieve those desired results. I don't subscribe to the notion that it is isolationist or protectionist to stand in the Senate and say I think it is wrong to use Federal taxpayer money to cause someone in this country to lose their job and hire someone 14 time zones away. I don't think that is a good idea. Others may say that is their right, but we will have a vote on whether you think it is right.

Examine it until you are blue in the face and try every cockamamie idea to undermine what we are doing, but it is a bad idea to federally subsidize the exportation of jobs that ought to be kept here, not for protectionist reasons but if we provide services and jobs in the global marketplace in the 21st century, you better have the people here who can do it.

If we give up that kind of human capital that is so critical to our long-term success of people, we are putting our Nation in jeopardy. It is not a great quarterly answer. For that company which wants to make more money next quarter, this is a dreadful idea. But if you are thinking more than quarters, if you are thinking down the road about what kind of a Nation we will be leaving the next generation who will inhabit these seats we hold today as Members—we have an obligation to them, as well. We owe an obligation, just as others who sat in these seats bore an obligation to us and left us a pretty decent country—not a perfect one, but a good one. We should see to it that coming generations have the equal opportunity to bear the fruits we have provided for two centuries.

We do not do it by remaining silent or giving phony reasons about why jobs are being outsourced unnecessarily around the globe. That is why I bring it up and that is why I hope we can have a vote and move on it. It is not that difficult to understand.

I yield the floor, as I know my friend from Texas wants to be heard.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, the distinguished Senator from Connecticut has spoken passionately and eloquently about our concern about job loss in this country and certainly it is something we are all concerned and want to do something about. But I am sure none of us would want to endorse a cure which is worse than the disease or cause other problems that perhaps we have not thought through or that are not intended.

I do detect a whiff of politics. I notice the chart says manufacturing jobs lost under President Bush. Perhaps since the time when we had primarily an agrarian economy, we have seen tremendous shifts in our economy because of the efficiency of a flow market system that is far more efficient than the command-and-control economy that is used in other parts of the world that is inefficient and stifles competition and innovation and the productivity that we have in this country.

I certainly would not want to see us do anything that would harm the good things we had going on in the economy in the effort to address a real problem but perhaps with the wrong solution.

I appreciate the Senator from Wyoming mentioning this is something I and no doubt other Members would like to study a little further to see exactly what the details may be before we were asked to vote on it.

I am not an economist. I do understand why companies outsource, to find a cheaper way of producing their product. Even though the distinguished Senator from Connecticut says it is a bad idea, I am not sure what you can do or what we could do, short of erecting a wall around this country and saying we are no longer interested in international trade. I don't know what we can do to avoid companies who are seeking to produce a cheaper product in a more competitive environment from outsourcing some of those jobs. I do think there is an answer, but I am not sure the answer is what the distinguished Senator from Connecticut is proposing.

In fact, by prohibiting the outsourcing of jobs we are basically saying the American taxpayer has to pay a higher price than they would otherwise have to pay. Certainly, that is something we need to explore, whether the higher price is worth the proposed cure.

Also, the Senator from Iowa mentioned we are a country that has a policy of free and fair trade. Of course, there is a question of retaliation. But the truth is, we have seen a loss of manufacturing jobs in this country for a lot of reasons other than outsourcing or competition with China, India—now with the movement of white-collar jobs particularly in the service sector to that country—and that is simply because we have increased productivity. Technology has made it possible to do the same or, indeed, more work using less people. That is just a fact of life. I don't think anyone would want to go back to the last century and say we are

not going to seek further improvements in technology or innovation because we do not want to put people out of work.

The truth is, the solution is, we need to make sure we continue to educate our workforce and not for minimum-wage jobs but for good high-paying jobs. Members may recall the President addressed this issue in his State of the Union speech and talked about the importance of Americans competing in a global economy by educating and perhaps retraining our workforce for new and better-paying jobs.

He mentioned his initiative, working with community colleges. I took the President's words to heart because I am concerned—as no doubt all 100 Members of this body are—about job loss in this country. I went to the community colleges in my State. I said, Tell me what you are doing to train the American worker or perhaps to retrain the American worker for good, high-paying jobs. I went to Amarillo in the Panhandle where I found that Bell Helicopter and the Amarillo College helped create a curriculum to train people to work on the V–22 Osprey which is produced in that plant.

I remember a young woman, a single mom, Hispanic woman, with two children, formerly working as a prison guard making about $9 an hour. As a result of this program with Amarillo College and Bell Helicopter—this is just one example—she is now working on a production line, contributing to the transformation of our military and also improving her standard of living, making about $16 an hour in a good job.

I have done the same thing in Austin where I went to the Austin Community College and learned about partnerships they had entered into to train nurses, surgical techs, dental hygienists. At the San Jacinto Community College near Houston they have partnerships with Boeing and NASA and others to train people for good, high-paying jobs.

Now, I realize we are in the political season, and I understand that perhaps nothing said in this body or anywhere else in Washington is perhaps totally devoid of politics, but the truth is, Americans can and will always be willing to compete and win in the global competition in this new economy.

Now is not the time for us to wring our hands and say: Oh, woe is us. We just can't quite do it. We have to erect protectionist walls. We have to come up with solutions which, perhaps maybe actually increase prices to the American consumer while not actually solving the problem that we are all concerned about; that is, job loss.

So I say as part of this debate—and, again, I know the Senator from Connecticut has the best of intentions, and we share the same concern—now is not the time for the American worker or for the Members of the Congress to lose faith in free markets and the capitalist economy which has made this Nation the envy of the world.

We are talking now again, thankfully, about addressing our immigration issues in this country. I will note that there are not people trying to get out of the United States of America because things are so bad. To the contrary, people are risking life itself to come here because we are still a beacon in terms of the opportunities provided, in terms of the freedom, in terms of the ability of people, working hard in this country, to have a good standard of living and a better quality of life.

I hope the election year does not consume us so much that we look at the glass always as half empty rather than half full, or look at something as a lemon rather than an opportunity to make lemonade.

I think the President is exactly on the right track. I think if we commit resources to train the American worker to be part of the innovation that has always characterized and been the hallmark of the American economy and the business providers in this country, to make sure those workers are trained in this constantly evolving economy, which is very efficient, and sometimes brutal, but to make sure we are there and are working with local and State and Federal governments to do everything we can to assist business partners and the education community to train the American worker for good, high-paying jobs, I think we have nothing to fear.

Finally, where I was raised we were taught that we would get our formal education and then we would go to work and maybe even stay in the same job for the rest of our adult life. But the truth is, today that is just not possible. We need to change our frame of mind so that we teach our younger people, look, learning is a lifetime endeavor, and it may be that you will change jobs at different times during your adult life because you want to improve your circumstances, you want to get a better paying job to better provide for your family, and you can do it in a free country where there is an opportunity to retrain, to get an education throughout the course of your life.

I firmly believe now is not the time for the American people to lose faith in the good thing we have going in this country, and that, as I said a moment ago, is the envy of the entire world. I believe our focus ought to be on that education, lifetime job training, and not on erecting barriers around this country or perhaps other solutions, although well intended, which will have a detrimental impact.

With that, Madam President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I think the American people need to look at what has transpired in recent weeks with this administration. Senator DODD has brought to the Senate's attention one issue; that is, a high-ranking member of this administration has said that outsourcing jobs—what does it mean? Shipping jobs overseas—is good for our economy. That is what he said. Well, if that were the end of it, you could well say, maybe that was just somebody who made a mistake.

Then we have today Tommy Thompson who says: We should not have Americans be concerned about all the money we are giving to Iraq to establish a health care system because we really have, in the United States, a universal health care system because those people who have no insurance get taken care of. That is what a Cabinet officer of this President said.

Now, should we stop there? Let's go on and talk about what another Cabinet officer said 2 weeks ago, the Secretary of Education. The Secretary of Education said, to a group of assembled Governors, that the National Education Association were terrorists. He did not say it once to the Governors but twice. I have talked to Governors who were there: The National Education Association are terrorists; the largest teacher organization in the world, based in the United States, are terrorists.

I think that is something I cannot comprehend: How the Secretary of Education can say this about teachers.

Someone I went to high school with—we played baseball together; we were on the first State championship baseball team in the history of the State of Nevada; He was a pitcher; I was a catcher—Reynaldo Martinez and I have been friends for these many years. He was my chief of staff in the Senate. He retired a few years ago. He was a longtime organizer for the National Education Association. To call Rey Martinez a terrorist because he was a member of that organization is difficult for me to comprehend.

For me personally, what is transpiring in Congress, because of the position the administration has taken regarding highway transportation—the former chairman of the Environment and Public Works Committee, the former chairman of the Finance Committee, now the ranking member of the Finance Committee, has worked, as I have worked, on a number of highway bills. There is no bill we do in the Senate, in the Congress, that is more important than a highway bill. It creates millions of jobs over a 6-year bill. We produced a bill based on the budget we passed a year ago. We have there, in the bill that we were able to report out of committee, in keeping with the budget, and as passed the Senate of the United States, a bill that is a very good bill, that does not raise one penny of taxes, that takes care of transit and highways. The President says he is going to veto the bill.

Outsourcing is good; 44 million Americans, don't worry, you have universal

coverage because if you get sick, you can go to an emergency room, if you are lucky, if there is one there; the National Education Association personnel are terrorists; and he is going to veto the transportation bill. Is there somebody in the bowels of the White House trying to destroy the President? I cannot imagine the President would come up with these ideas himself. I certainly hope not.

I commend and applaud my friend from Connecticut, the senior Senator from Connecticut. He has brought to the attention of the Senate the importance of focusing on the disastrous loss of manufacturing jobs. Since this President has been in office, our Nation has lost a total of 2.8 million jobs. Every single month, with no exception, manufacturing jobs are lost.

I guess I should be leading the cheers here because out of the 50 States, the great State of Nevada is the only one in white on this chart. We hold the record. We created 200 new jobs in the last 3½ years. That is certainly better than losing 200, and it is certainly better than the State of Texas, which has lost 150,000 jobs, or the State of New York, 115,000 jobs. Even a small State such as Wyoming lost 700 jobs. California has lost 273,000 jobs. So 200 may not look like much, but for us in Nevada, we will take it.

Two hundred manufacturing jobs in 3½ years were created in the State of Nevada—not much, until you compare it to the rest of the country. Then we are doing pretty well. We are the only State in the Union that had a net gain of manufacturing jobs during this Presidency.

Where have these jobs gone? Some are gone forever, but lots of them have gone overseas. Our country cannot remain strong if we can't manufacture steel, automobiles, airplanes, and appliances. I am very happy that we do wonderfully well with our service industry. No place represents that better than the State of Nevada, especially Las Vegas. But we cannot remain the superpower of the world by flipping hamburgers, which is something I forgot to mention.

Somebody in the administration suggested 2 weeks ago that we should create a new manufacturing category; that is, people who work in fast food restaurants. I am not making that up. They want to turn people who work in McDonald's preparing meat patties, putting the sandwiches together, into manufacturers.

Mr. DODD. If my colleague will yield, in chapter 2, page 73 of the Economic Report of the President—this was prepared by the President's economic advisors—they raise the issue here as if it were a legitimate question. They say: The definition of a manufactured product, however, is not straightforward. When a fast food restaurant sells a hamburger, for example, is it providing a service or is it manufacturing a product? They think that is a legitimate question, that manufacturing a hamburger might actually be a manufacturing job. My colleague from Nevada is absolutely right to raise this point.

Mr. REID. Mr. President, I have only talked about what has happened in the last few weeks: Outsourcing is good, teachers are terrorists, veto the transportation bill. We have universal coverage in America because if you are one of the 44 million, you get taken care of some day somewhere. That is universal coverage. That was the Secretary of Health and Human Services who said that. And now they are trying to develop a new category of manufacturing.

This reminds me of my friend Greg Maddux. In Las Vegas we are so proud of him. He has won the Cy Young Award 4 years. He is slightly built and my size. He is one of the greatest pitchers of all size. His hands are smaller than mine. He is now going to Chicago. He needs to win 11 more games to become a 300-game winner, which is a big deal in baseball. Just a handful of people have done that. So he needs 11 more games. Based on the President's assumption of how we can create manufacturing jobs, maybe we can get him to 11 more quickly. What I suggest is having four strikes instead of three. With four strikes—he has great control—I guarantee you, even though he will be 37 years old next month, I think he could win his 11 games much more quickly.

That is what is going on with this administration. If you don't like what goes on, change the rules.

I have said before, I have two brothers older than I. One of them was working in a Standard station in a place called Ashfork, AZ. He wanted to take his little brother away from Searchlight. So we went to what I thought was the big town of Ashfork, AZ. Frankly, it was not a lot of fun for me because my brother had a girlfriend, and he didn't spend a lot of time with me. So I was pushed off on his girlfriend's brother. I could not beat him at anything. It didn't matter what it was. I never beat him at anything because he always changed the rules in the middle of the game. That is what is going on here with the administration. We are going to change the definition of manufacturing.

The loss of jobs in our country is very bad. If it were only manufacturing jobs that were going overseas, I would not like it, I would complain about it. But this has been compounded because the loss of manufacturing jobs is not the only problem. The Senator from Connecticut and I were looking earlier today at a chart. I am sure he has shown it. This chart talked about some of the diagnostic procedures that were going overseas. Look at some of these things: 14 million jobs in danger of being shipped overseas.

Mr. DODD. These charts belong to Senator KENNEDY. He feels very strongly about these charts. I wanted to make sure the record reflects we are borrowing Senator KENNEDY's charts. They are very good charts.

Mr. REID. As I was saying, Senator DODD and I were looking at this earlier today. We don't need to go through all of this, about the 14 million jobs, some of which have already been shipped overseas and some going overseas. Diagnostic support services, we already know what these are. They are actually shipping medical records to other countries and having them catalogued. But they are also having some of these medical records reviewed. Take, for example, a CAT scan. Ship it overseas. They can have somebody there review it very quickly. Take, for example, an X-ray, a simple X-ray, ship it overseas. They can do it quickly. You will get the results back soon. I don't feel very good about that. I go to my doctor in Las Vegas or Reno, Boulder City, Elko in Nevada. They are shipping the X-rays they take of my body to India or some foreign country to have somebody over there call my doctor or the hospital staff and tell them what is wrong with me? I don't think so.

The additional problem with that, just from a basic fairness standpoint, I won't disclose the Senator's name, but a Senator told me she had two complaints from constituents in that State that privacy was being violated, people had information that came from overseas about her health condition. I hope the people making these decisions for our President were not trained during the Reagan years.

Reagan, for whom I have the highest respect, didn't continue this. He learned early on it was not a good idea when someone in his administration said, let's have ketchup considered a vegetable for the school lunch programs. Maybe that person is still around here someplace and giving these great recommendations to this administration. I hope not. Or if it is true that that person is around, maybe they should put a stop to it. We do not want people who are being X-rayed, medical records, lawyers who research cases and write briefs, technological specialists to keep virtually every company running—all these jobs are fleeing America in a mad global case for cheap labor.

Every time a job goes overseas, it hurts an American family.

It used to be that if you lost a job, you would find one pretty quickly. Now the average time for getting a new job after losing a job in America is almost 1 year. Losing the job is bad enough because you lose self-esteem, you lose a sense of pride, you believe you have not been appreciated, even though you were doing the best job you could, but also that family probably loses their health insurance because they cannot pay for the COBRA; they don't have money to do so.

My son left to go to Vegas, and he needed coverage of insurance for 2 weeks. It cost him $2,200. He is married, has two little girls, his wife was pregnant. He had no choice. He had the money to pay for it. If he had not had it, I would have helped him. That is not

the way it is with everybody. Many people are not able to buy insurance for periods of time when they don't have it. Maybe they are buying a home or were going to buy one and they lose the sense of a dream of owning a home.

What about college? College is so expensive. It used to be that when I was growing up, I could work in the summers and during the school year to pay for my education. My parents were not in a position to help me, and I basically educated myself with a few little scholarships I had. You cannot do that anymore. You cannot work during the offseason—unless you rob banks—to pay for a college education. It is too expensive. So that is another thing a family would lose—the ability to prepare for their children to attend college. That is why the loss of American jobs is a crisis in our country. We need a real plan to address that issue. We cannot afford to wait until the next business cycle because the flight of jobs overseas is a result of powerful economic forces.

American workers are not afraid of fair competition. I am not against that, but I am against the mentality of chasing cheap labor around the globe with no regard to long-term implications. When American companies choose cheap labor, they are saying our environment doesn't matter. They are saying conditions for their own workers do not matter, and they are forgetting the great lesson learned from Henry Ford. Henry Ford was not a person I liked everything he did or said, but he was a good businessman. He realized in order for his company to sell cars, the people who build them should be able to also buy those cars. In other words, workers are also customers. A worker who earns a decent living can afford to buy the products and services American companies are selling. So every time a so-called American company chases cheap labor by moving jobs overseas, we are all diminished. The market for goods and services in our country is damaged.

As I have said, the President's top economic advisers said the outsourcing of jobs is a good thing. Every day someone in the administration says the economy is getting better. It might be looking up to those who have the Wall Street Journal and the Financial Times delivered to their homes but not to middle class Americans. They feel that inside something is happening that goes beyond the normal business cycle.

Middle class Americans are deeper in debt than ever. Consumer debt is at an all-time high. Middle class Americans are afraid the Social Security benefits will be swallowed in the sink hole of a half-trillion-dollar deficit. And they are right. The debt would be much bigger for the 3 years that this President has been in office but for the fact that the debt is being disguised by the Social Security surplus. Middle class Americans are worried their jobs might be outsourced. They are being hit hard by the skyrocketing cost of health care. Their deductibles and copayments keep going up, and they wonder whether they are going to lose coverage entirely.

There are 77,000 people on strike in California who work in grocery stores. They are not on strike because of working conditions, not because of wages or hours; they are striking for one simple reason, health benefits. They could not make ends meet by having to pay what they were going to be told by their employer they had to pay for health costs, so they went on strike—one of the longest strikes in modern history.

All these problems are deeper than the business cycle. They all demand a real economic plan, and part of that plan is the amendment offered by the Senator from Connecticut. It is not everything. If we had the opportunity, we could come up with a better plan. This is a step in the right direction. What we have to do in Congress today is understand that we are not going to completely rewrite Superfund, endangered species, clean air and clean water, or the economic situation this country faces. But we have the ability to do things to improve Superfund and endangered species. We can do a little here and a little there to help the economic situation in this country.

The amendment by the Senator from Connecticut is a good amendment. It is a step in the right direction. That is why we chose this as our first amendment. It sends a message to the American people that we want to do something to stop the outflow of these jobs. Focusing on Federal Government outsourcing is one of the things at which we need to take a closer look.

We can start trying to improve our economy now, today, by cutting off Government contracts to companies that plan to outsource their work. Two years ago, the State of Florida ordered a $280 million contract to a company that outsources its work to India. If Florida wants to do that, it is their business. But when the American taxpayers hire somebody to do a job, it should be done by an American worker who is also a taxpayer.

For the fourth time in the last few minutes, I commend Senator DODD for this amendment and urge all of my colleagues to support it. I also say this to the majority: If tomorrow, when we come back in session, there is an effort made to prevent the Senator from Connecticut from having a vote on this, we are going to keep offering it and offering it until we get a vote on it. If we don't get it done on this bill, we will get it done on the next bill. If we don't get it done on the next bill, it will be offered on the next bill. This is our No. 1 amendment, and we are going to continue pushing it.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I thank my colleague from Nevada for his comments. He is absolutely right about changing the rules. I have worried about that, when all of a sudden—and I have seen it happen in the past—you don't like the numbers you have, so you come up with a whole new definition and expand the numbers. That is what it looks like when you start talking about what clearly are fast food service jobs, manufacturing jobs, and we have seen those efforts being made.

This wasn't the first administration trying games like that. We have had others in the past doing that. I appreciate his comments, and I thank him for his support as well.

I have just a couple of other points. My friend and colleague from Texas cited earlier some of the efforts in the area of job training, vocational education. I wanted to respond by saying I don't disagree. I think that is an important element. But the problem is that one of the frustrations is the outsourcing of jobs that is occurring at a rather remarkable rate now, and it seems to be accelerating and very little is being offered to try to do something about this.

In fact, even in the area of protecting manufacturing jobs and doing something about retraining, let me share with my colleagues what is going on. In the manufacturing extension partnership, which is a very important issue for the manufacturing firms of this country, this is going to mean less help to an estimated 11,000 small businesses; 28,000 workers will either lose their jobs or not be hired as a result of these cuts.

So there is cutting back in this area. Outsourcing is going to have a huge impact on the manufacturing sector.

The Small Business Administration is being cut by $79 million, hurting hundreds of thousands of small businesses struggling to create jobs for Americans. There is a cut of $316 million for vocational education. This is in addition to the more than $1.5 million in proposed cuts to job training and vocational education made over the last 3 years. We are also cutting $448 million for the Workforce Investment Act programs.

My point is, as we watch these outsourcing of jobs and the loss of 2.8 million manufacturing jobs, I would be heartened if I thought we were making an effort at least to commit additional resources to help provide training for people who find themselves under normal cyclical circumstances losing a job, but here we are in an abnormal situation where there is an extraordinary loss of manufacturing jobs occurring across the country in the last 36 months and we have an extraordinary acceleration of outsourcing of jobs occurring over the same period of time—I pointed out that now 400 of the top 1,000 businesses in America are outsourcing, 40 of the 50 States, all for a very obvious reason. You can save a lot of money right off the top by doing it. When you can hire somebody in India at $7 a day as opposed to paying someone a salary in Silicon Valley, you

do not have to have a Ph.D. in mathematics to know the outcome.

I understand the motivation behind it. The question I have is, are we going to sit back and allow this to continue at the expense of losing the kind of human investments that we ought to be making to guarantee that we have a workforce capable of doing jobs and providing the services that America ought to be providing in the coming years?

In addition to that, even if we were not doing an amendment or were not going to support language that would say that Federal taxpayer money ought not be used for this purpose, I would like to think that in the area of vocational education, small business assistance, manufacture extension partnerships, and certainly Workforce Investment Act—all of these areas—that the administration would say: Look, this is our answer to this. We don't agree with you, Senator, about not using Federal funds.

Madam President, I ask unanimous consent that an article from the Los Angeles Times be printed in the RECORD.

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

[From the Nation; Feb. 10, 2004]

BUSH SUPPORTS SHIFT OF JOBS OVERSEAS

(By Warren Vieth and Edwin Chen)

WASHINGTON.—The movement of American factory jobs and white-collar work to other countries is part of a positive transformation that will enrich the U.S. economy over time, even if it causes short-term pain and dislocation, the Bush administration said Monday.

The embrace of foreign outsourcing, an accelerating trend that has contributed to U.S. job losses in recent years and has become an issue in the 2004 elections, is contained in the president's annual report to Congress on the health of the economy.

''Outsourcing is just a new way of doing international trade,'' said N. Gregory Mankiw, chairman of Bush's Council of Economic Advisers, which prepared the report. ''More things are tradable than were tradable in the past. An that's a good thing.''

The report, which predicts that the nation will reverse a three-year employment slide by creating 2.6 million jobs in 2004, is part of a weeklong effort by the administration to highlight signs that the recovery is picking up speed. Bush's economic stewardship has become a central issue in the presidential campaign, and the White House is eager to demonstrate that his policies are producing results.

In his message to Congress on Monday, Bush said the economy ''is strong and getting stronger,'' thanks in part to his tax cuts and other economic programs. He said the nation had survived a stock market meltdown, recession, terrorist attacks, corporate scandals and war in Afghanistan and Iraq, and was finally beginning to enjoy ''a mounting prosperity that will reach every corner of America.''

The president repeated that message during an afternoon discussion about the economy at SRC Automotive, an engine-rebuilding plant in Springfield, Mo., where he lashed out at lawmakers who oppose making his tax cuts permanent.

''When they say, 'We're going to repeal Bush's tax cuts,' that means they're going to raise your taxes, and that's wrong. And that's bad economics,'' he said.

Democrats who want Bush's job were quick to challenge his claims.

Sen. John F. Kerry of Massachusetts, the front-runner for the Democratic presidential nomination, supports a rollback of Bush's tax cuts for the wealthiest Americans and backs the creation of tax incentives for companies that keep jobs in the United States—although he supported the North American Free Trade Agreement, which many union members say is responsible for the migration of U.S. jobs, particularly in the auto industry, to Mexico.

Campaigning Monday in Roanoke, Va., Kerry questioned the credibility of the administration's job-creation forecast.

''I've got a feeling this report was prepared by the same people who brought us the intelligence on Iraq,'' Kerry said. ''I don't think we need a new report about jobs in America. I think we need a new president who's going to create jobs in America and put Americans back to work.''

In an evening appearance at George Mason University in Fairfax, Va., Sen. John Edwards of North Carolina mocked the Bush administration's economic report.

Edwards, who also supports repealing tax cuts for the richest Americans and offering incentives to corporations that create new jobs in the United States, said it would come as a ''news bulletin'' to the American people that the economy was improving and that the outsourcing of jobs was good for America.

''These people,'' he said of the Bush administration, ''what planet do they live on? They are so out of touch.''

The president's 411-page report contains a detailed diagnosis of the forces the White House says are contributing to America's economic slowdown and a wide-ranging defense of the policies Bush has pursued to combat it.

It asserts that the last recession actually began in late 2000, before the president took office, instead of March 2001, as certified by the official recession-dating panel of the National Bureau of Economic Research.

Much of the report repeats the administration's previous economic prescriptions.

For instance, it says the Bush tax cuts must be made permanent to have their full effect on the economy.

Social Security also must be restructured to let workers put part of their retirement funds in private accounts, the report argues. Doing so could add nearly $5 trillion to the national debt by 2036, the president's advisors note, but the additional borrowing would be repaid 20 years later and the program's long-term health would be more secure.

The report devotes an entire chapter to an issue that has become increasingly troublesome for the administration: the loss of 2.8 million manufacturing jobs since Bush took office, and critics' claims that his trade policies are partly to blame.

His advisors acknowledge that international trade and foreign outsourcing have contributed to the job slump. But the report argues that technological progress and rising productivity—the ability to produce more goods with fewer workers—have played a bigger role than the flight of production to China and other low-wage countries.

Although trade expansion inevitably hurts some domestic workers, the benefits eventually will outweigh the costs as Americans are able to buy cheaper goods and services and as new jobs are created in growing sectors of the economy, the report said.

The president's report endorses the relatively new phenomenon of outsourcing high-end, white-collar work to India and other countries, a trend that has stirred concern within such affected occupations as computer programming and medical diagnostics.

''Maybe we will outsource a few radiologists,'' Mankiw told reporters. ''What does that mean? Well, maybe the next generation of doctors will train fewer radiologists and will train more general practitioners or surgeons. . . . Maybe we've learned that we don't have a comparative advantage in radiologists.''

Government should try to salve the short-term disruption by helping displaced workers obtain the training they need to enter new fields, such as health-care, Mankiw said, not by erecting protectionist barriers on behalf of vulnerable industries or professions. ''The market is the best determination of where the jobs should be,'' he said.

Bush's quick visit to Missouri—his 15th to a state considered a critical election battleground—was the first of several events this week intended to underscore recent economic gains. Although U.S. job creation remains relatively sluggish, the nation's unemployment rate fell from 6.4% in June to 5.6% in January, and the economy grew at the fastest pace in 20 years during the last half of 2003.

The format of his visit to SRC Automotive—one that he particularly likes—involved several employees and local business owners sharing the stage with the president to discuss their perspectives on the economy, with Bush elaborating on their stories to emphasize particular aspects of his economic program.

Today, Bush is scheduled to meet with economic leaders at the White House. On Thursday, he goes to Pennsylvania's capital, Harrisburg—in another swing state that he has already visited more than two dozen times since becoming president.

Mr. DODD. The headline in the Los Angeles Times—it is a viewpoint—says: ''Bush Supports Shift of Jobs Overseas.'' It goes on to talk about the report that I talked about all afternoon, this economic report prepared by the Council of Economic Advisers, where they conclude that the outsourcing of jobs is a good thing. The author of that language apologized for his use of those words, but he has not apologized, and I understand why, because he believes it is good economic policy to be outsourcing.

There are some of us—I do not know if it is a majority—who disagree with that conclusion, that outsourcing is necessarily good.

I cited already from the Wall Street Journal companies that painfully discovered when they outsourced, while they thought they were going to save money, it actually cost them dearly. It is not only not good, but it fails to take into account—watching somebody's job be lost because there is a cheaper labor pool that you don't have to pay health care benefits to, despite the fact the person here is going to lose them—if it is really good for America.

I am suggesting while this rush is occurring that we ought to put on the brakes and stop, look, and listen so we will not necessarily be caught up in a situation where a year or two or five from now we will look back and say: Why didn't somebody say something or do something when we knew this was happening, when we could sit, watch, and read on a daily basis the pouring of

jobs out of this country to 14 time zones away, depriving people of benefits and income they needed for their families; what did you do on your watch? What did you do?

If the answer is we thought it was a good thing for the American economy, then I think we will be suffering an indictment historically.

I see my colleague from Kentucky who wants to move on to matters of the day. I yield the floor, with the right to be recognized at the conclusion of his remarks.

Mr. MCCONNELL. I say to my friend from Connecticut, he will hardly have to hold his breath and he will be back up waxing eloquent to all of our colleagues who I am sure, back in their offices, are watching his speech and listening carefully to every word.

ELIMINATING THE ''HAIRCUT'' PROVISION

Mr. SMITH. Madam President, I rise today in support of S. 1637, the JOBS Act, which will halt European Union trade sanctions against American industries and provide immediate tax relief for domestic manufacturers.

U.S. manufacturing has experienced a crisis over the last three years due to the global economic downturn, sharply diminished capital spending, global overcapacity, and steady price declines for manufactured goods. S. 1637 provides a strong incentive for companies to keep and create jobs in the U.S.

However, I believe we can improve S. 1637 by eliminating the ''haircut'' provision that increases the taxes on U.S. manufacturers for their U.S. companies merely because these companies also manufacture products abroad. This concept is totally at odds with the purpose of this legislation—to cut taxes on manufacturers that employ American workers. U.S. companies with global operations employ more than 23 million Americans—9 million of which are manufacturing jobs. Foreign-owned companies with U.S. operations employ more than 2 million manufacturing workers in the U.S.

The haircut is structured so that the more a company manufacturers abroad, the less of a manufacturing rate cut it gets. The ''haircut'' makes the U.S. a less competitive location for current and future investment. Thus, it is less likely that multinational manufacturing companies will site new plants and new high-paying jobs in the U.S.

Furthermore, I am concerned that the ''haircut'' invites mirror legislation in other countries. In this time of crisis for the U.S. manufacturing industry, we cannot afford to let any more manufacturing jobs slip away, particularly due to bad tax policy.

With my colleague, Senator BREAUX, I am offering an amendment to the JOBS Act which will eliminate the ''haircut'' and provide an equal tax benefit for all manufacturers that employ American workers. Congress should be in the business of rewarding all well-paid manufacturing jobs that are created in the U.S.—not just those created by certain domestic manufacturers.

Mr. KENNEDY. Madam President, we call this bill the ''Jumpstart Our Business Strength Act''—the JOBS Act, because that is exactly what we are debating this week—the critical issue facing so many millions of Americans, the lack of jobs.

To hear President Bush, you would never know there was a problem with jobs. According to the Bush administration, everything is sunshine and roses.

Over and over again, the President says things that show he is out of touch with the lives of ordinary Americans and can't understand the economic hardships they are facing. Happy talk about economic recovery doesn't jibe with the daily lives of the people on Main Street.

In his State of the Union Address in January, the President said ''. . . this economy is strong, and growing stronger . . . Productivity is high, and jobs are on the rise.''

A week later he said: ''The economy is growing, people are finding work. There's an excitement in our economy . . . You can tell I'm upbeat, and I've got reason to be. Not only the numbers say things are looking pretty good, the American people are telling me they feel pretty good.''

Then came his annual economic report and its ringing endorsement of sending jobs overseas.

At the National Governors Association meeting last Monday, he said he thinks the 5.6 percent unemployment rate is ''a good national number.''

Yesterday, Vice President CHENEY said, ''The economy's in very good shape, and going forward there's every reason to be optimistic that we will have the kind of growth that we need to create jobs out there.''

In fact, he went on to say that if ''Democratic policies had been pursued over the last two or three years. . . . we would not have had the kind of job growth that we've had.''

Job growth? Someone should tell the Vice President that we have lost over two million jobs in the Bush economy.

The reality of the Bush economic record is very different from the rhetoric.

Just a few weeks ago, the President said in his economic report that the economy will create 2.6 million new jobs this year. The reality is that no one in the White House or the Cabinet will endorse the 2.6 million number.

President Bush said his first tax cuts in 2001 would create 800,000 additional jobs by the end of 2002. The reality is, we lost 1.9 million jobs instead.

His 2002 economic report predicted 3 million jobs would be created in 2003. Instead, more than 300,000 were lost.

He said the tax breaks enacted last year would create 510,000 additional jobs by the end of the year, but we lost 53,000 jobs last year.

Even the few jobs being created are not as good as the jobs we have lost. The new jobs pay on average $8,000 less than jobs lost in the Bush economy. In 48 of the 50 States, jobs being created pay 21 percent less than had been paid by industries losing jobs.

Employees have smaller paychecks, and are even less able to keep up with the rising costs of education, let alone pay the bill for food, rent and health care.

A big part of the job problem is the worsening crisis in manufacturing. We have lost nearly 3 million manufacturing jobs since the Bush administration took office. It is a nationwide problem, affecting almost every State in the Union. Forty-nine of the 50 States have lost manufacturing jobs under this President.

That is only part of the story. Fourteen million other jobs are newly at risk of being sent overseas as well. Every day, we hear more stories about how white collar jobs and service sector jobs in health care, financial services, and information technology are going to other countries.

What is the President's response? More empty rhetoric and broken promises. Last year on Labor Day, the President met with workers and promised to appoint a manufacturing czar to deal with the loss of manufacturing jobs. How typical of the President to make a promise like that on Labor Day and then forget all about it.

Six months later, there is still no manufacturing czar. Administration officials say they're working on it, but the economy is still hemorrhaging manufacturing jobs.

American workers deserve better than this. They deserve better than to have their jobs exported with the President, as cheerleader in chief, waving good bye.

We need to do more, to encourage good-paying manufacturing jobs to stay here, and discourage corporations from sending jobs and new investment overseas.

This bill contains provisions to encourage manufacturing in the United States, and I commend Senator GRASSLEY and Senator BAUCUS for their bipartisan work on this bill. But we can do more and we must do more.

We need to provide incentives now for companies to keep and create manufacturing jobs in the United States. A key weakness in this bill is that the tax benefits for domestic manufacturing are phased in too slowly. These companies and their workers need help now.

We need to stop rewarding multinational corporations that send jobs to other countries.

This bill not only fails to do that, it creates $35 billion in new or larger tax breaks for companies doing business abroad. Why on earth do we want to make exporting of American jobs more attractive to corporations? These international provisions should be removed from the bill, and the tax dollars should be used to make the tax benefits for domestic manufacturing more robust.

In many respects, the tax code already gives a greater subsidy to profits from foreign operations over domestic plants. We ought to change that too, instead of kowtowing to the clout of multinational corporations. Our corporate tax laws should be rewritten to increase the cost of exporting jobs and decrease the cost of maintaining jobs in America.

And what about the urgent needs of Americans who have already lost their jobs and their long-term unemployment benefits too?

Solid majorities in the Senate and the House have already sent a message loud and clear to the White House and the Republican leadership in Congress that we want to reinstate those benefits, which expired on December 31st. Ninety thousand workers a week have lost their benefits and still can't get a job. They're moving in with friends or family, giving up health care, and struggling to pay every bill. Yet our Republican colleagues say, in their best imitation of Marie Antoinette, ''let them eat cake.''

They tell the unemployed to look harder for work. They treat them as slackers, and say they won't subsidize their idleness any longer. That attitude is wrong. The unemployment insurance extension we enacted when the economy began to decline has expired, and I urge my colleagues to fix it, before these hard-working employees who have lost their jobs through no fault of their own suffer any longer.

I also urge my colleagues to join me in strengthening this legislation. We must improve incentives in the manufacturing industries and give working Americans a chance for the jobs and the better future they deserve.

Mr. SMITH. Madam President, I will offer an amendment which would allow commercial fishermen to use income tax averaging to help mitigate the negative effects of their fluctuating incomes.

Progressive tax systems, like the Federal income tax, often penalize farmers and others whose incomes vary greatly from year to year. Recognizing this fact, Congress, in 1997, gave farmers the option to calculate their taxes by averaging their income over a 3-year period. This was an important change in the Tax Code and has helped many in our agriculture communities weather the up-and-downs of a sometimes erratic farm economy.

Like farmers, our fishermen are often subject to dramatic swings in income. Whether it's changing ocean conditions, harvest restrictions, or bad weather that keeps them in port, the change in income can be severe and beyond their control. For example, fishermen in Coos Bay, OR have struggled with regulatory restrictions and reduced stocks over the last several years. Unfortunately, our Tax Code doesn't allow for flexibility, and fishermen, who experience both good and bad years, are forced to pay more taxes than if they had steady income levels.

My amendment would resolve some of this inequality by extending to commercial fishermen the same income averaging benefit given to farmers. It would also fix a technical error in the original provision that has led to some farmers being caught under alternative minimum tax.

I thank the chairman for his leadership on this issue in the past and including this important provision in his bill, the Tax Empowerment and Relief for Farmers and Fishermen, TERFF, Act. I am pleased to see that portions of the TERFF Act were incorporated into the bill now before us, and I am hopeful that we will be able to address the issue of income averaging for fishermen also at this time.

Our farmers and fishermen represent an important sector of our economy. Unfortunately, they and their families often have to deal with more than their fair share of challenges. Making the Tax Code more consistent and more reflective of the variable nature of resource industries will also make it more fair and provide some measure of stability for these hard working individuals.

I encourage the Senate to consider and pass this important amendment.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Kentucky.

MORNING BUSINESS

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

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

COMMEMORATING DANIEL BOORSTIN

Mr. ALEXANDER. Over the weekend, the United States of America lost one of its great teachers of what it means to be an American. Daniel Boorstin died at the age of 89. He served as Librarian of Congress and director of the Smithsonian Institution's National Museum of Science and Technology. Daniel Boorstin's books about the American experience earned a Pulitzer Prize in 1974. He believed America's success came largely because we have been free from the ''virus of ideology,'' free to be flexible and responsive, ''free to take clues from the delightful, unexplored and uncongested world around us.'' Free from ideology, being an American became its own ideology.

Daniel Boorstin celebrated Americans for always trying the new. He believed we have been at our best when we have been ''on the verge,'' encountering new territory—whether it was creating new schools, new crops, new planting techniques, new towns, a new form of the English language, new technologies, new cars and trains, or John Winthrop's new City on the Hill.

He observed during these encounters with new circumstances, we have been more aware of our Americanness, that our appetite for the new has been whetted, and that we have leaned on one another for support, often organizing new forms of communities to deal with new circumstances. Boorstin believed America works community by community. He argued that the prototype early American was not the solitary trailblazer but a wagon train community.

Despite his erudition and his Pulitzer, Dr. Boorstin was not especially popular with professional historians. Perhaps it was because he was such a booster, as have been most Americans. Perhaps it was because he contented himself with being an ''amateur'' historian, not shackled by the ruts along which professionals often trudge. Or, perhaps it was because he was a member of a diminishing band of public figures—the late Senator Pat Moynihan and American Federation of Teachers President Albert Shanker were two others—who believed passionately in American exceptionalism. A growing number of history professionals today reject this idea of exceptionalism. To them, our country is fortunate, rich and large, but not more exceptional than many other countries. These professionals prefer social studies to U.S. history. They take snapshots of our national experience instead of teaching the steady drumbeat of a work in progress toward grand goals. In their enthusiasm for overlooked victims, they themselves overlook heroes.

Because of their growing influence we now find American history courses watered down, the great controversies of race and religion ''sensitized'' from textbooks. Civics is often dropped entirely from the curriculum. As one result, our high school seniors score worse on U.S. history tests than on any other subject.

Daniel Boorstin's writings have reminded us of what is truly exceptional about America, warts and all. He emphasized that our greatest accomplishment is that, more than any other country, we have united people from everywhere into a single nation, united by beliefs in a few principles rather than by race, creed, and color. He taught that we may be proud of where we came from, but should be prouder to be Americans.

He left us one other very special insight. In an essay written in 1962, Dr. Boorstin foresaw that television would create a world in which we would have a hard time telling the difference between heroes—those worth paying attention to because we might learn from their nobility—and celebrities who are ''famous primarily for being famous.'' He invented the term pseudo event, which most of us will recognize as today's photo opportunity.

My favorite of Daniel's Boorstin's books was not his Pulitzer winner. It was The Discoverers, a stream of stories about men and women in history who challenged dogma and created a better life for mankind.