

"Low-Income Housing Credit Allocation Certification; Electronic Filing" (TD9112) received on February 3, 2004; to the Committee on Finance.

EC-6103. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Correction of User Fee in Appendix A of Rev. Proc. 2004-1" (Announcement 2004-08) received on February 3, 2004; to the Committee on Finance.

EC-6104. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 409(p) and Potentially Abusive ESOP's" (Rev. Rule 2004-4) received on February 3, 2004; to the Committee on Finance.

EC-6105. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Electronic Delivery of Form 1099 and Form 5498 Payee Statements" (Notice 2004-10) received on February 3, 2004; to the Committee on Finance.

EC-6106. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Information Reporting Relating to Corporate Inversions" (Notice 2004-9) received on February 3, 2004; to the Committee on Finance.

EC-6107. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—February 2004" (Rev. Rule 2004-9) received on February 3, 2004; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY:

S. 2048. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for qualified tuition and related expenses and to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to such deduction; to the Committee on Finance.

By Mr. SPECTER:

S. 2049. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote reining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 2050. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the affordable education provisions of such Act, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 296. A resolution relating to Senate Adjournments and Recesses; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 2048. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for qualified tuition and related expenses and to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to such deduction; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2050. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the affordable education provisions of such Act, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am introducing two education tax bills today. These bills will help us make permanent the \$30 billion in education tax incentives that were contained in the 2001 tax bill.

The first bill will extend and make permanent the tuition deduction that was enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16, or EGTRRA. A lot of people think we don't spend enough money on education, but they also don't think we should make the 2001 tax cuts permanent. I don't know how they can justify that position. The education tax incentives in the 2001 tax bill have done a whole lot of good. The tuition tax deduction is available only through December 31, 2005. The cost of the provision for those four years was about \$10 billion. So you can see that it was very expensive.

For parents struggling to send their children to college, the tuition tax deduction has been very important. Some of them probably wish it were set at a higher level, but at between \$2,000 and \$4,000 depending on your income, it is still a beneficial tax incentive for the middle class.

The second bill that I am introducing today will make the rest of the EGTRRA education tax provisions permanent, as well as the deduction for teacher classroom materials that was passed in the stimulus package of March 2002. That provision expired at the end of last year so it is very important that we enact it on a permanent basis and do so as soon as practicable.

I hope my colleagues will join me in sponsoring these bills and will agree to consider them and pass them in the Senate in the next month or two.

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

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2048

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

SECTION 1. PERMANENT DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) PERMANENT DEDUCTION.—

(1) IN GENERAL.—Section 222 of the Internal Revenue Code of 1986 (relating to qualified tuition and related expenses) is amended by striking subsection (e).

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 222(b)(2) of such Code (relating to applicable dollar limit) is amended by striking "2004 AND 2005.—In the case of a taxable year beginning in 2004 or 2005," and inserting "2004 AND THEREAFTER.—In the case of any taxable year beginning after 2003,".

(b) REPEAL OF SUSPENSION.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

"(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by section 431 (relating to qualified tuition and related expenses)."

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

S. 2050

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

SECTION 1. REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO AFFORDABLE EDUCATION PROVISIONS OF SUCH ACT.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

"(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by subtitles A, B, and C of title IV (relating to affordable education provisions)."

SEC. 2. PERMANENT DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Section 62(a)(2)(D) of the Internal Revenue Code of 1986 (relating to certain expenses of elementary and secondary school teachers) is amended by striking "In the case of taxable years beginning during 2002 or 2003, the deductions" and inserting "The deductions".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2003.

By Mr. SPECTER:

S. 2049. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote reining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes; to the Committee on Energy and Natural Resources.

Mr. SPECTER. Mr. President, today I will introduce legislation which is entitled the Abandoned Mine Land Reclamation Program Extension and Reform Act of 2004. As I have explained briefly before, I do so because this program is going to be unveiled tomorrow at a ceremony in the Pennsylvania State Capitol attended by Secretary of the Interior Norton in addition to Governor Rendell and a number of other officials. While I would like to be present in Pennsylvania for the event, the Senate will be in session and there is important business to be conducted here. So in my absence there, I thought it appropriate to introduce this bill. I had planned to do so tomorrow, but there is a joint session of Congress in the morning and I am advised there may not be

morning business. So I am taking just a few moments of floor time to introduce the bill now.

The Bush administration has already announced the outline of the bill so I am not in any way preempting the administration by the introduction of this legislation. As I noted earlier, the administration had made this legislation available to me for introduction in conjunction with others in the Pennsylvania delegation, and I am pleased to do so because it will address a very serious problem for my State.

By far, Pennsylvania has the most extensive problem of any of the States in the Union, where we have some 250,000 acres which are in need of reclamation. Some 2,400 miles of streams are affected on our water supply because Pennsylvania has been so heavily mined. Shortly after I came to the Senate in the early 1980s, a little town in Pennsylvania named Centralia received national and international attention when a young man fell into a deep pit and a fire was burning there. It was a fire which resulted from an abandoned mine. For those, if any, who may be watching on C-SPAN, these fires rage underground burning unmined coal. This fire was raging. A large hole enveloped and the young man fell many feet below the surface of the terrain. Fortunately, he was rescued.

It was necessary to move the entire town at a very substantial cost borne in significant measure by the Federal Government, not entirely because homeowners could not fully recoup the losses of their houses. This bill will provide some \$3 billion to take care of health and safety. It will be a reauthorization to the year 2018 on an authorization bill which is set to expire in September of this year. There will be a phase-out of payments ramped down until the year 2018 when it is projected that the problem will be solved. This bill will improve the flexibility for the States where they can make a choice of their projects and make a decision based on where they need to go on water quality.

It is obviously a very important matter for the environment, and environmental protection is a high priority in our country. I am pleased to see President Bush and his administration move ahead on this important item. It takes care of all of the smaller States with a minimum allocation of some \$2 million. There is some assistance for the Combined Benefit Fund, which has been established for the benefit of the retired mine workers, where the health and benefit plans had been abrogated. We had legislation introduced and enacted several years ago, led by the Senator from West Virginia, Mr. ROCKEFELLER, in conjunction with Senator BYRD, which I cosponsored, and we tried to provide for the retirement health benefits for the mine workers. This bill will make an allocation which will be helpful in that regard. It will not entirely satisfy the matter.

As I noted, this is President Bush's top priority in the Interior section of

his budget. Secretary of the Interior Norton will tour some mines in Pennsylvania. Again, I express my regrets not being able to be with her and the Governor when the event will be held in the rotunda of the State Capitol at 11 o'clock tomorrow. Burt we intend to have a news conference here in Washington simultaneously with her announcement there.

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

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

S. 2049

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

SEC. 101. SHORT TITLE.

This Act may be cited as the "Abandoned Mine Reclamation Program Extension and Reform Act of 2004."

SEC. 102. AMENDMENTS TO THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977.

The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et. seq.) is amended as follows:

(1) Section 401(c) is amended by—

(A) striking paragraph (2);

(B) striking the word "and" after the first occurrence of the word "subsidence" in paragraph (1) and redesignating the portion of paragraph (1) following the deleted word as paragraph (2); and

(C) striking the phrase "section 402(g)(1) of this Act" in paragraph (2) and inserting in its place "section 402(g)(1) or section 403(b)(1) of this Act".

(2) Section 401(c)(5) is amended by inserting before the semicolon "and other audit and collection activities under sections 402(d) and 414(b) of this Act".

(3) Section 401(c)(6) is amended by striking everything after "Department of the Interior" and inserting in its place "with public and private organizations conducted for the purposes of this title of this Act to such extent and in such amounts as are provided in appropriation acts".

(4) Section 401(c)(10) is amended by striking "section 411" and inserting in its place "section 415".

(5) Section 401(c)(12) is amended by striking "section 402(h)" and inserting in its place "subsection (f) of this section".

(6) In section 401, subsections (d) and (e) are amended to read as follows:

"(d) AVAILABILITY OF MONEYS FROM FUND.—

"(1) IN GENERAL.—Moneys from the fund shall be available for the purposes of this title of this Act, or for distribution under paragraph (2) of this subsection, only when appropriated therefor. Such appropriations shall be made without fiscal year limitations.

"(2) DISPOSITION OF UNAPPROPRIATED STATE-SHARE BALANCE.—This paragraph applies to the portion of the fund that was allocated to States and Indian tribes under section 402(g)(1) of this Act and that was not appropriated as of the end of the fiscal year ending September 30, 2004.

"(A) STATES AND INDIAN TRIBES NOT CERTIFIED AS OF SEPTEMBER 30, 2004.—States and Indian tribes that have been certified under section 411 of this Act as of September 30, 2004, shall receive, subject to appropriation, the unappropriated balance of their allocation in annual payments beginning with fiscal year 2005 and ending with fiscal year 2014.

"(B) STATES AND INDIAN TRIBES NOT CERTIFIED AS OF SEPTEMBER 30, 2004.—States and

Indian tribes that have not been certified under section 411 of this Act as of September 30, 2004, shall receive, subject to appropriation, the unappropriated balance of their allocation as grants awarded in accordance with sections 403(b) and 405(h) of this Act.

"(C) STATES AND INDIAN TRIBES CERTIFYING AFTER SEPTEMBER 30, 2004.—States and Indian tribes that are certified under section 411 of this Act after September 30, 2004, shall receive, subject to appropriation, the portion of their allocation under section 402(g)(1) of this Act that has not been previously disbursed to those States and tribes as grants under paragraph (2)(B) of this subsection. Disbursement shall be made in annual payments, beginning with the fiscal year following certification and ending with fiscal year 2014. These payments shall be made using funds appropriated for the purpose of making grants to States and Indian tribes under section 405(h).

"(D) NO EXPENDITURE RESTRICTION.—Monies disbursed under paragraphs (2)(A) and (C) of this subsection may be expended without regard to any other provision of this Act; *Provided*, That, whenever a certified State or Indian tribe becomes aware of a coal mining-related problem within its borders, the State or tribe must first use those monies to promptly address that problem if the site is eligible for reclamation under section 404 of this Act and if the problem meets one of the priorities in paragraphs (1) and (2) of section 403(a) of this Act.

"(3) REALLOCATION OF OTHER UNAPPROPRIATED BALANCES.—

"(A) RURAL ABANDONED MINE RECLAMATION PROGRAM.—That part of the fund allocated by section 402(g)(2) for the rural abandoned mine reclamation program under section 406 of this Act that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

"(B) FEDERAL SHARE.—That part of the fund allocated by section 402(g)(3) for use by the Secretary that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

"(C) HISTORIC PRODUCTION ALLOCATION.—That part of the fund allocated by section 402(g)(5) for historic production supplemental grants to States and Indian tribes that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

"(e) INTEREST.—The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the fund is not, in his or her judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the fund in public debt securities with maturities determined by the Secretary of the Interior and suitable for the needs of the fund and achieving the purposes of the transfers under subsection (f). Such securities shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund."

(7) In Section 401, insert a new subsection (f) as follows:

"(f) TRANSFERS TO COMBINED BENEFIT FUND.—

(1) Notwithstanding any other provision of law, at the beginning of each fiscal year, the Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund (referred to as the "Combined Fund" in this title of this Act), as established under section 9702 of the Internal Revenue Code of 1986 (26 U.S.C. 9702), an amount equal to the amount of expenditures that the

trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 (26 U.S.C. 9704(e)) for the fiscal year of the Combined Fund in which the transfer is made; *Provided*, That the amount transferred shall not exceed the amount available under paragraph (2) of this subsection.

"(2) In making the transfers, the Secretary shall first use the interest that has been earned by and paid to the fund during the preceding year, followed by any interest earned in prior years and not previously transferred.

"(3) If, for any fiscal year, the amount transferred is more or less than the actual expenditures for the unassigned beneficiaries premium account in that year, the Secretary shall appropriately adjust the amount transferred for the next fiscal year."

(8) Section 402(a) is amended to read as follows:

"(a) PAYMENT; RATE.—All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior, for deposit in the fund, a reclamation fee according to the following schedule—

"(1) From October 1, 2004 through September 30, 2009—

"(A) 29.75 cents per ton of coal (except lignite) produced by surface mining;

"(B) 12.75 cents per ton of coal produced by underground mining; and

"(C) 8.5 cents per ton of lignite coal produced.

"(2) From October 1, 2009 through September 30, 2014—

"(A) 28 cents per ton of coal (except lignite) produced by surface mining;

"(B) 12 cents per ton of coal produced by underground mining; and

"(C) 8 cents per ton of lignite coal produced.

"(3) From October 1, 2014 through September 30, 2018—

"(A) 26.25 cents per ton of coal (except lignite) produced by surface mining;

"(B) 11.25 cents per ton of coal produced by underground mining; and

"(C) 7.5 cents per ton of lignite coal produced.

"(4) In lieu of the rates in paragraphs (1) through (3) above, the operator may pay a fee of 10 per cent of the value of the coal at the mine, as determined by the Secretary, for each ton of coal produced by surface or underground mining; *Provided*, That the alternate fee for lignite coal shall be 2 per cent of the value of the coal at the mine, as determined by the secretary."

(9) Section 420(b) is amended by—

(A) striking "Such fee" and inserting in its place "Reclamation fees"; and

(B) striking "2004" and all that follows and inserting in its place "2018".

(10) Section 402(c) is amended to read as follows:

"(c) SUBMISSION OF QUARTERLY REPORTS.—

(1) All operators of surface coal mining operations shall submit a report no later than thirty days after the end of each calendar quarter. The report shall include—

"(A) a statement of the amount of coal produced during the calendar quarter, the method of coal removal and the type of coal;

"(B) an identification of the permittee and the operator of the surface coal mining operation, the owner of the coal, the preparation plant or tipple receiving the coal or the loading point for the coal, and the person purchasing the coal from the operator or permittee;

"(C) the number of their permit required under section 506 of this Act; and

"(D) the identification number issued by the Mine Safety and Health Administration for the operation.

"(2) Each quarterly report shall contain a notification of any changes in the information required by paragraph (1) of this subsection since the date of the preceding quarterly report.

"(3) The operator must certify, under penalty of perjury, that the information in each report is true, correct, and complete. Any person, corporate officer, agent or director who, on behalf of a coal mine operator, knowingly makes any false statement, representation or certification or knowingly fails to make any statement, representation or certification required in this section shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or both.

"(4) The information contained in the quarterly reports submitted under this subsection shall be maintained by the Secretary in a computerized database."

(11) Section 402(d) is amended by—

(A) striking the word "PENALTY" from the title and inserting in its place the word "AUDITS";

(B) striking paragraph (1);

(C) redesignating paragraph (2) as paragraph (1); and

(D) inserting paragraph (2) to read as follows:

"(2) The Secretary is authorized to audit compliance with the excise tax payment requirements of section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121) when conducting audits under this subsection."

(12) Section 402(f) is amended to read as follows:

"(f) COOPERATION FROM OTHER AGENCIES.—All Federal and State agencies shall fully cooperate with the Secretary of the Interior in the enforcement of this section. Whenever the Secretary of the Interior believes that any person has not paid the full amount of the fee payable under section 402(a) of this Act or the excise tax payable under section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121), he or she shall notify the Federal agency responsible for enforcing the provisions of section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121)."

(13) Section 402(g) is amended to read as follows—

(A) amending the title to read as follows:

"(g) ALLOCATION OF FEE RECEIPTS AND OTHER MONIES PRIOR TO SEPTEMBER 30, 2004."

(B) striking "Except as provided in subsection (h)" in paragraph (g)(1) and inserting in its place "Except as otherwise provide in this Act";

(C) amending paragraphs (1)(A)(ii) and (1)(B)(ii) to read as follows:

"(ii) Lands and waters which are eligible pursuant to section 404 (in the case of a State not certified under section 411). In the case of a State certified under section 411, eligible lands and waters shall be those which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977; and for which there is no continuing reclamation responsibility under State or other Federal laws."

(D) striking "section 401(c)(2)" at the end of paragraph (2) and inserting in its place "for the purposes of section 406";

(E) striking everything in paragraph (4) after "subparagraph (A)" in subparagraph (B) and inserting in its place "if the requirements of section 404(b) are met";

(F) striking paragraph (5) in its entirety and inserting in its place "This subsection applies only to fees and other monies payable to the fund as of September 30, 2004, and to monies appropriated from the fund as of that date. Sections 401(d) and 403(b) of this Act govern allocations and disbursements after that date."

(G) striking paragraphs (6) through (8) in their entirety; and

(H) striking paragraph (h) in its entirety.

(14) Section 403 is amended by—

(A) amending the title to read "FUND OBJECTIVES AND EXPENDITURES,";

(B) Striking the phrase "except as provided for under section 411" in subsection (a) and inserting in its place "except as otherwise provided in this section, section 401(c), or section 411";

(C) striking the period at the end of subsection (a)(3) and inserting a semicolon in its place;

(D) amending subsection (b) to read as follows:

"(b) ALLOCATION OF FUNDS AFTER SEPTEMBER 30, 2004.—

"(1) ALLOCATIONS TO STATES AND TRIBES.—

"(A) At the beginning of each fiscal year, or as soon thereafter as practicable, the Secretary shall allocate the monies appropriated from the fund for that year for grants to States and Indian tribes under section 405(h) of this Act. An allocation shall be made to each State and tribe that is eligible to receive a payment under section 401(d)(2)(C) of this Act and to each State and tribe that—

"(i) has an approved abandoned mine reclamation program under section 405 of this Act that is not subject to the prohibition in paragraph (c) of that section;

"(ii) is not certified under section 411 of this Act; and

"(iii) has within its jurisdiction unclaimed lands or waters that are eligible pursuant to section 404 and that meet one of the priorities stated in paragraphs (1) and (2) of subsection (a) of this section; *Provided*, That, when all States and Indian tribes have completed or provided for completion of reclamation of all lands and waters meeting the priorities in paragraphs (1) and (2) of subsection (a) of this section, this criterion will no longer apply.

"(B) In making these allocations, the Secretary shall use a formula based on historical coal production prior to August 3, 1977, in those States and tribes; *Provided*, That—

"(i) Donations received under section 401(b)(3) shall be allocated in accordance with any stipulations by the donor;

"(ii) No State or Indian tribe shall receive an allocation of less than \$2,000,000 under this paragraph; and

"(iii) No State or Indian tribe shall receive an allocation of more than 25 percent of the total monies appropriated for grants under section 405(h); *Provided further*, That this restriction shall expire when fewer than eight States are eligible to receive an allocation under paragraph (1) of this subsection.

"(C) The amount dedicated by section 401(d)(2)(B) of this Act to each State or Indian tribe that is not certified under section 411 of this Act shall be reduced by the amount allocated to that State or tribe under this paragraph.

"(D) Amounts allocated to States and Indian tribes under this paragraph may be used to fund projects that protect, repair, replace, construct, or enhance facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices. In making funding decisions on these projects, the State or tribe need not consider the priorities in subsection (a) of this section. If the adverse effect on water supplies occurred both prior to and after August 3, 1977 (or other applicable date under section 404), section 404 shall not be construed to prohibit a State or Indian tribe from using funds under this paragraph if the State or Indian tribe determines that such adverse effects occurred predominately prior to August 3, 1977 (or other applicable date under section 404).

“(2) FEDERAL EXPENDITURES.—To the extent authorized by annual appropriations, the Secretary may expend monies from the fund for any of the following purposes—

“(A) providing assistance to small operators under section 507(c) of this Act, either directly or through grants to the States, subject to the limitation contained in section 401(c)(11) of this Act;

“(B) conducting emergency reclamation activities and projects under section 507(c) of this Act, either directly or through grants to the States and Indian tribes;

“(C) meeting the objectives of the fund set forth in paragraph (a) of this section for eligible lands and waters pursuant to section 404 of this Act in States and on Indian lands where the State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405 of this Act;

“(D) the administration of this title of this Act by the Secretary;

“(E) making supplemental grants to States and Indian tribes for the purposes of this title of this Act;

“(F) implementation of section 401(c)(6) of this Act; and

“(G) conducting other activities consistent with this title of this Act.”;

(E) in subsection (c), redesignating the first sentence as paragraph (1), the second and third sentences as paragraph (2), the fourth sentence as paragraph (3), and the last sentence as paragraph (4); and

(F) striking “section 411(a)” in paragraph (c)(1) and inserting in its place “section 411”.

(15) Section 404 is amended to read as follows:

“SEC. 404. ELIGIBLE LANDS AND WATERS.

“(a) IN GENERAL.—

“(1) Lands and waters eligible for reclamation or drainage abatement expenditures under this title of this Act are those which were mined for coal, or which were affected by such mining, waste banks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or other Federal laws. For other provisions relating to lands and waters eligible for such expenditures, see subsections (b) and (c) of this section and sections 402(g)(1), 403(b)(1), and 409 of this Act.

“(2) Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title of this Act after the release of the bond or deposit for any such operation as provided under section 519 of this Act. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title of this Act may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement. If conditions warrant, the Secretary, State or Indian tribe shall immediately exercise the appropriate authority under section 410 of this Act.

“(b) INITIAL PROGRAM SITES AND BOND FORFEITURE SITES WITH INSOLVENT SURETIES.—

(1) Sites of surface coal mining operations conducted after August 3, 1977, and lands and waters affected by such operations are also eligible for reclamation or drainage abatement expenditures under this title of this Act if they were left in an inadequate reclamation status and if the Secretary or the State, with the concurrence of the Secretary, makes either of the following findings:

“(A) A finding that the surface coal mining operation occurred during the period beginning on August 3, 1977, and ending on or be-

fore the effective date of the State regulatory program approved by the Secretary pursuant to section 503 of this Act for the State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

“(B) A finding that the surface coal mining operation occurred during the period beginning on August 3, 1977, and ending on or before November 5, 1990, and that the surety for the mining operation became insolvent during that period, and, as of November 5, 1990, funds immediately available from proceedings relating to that insolvency, or from any financial guarantee or other source, are not sufficient to provide for adequate reclamation or abatement at the site.

“(2) All sites referred to in paragraph (1) within any State shall be reclaimed before the State or the Secretary may make the certification referred to in section 411 of this Act.

“(3) Amounts collected from assessment of civil penalties under section 518 of this Act are authorized to be appropriated for the purposes of this subsection.”.

(16) Section 405 is amended by—

(A) in subsection (d), striking “sections 402 and 410” and inserting in its place “sections 402, 414, and 415”;

(B) in subsection (f), striking paragraph (5) in its entirety and redesignating paragraphs (6) and (7) as paragraphs (5) and (6);

(C) in subsection (f)(6), striking the colon after “grant” and inserting “and” before “type”;

(D) in subsection (g), striking the colon after “include” and inserting “subsection (f) of” before “this section”; and

(E) amending subsection (h) to read as follows:

“(h) GRANT OF FUNDS.—

“(1) IN GENERAL.—Upon approval of the State Reclamation Plan under this section and of the surface coal mining regulatory program pursuant to section 503 of this Act, the Secretary shall grant, on an annual basis, funds to the State to implement the State reclamation program as approved by the Secretary.

“(2) APPLICATION PROCESSING DEADLINE.—Within 60 days of receipt of a complete abandoned mine reclamation fund grant application from any eligible State, the Secretary shall grant to that State any and all funds available for such purposes in the applicable appropriations act.

“(3) DISPOSITION OF UNEXPENDED FUNDS.—Except as provided in paragraph (5), any funds not expended within 3 years after the date of any grant award shall be available for reallocation or expenditure by the Secretary for any purpose under section 403(b) of this Act.

“(4) SOURCE OF FUNDS.—In awarding grants to States and Indian tribes that were not certified under section 411 as of September 30, 2004, the Secretary shall exhaust the funds dedicated to those States and tribes in section 401(d)(2)(B) before awarding any funding allocated to those States and tribes under section 403(b)(1).

“(5) STATE SET-ASIDE.—Any State with an abandoned mine reclamation program approved under subsection (d) may retain, without regard to the 3-year limitation referred to in paragraph (3), up to 10 percent of the total amount of the grants awarded annually to the State under paragraph (1), excluding grants made under the authority of section 403(b)(2), if those amounts are deposited into either—

“(A) a special trust fund established under State law that may earn interest and from

which the State may make expenditures solely to achieve the priorities stated in section 403(a) after the State is no longer eligible to receive an allocation under section 403(b)(1) of this Act; or

“(B) an acid mine drainage abatement and treatment fund established under State law and from which the State may make expenditures solely for abatement of the causes of acid mine drainage and treatment of the effects of that drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices. Any interest earned by this fund shall be expended for the purposes of this paragraph. For purposes of this paragraph, the term “qualified hydrologic unit” means a hydrologic unit in which water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources and which contains lands and waters that—

“(i) meet the eligibility requirements of section 404 and at least one of the priorities in paragraphs (1), (2), and (3) of section 403(a); and

“(ii) either are or are proposed to be the subject of expenditures by the State from bond forfeiture proceeds under section 509 of this Act, or from other State sources, to abate or treat acid mine drainage.”

(17) Section 406 is amended by—

(A) striking the word “Soil” wherever it appears in subsection (h) and inserting in its place the words “Natural Resources”; and

(B) adding the following new subsection at the end:

“(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture, from the general fund of the Treasury, such sums as may be necessary to carry out the provisions of this section.”.

(18) In section 408(a), the last sentence is amended by striking “, in accordance with this subsection, who owned the surface prior to May 2, 1977, and”.

(19) Section 409 is amended—

(A) in the second sentence of subsection (a), by striking the second “the” before “governing body”;

(B) in the last sentence of subsection (a), by striking “State regulatory authorities” and inserting in its place “States and Indian tribes”;

(C) in subsection (b), by inserting “section 403(b)(1)” before “the provisions”; and

(D) in subsection (c)(3), by striking “which have made the certification referred to in section 411(a)” and inserting in its place “that have been certified under section 411 of this Act”.

(20) Section 410 is amended by—

(A) inserting the title “IN GENERAL.—” at the beginning of subsection (a);

(B) inserting the title “RIGHT OF ENTRY.—” at the beginning of subsection (b);

(C) inserting a new subsection (c) to read as follows:

“(c) STATE ASSUMPTION OF EMERGENCY RECLAMATION PROGRAM.—The Secretary may propose, and, after opportunity for public comment, adopt, regulations to require that States assume responsibility for administering the emergency reclamation program under this section to remain eligible to receive grants under section 405(h) of this Act. The regulations must establish procedures for that assumption, including, at a minimum, a requirement that States revise their abandoned mine reclamation plans approved under section 405 of this Act to include provisions that—

“(1) authorize the State to make the findings required under subsection (a) of this section; and

“(2) enable the State to conduct emergency reclamation activities consistent with subsection (b) of this section.”.

(21) Section 411 is amended to read as follows:

"Sec. 411. Certification of Completion of Coal Reclamation.

"(a) The Governor of a State, or the head of a governing body of an Indian tribe, with an approved abandoned mine reclamation program under section 405, may certify to the Secretary that reclamation of all eligible lands and waters under section 404 with the priorities stated in paragraphs (1), (2), and (3) of section 403(a) has been achieved. The Secretary, after notice in the Federal Register and opportunity for public comment, shall concur with such certification if the Secretary determines that such certification is correct.

"(b) The Secretary may make the certification referred to in subsection (a) on behalf of any State or Indian tribe if, on the basis of the inventory referred to in section 403(c), all reclamation projects relating to the priorities set forth in paragraphs (1), (2), and (3) of section 403(a) for eligible lands and waters under section 404 in such State or tribe have been completed. The Secretary shall only make such certification after notice in the Federal Register and opportunity for public comments."

(22) Section 413(d) is amended by striking "(33 U.S.C.A. 1151, et seq. as amended)" and inserting in its place "(33 U.S.C. 1251 et seq.)."

(23) Section 413(e) is amended by striking the comma after the word "agencies".

(24) Section 414 is amended to read as follows:

"Sec. 414. Interagency Cooperation.

"(a) IN GENERAL.—All departments, boards, commissioners, and agencies of the United States of America shall cooperate with the Secretary by providing technical expertise, personnel, equipment, materials, and supplies to implement and administer the provisions of this title of this Act.

"(b) EXCISE TAX COLLECTION.—Notwithstanding any provision of law to the contrary, the Secretary is authorized to collect the excise tax imposed by section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121). The Secretary of the Treasury shall enter into an agreement with the Secretary providing for reimbursement of any additional expenses that the Office incurs in connection with collecting this tax and conducting audits related thereto."

(25) Section 415 is added to read as follows:

"Sec. 415. Remining Incentives.

"(a) Notwithstanding any other provisions of this Act to the contrary, the Secretary may propose, and, after opportunity for public comment, adopt, regulations that would prescribe conditions under which the fund may be used to promote remining of eligible lands under section 404 to leverage use of monies available from the fund to achieve more reclamation of those lands than would otherwise be likely to occur. Any such regulations shall specify that these incentives will apply only in situations in which the agency administering this title of this Act determines, with the concurrence of the regulatory authority under title V of this Act that the site is otherwise not likely to be remined and reclaimed under the applicable regulatory program.

"(b) Incentives that may be considered include, but are not limited to—

"(1) A rebate or waiver of the reclamation fee payments required under section 402(a) of this Act. The rebate or waiver shall be limited to operations that remove or reprocess abandoned coal mine waste or that remine sites meeting the priorities in paragraph (1) or (2) of section 403(a). The amount of the rebate or waiver shall be limited to the esti-

mated cost of reclaiming those sites under this title of this Act.

"(2) Use of the fund to provide financial assurance for remining operations in lieu of all or part of the performance bond required under section 509 of this Act."

(26) section 510 is amended by—

(A) inserting a sentence at the end of subsection (c) to read as follows: "In applying the prohibitions of this subsection after October 24, 1992, the regulatory authority shall not include any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making the application."; and

(B) striking subsection (e) in its entirety.

(27) Section 515(b)(22)(B) is amended to read as follows:

"(B) the areas of disposal are within either a bonded permit area or the boundaries of an abandoned mine land reclamation project approved under title IV of this Act, and all organic matter shall be removed immediately prior to spoil placement;"

(28) Section 701 is amended by—

(A) in paragraph (33), striking "section 510(e)" and inserting in its place "section 510(c)"; and

(B) amending paragraph (34) to read as follows:

"(34) the term "lands eligible for remining" means those lands eligible for expenditures under section 404 of this Act."

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 296—RELATING TO SENATE ADJOURNMENTS AND RECESSES

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

S. RES. 296

Resolved, That the Presiding Office of the Senate may suspend any proceeding of the Senate, including a roll call vote or a quorum call, and declare a recess or adjournment of the Senate subject to existing authorities or subject to the call of the Chair, within the limits of article I, section 5, clause 4, of the Constitution, whenever the Presiding Officer has been notified of an imminent threat.

SEC. 2. When the Senate is out of session, the Majority and Minority Leaders, or their designees, may, acting jointly and within the limits of article I, section 5, clause 4, of the Constitution, modify any order for the time or place of the convening of the Senate when, in their opinion, such action is warranted by intervening circumstances.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on February 4, 2004, at 9:30 a.m., in the Carl Vinson Room of the Rayburn House Office Building, in open session to receive testimony on the Defense Authorization request for fiscal year 2005 and the future years Defense program.

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

APPOINTMENT OF COMMITTEE TO ESCORT HIS EXCELLENCY JOSE MARIA AZNAR, PRESIDENT OF THE GOVERNMENT OF SPAIN

Mr. FRIST. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort His Excellency Jose Maria Aznar, President of the Government of Spain, into the House Chamber for the joint meeting tomorrow.

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

ORDER FOR COMMITTEE TO MEET

Mr. FRIST. Mr. President, I ask another unanimous consent for a committee to meet during tomorrow's session of the Senate. It has the approval of the majority and minority leaders.

I ask unanimous consent that this request be agreed to and that this request be printed in the RECORD.

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

Mr. FRIST. For the information of Members, Chairman WARNER will hold this hearing tomorrow at 9:30 a.m., in the Rayburn House Office Building, in the Carl Vinson Room. Secretary Rumsfeld will be at the hearing and will provide testimony on the 2004 Defense authorization bill.

Again, this hearing will be in the Rayburn House Office Building at 9:30 tomorrow morning.

ORDERS FOR WEDNESDAY, FEBRUARY 4, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m., Wednesday, February 4. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1072, the highway bill.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow at 11 a.m., the Senate and House will conduct a joint meeting to hear an address by President Aznar of Spain. We do ask Senators be in the Senate Chamber at 10:40 a.m. so Senators can proceed together to the Hall of the House of Representatives for that address.

At 1 p.m., the Senate will reconvene and resume consideration of S. 1072, the highways bill. Notwithstanding the