

SA 2115. Mr. ENZI proposed an amendment to the bill H.R. 3058, supra.

SA 2116. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2117. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2118. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2119. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2120. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2121. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2122. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2123. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra.

SA 2124. Mr. SCHUMER (for himself, Ms. SNOWE, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2125. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2126. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2127. Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2128. Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2129. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2130. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2131. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2132. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2133. Mr. DORGAN (for himself, Mr. CRAIG, Mr. ENZI, and Mr. BAUCUS) proposed an amendment to the bill H.R. 3058, supra.

SA 2134. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2135. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2136. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2137. Mr. COLEMAN (for himself, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2138. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2139. Mr. BOND (for Mrs. BOXER) proposed an amendment to the bill H.R. 3058, supra.

SA 2140. Mr. BOND (for Ms. STABENOW) submitted an amendment intended to be proposed by Mr. BOND to the bill H.R. 3058, supra.

SA 2141. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 3058, supra.

SA 2142. Mr. MCCONNELL (for Mr. ENZI) proposed an amendment to the bill H.R. 3204, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools.

SA 2143. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 2144. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2145. Mr. LAUTENBERG (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2146. Mr. ENSIGN (for himself, Mr. ALLEN, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2147. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2148. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 2112.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, insert the following:

SEC. 1 \_\_\_\_ (a) Item number 14 of the table contained in section 1302 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1144) is amended—

(1) by striking “AK” and inserting “LA”; and

(2) by striking “Planning, design, and construction of Knik Arm Bridge” and inserting “Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana”.

(b) The table contained in section 1702 of the Safe, Accountable, Flexible, Efficient

Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1144) is amended—

(1) in item number 2465—

(A) by striking “AK” and inserting “LA”; and

(B) by striking “Planning, design, and construction of Knik Arm Bridge” and inserting “Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana”; and

(2) in item number 3677—

(A) by striking “AK” and inserting “LA”; and

(B) by striking “Planning, design, and construction of Knik Arm Bridge” and inserting “Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana”.

(c) Item number 2 of the table contained in section 1934 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1144) is amended—

(1) by striking “AK” and inserting “LA”; and

(2) by striking “Improvements to the Knik Arm Bridge” and inserting “Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana”.

(d) Sections 1949 and 4111 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1144) are repealed.

(e) Nothing in this section or an amendment made by this section affects the allocation of funds to any State other than the States of Alaska and Louisiana.

**SA 2113.** Mr. BOND (for himself, Mr. DORGAN, Mr. NELSON of Florida, Mr. CORZINE, and Mr. TALENT) proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

Insert the following on page 348, after line 5, and renumber accordingly:

“SEC. 321. No funds in this Act may be used to support any federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use: Provided, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities: Provided further, That any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of blight (including areas identified by units of local government for recovery from natural disasters) or brownfields as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. Law 107-118) shall be considered a public use for purposes of eminent domain: Provided further, That the Government Accountability Office, in consultation with the National Academy for Public Administration, organizations representing state and local governments, and property rights organizations, shall conduct a study to be submitted to the Congress within 12 months of the enactment of this Act on the nationwide use of eminent

domain, including the procedures used and the results accomplished on a state-by-state basis as well as the impact on individual property owners and on the affected communities.”

**SA 2114.** Mrs. BOXER (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 310, line 16, insert “, and of which \$4,500,000 shall be for capacity building activities administered by Habitat for Humanity International” after “tribal areas”.

**SA 2115.** Mr. ENZI proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place add the following:

**—ASSISTANCE FOR WORKERS AND SMALL BUSINESSES**

**Subtitle A—Minimum Wage Adjustment**

**SEC. 01. MINIMUM WAGE.**

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

“(1) except as otherwise provided in this section, not less than—

“(A) \$5.70 an hour, beginning 6 months after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006; and

“(B) \$6.25 an hour, beginning 18 months after such date of enactment;”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 6 months after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006.

**Subtitle B—Workplace Flexibility**

**SEC. 11. SHORT TITLE.**

This subtitle may be cited as the “Workplace Flexibility Act”.

**SEC. 12. BIWEEKLY WORK PROGRAMS.**

(a) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following:

**“SEC. 13A. BIWEEKLY WORK PROGRAMS.**

“(a) VOLUNTARY PARTICIPATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

“(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required to participate in such a program in accordance with the agreement.

“(b) BIWEEKLY WORK PROGRAMS.—

“(1) IN GENERAL.—Notwithstanding section 7, an employer may establish biweekly work

programs that allow the use of a biweekly work schedule—

“(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

“(B) in which more than 40 hours of the work requirement may occur in a week of the period, except that no more than 10 hours may be shifted between the 2 weeks involved.

“(2) CONDITIONS.—An employer may carry out a biweekly work program described in paragraph (1) for employees only pursuant to the following:

“(A) AGREEMENT.—The program may be carried out only in accordance with—

“(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

“(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement was entered into knowingly and voluntarily by such employee and was not a condition of employment.

“(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

“(C) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

“(3) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7, in the case of an employee participating in such a biweekly work program, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

“(4) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by the employer, shall be overtime hours.

“(5) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

“(6) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

“(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a biweekly work program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days’ written notice to the employees who are subject to an agreement described in paragraph (2)(A)(ii).

“(B) WITHDRAWAL.—An employee may withdraw an agreement described in paragraph (2)(A)(ii) at the end of any 2-week period described in paragraph (1)(A), by submitting a written notice of withdrawal to the employer of the employee.

“(c) PROHIBITION OF COERCION.—

“(1) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of the em-

ployee under this section to elect or not to elect to work a biweekly work schedule.

“(2) DEFINITION.—In paragraph (1), the term ‘intimidate, threaten, or coerce’ includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

“(d) DEFINITIONS.—In this section:

“(1) BASIC WORK REQUIREMENT.—The term ‘basic work requirement’ means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

“(2) COLLECTIVE BARGAINING.—The term ‘collective bargaining’ means the performance of the mutual obligation of the representative of an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph shall not compel either party to agree to a proposal or to make a concession.

“(3) COLLECTIVE BARGAINING AGREEMENT.—The term ‘collective bargaining agreement’ means an agreement entered into as a result of collective bargaining.

“(4) ELECTION.—The term ‘at the election of’, used with respect to an employee, means at the initiative of, and at the request of, the employee.

“(5) EMPLOYEE.—The term ‘employee’ means an individual—

“(A) who is an employee (as defined in section 3);

“(B) who is not an employee of a public agency; and

“(C) to whom section 7(a) applies.

“(6) EMPLOYER.—The term ‘employer’ does not include a public agency.

“(7) OVERTIME HOURS.—The term ‘overtime hours’ when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer.

“(8) REGULAR RATE.—The term ‘regular rate’ has the meaning given the term in section 7(e).”.

(b) REMEDIES.—

(1) PROHIBITIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(A) by inserting “(A)” after “(3)”;

(B) by adding “or” after the semicolon; and

(C) by adding at the end the following:

“(B) to violate any of the provisions of section 13A.”.

(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(A) in subsection (c)—

(i) in the first sentence—

(I) by inserting after “7 of this Act” the following: “, or of the appropriate legal or monetary equitable relief owing to any employee or employees under section 13A”; and

(II) by striking “wages or unpaid overtime compensation and” and inserting “wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and”;

(ii) in the second sentence, by striking “wages or overtime compensation and” and inserting “wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and”; and

(iii) in the third sentence—

(I) by inserting after “first sentence of such subsection” the following: “, or the second sentence of such subsection in the event of a violation of section 13A,”; and

(II) by striking “wages or unpaid overtime compensation under sections 6 and 7 or” and inserting “wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, or”; and

(B) in subsection (e)—

(i) in the second sentence, by striking “section 6 or 7” and inserting “section 6, 7, or 13A”; and

(ii) in the fourth sentence, in paragraph (3), by striking “15(a)(4) or” and inserting “15(a)(4), a violation of section 15(a)(3)(B), or”.

(c) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to the Act by this section.

#### SEC. 13. CONGRESSIONAL COVERAGE.

Section 203 of the Congressional Accountability Act of 1995 (2 U.S.C. 1313) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “and section 12(c)” and inserting “section 12(c), and section 13A”; and

(B) by striking paragraph (3);

(2) in subsection (b)—

(A) by striking “The remedy” and inserting the following:

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the remedy”; and

(B) by adding at the end the following:

“(2) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOURS PROGRAMS.—The remedy for a violation of subsection (a) relating to the requirements of section 13A of the Fair Labor Standards Act of 1938 shall be such remedy as would be appropriate if awarded under sections 16 and 17 of such Act (29 U.S.C. 216, 217) for such a violation.”; and

(3) in subsection (c), by striking paragraph (4).

#### SEC. 14. TERMINATION.

The authority provided by this subtitle and the amendments made by this subtitle terminates 5 years after the date of enactment of this Act.

#### Subtitle C—Small Business Fair Labor Standards Act Exemption

#### SEC. 21. ENHANCED SMALL BUSINESS EXEMPTION.

(a) IN GENERAL.—Section 3(s)(1)(A)(ii) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(1)(A)(ii)) is amended by striking “\$500,000” and inserting “\$1,000,000”.

(b) EFFECT OF AMENDMENT.—The amendment made by subsection (a) shall not apply in any State that does not have in effect, or that does not subsequently enact after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006, legislation applying minimum wage and hours of work protections to workers covered by the Fair Labor Standards Act of 1938 as of the day before the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006.

#### SEC. 22. SCOPE OF EMPLOYMENT.

Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)), in the matter preceding paragraph (1), and section 7(a)(1) of such Act (29 U.S.C. 207(a)(1)), are amended by

striking “who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce,” and inserting “who in any workweek is engaged in industrial homework subject to section 11(d) and engaged in commerce or in the production of goods for commerce, or who in any workweek is employed in an enterprise engaged in commerce or in the production of goods for commerce.”.

#### Subtitle D—Small Business Paperwork Reduction

#### SEC. 31. SMALL BUSINESS PAPERWORK REDUCTION.

(a) IN GENERAL.—Section 3506 of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”), is amended by adding at the end the following:

“(j)(1) In the case of a first-time violation by a small business concern of a requirement regarding the collection of information by an agency, the head of such agency shall provide that no civil fine shall be imposed on the small business concern unless, based on the particular facts and circumstances regarding the violation—

“(A) the head of the agency determines that the violation has the potential to cause serious harm to the public interest;

“(B) the head of the agency determines that failure to impose a civil fine would impede or interfere with the detection of criminal activity;

“(C) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

“(D) the violation is not corrected on or before the date that is 6 months after the date of receipt by the small business concern of notification of the violation in writing from the agency; or

“(E) except as provided in paragraph (2), the head of the agency determines that the violation presents a danger to the public health or safety.

“(2)(A) In any case in which the head of an agency determines under paragraph (1)(E) that a violation presents a danger to the public health or safety, the head of the agency may, notwithstanding paragraph (1)(E), determine that a civil fine should not be imposed on the small business concern if the violation is corrected within 24 hours of receipt of notice in writing by the small business concern of the violation.

“(B) In determining whether to provide a small business concern with 24 hours to correct a violation under subparagraph (A), the head of the agency shall take into account all of the facts and circumstances regarding the violation, including—

“(i) the nature and seriousness of the violation, including whether the violation is technical or inadvertent or involves willful or criminal conduct;

“(ii) whether the small business concern has made a good faith effort to comply with applicable laws, and to remedy the violation within the shortest practicable period of time; and

“(iii) whether the small business concern has obtained a significant economic benefit from the violation.

“(C) In any case in which the head of the agency imposes a civil fine on a small business concern for a violation with respect to which this paragraph applies and does not provide the small business concern with 24 hours to correct the violation, the head of the agency shall notify Congress regarding such determination not later than 60 days after the date that the civil fine is imposed by the agency.

“(3) With respect to any agency, this subsection shall not apply to any violation by a

small business concern of a requirement regarding collection of information by such agency if such small business concern previously violated any requirement regarding collection of information by such agency.

“(4) In determining if a violation is a first-time violation for purposes of this subsection, the head of an agency shall not take into account any violation of a requirement regarding collection of information by another agency.

“(5) Notwithstanding any other provision of law, no State may impose a civil penalty on a small business concern, in the case of a first-time violation by the small-business concern of a requirement regarding collection of information under Federal law, in a manner inconsistent with the provisions of this subsection.

“(6) For purposes of this subsection, the term ‘small business concern’ means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant to such section.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any violation occurring on or after January 1, 2006.

#### Subtitle E—Small Business Regulatory Relief

#### SEC. 41. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

“(a) COMPLIANCE GUIDE.—

“(1) IN GENERAL.—For each rule for which an agency head does not make a certification under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule, and shall entitle such publications ‘small entity compliance guides’.

“(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

“(A) the posting of the guide in an easily identified location on the website of the agency; and

“(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

“(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

“(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

“(B) not later than the date on which the requirements of that rule become effective.

“(4) COMPLIANCE ACTIONS.—

“(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

“(B) EXPLANATION.—The explanation under subparagraph (A)—

“(i) shall include a description of actions needed to meet requirements to enable a small entity to know when such requirements are met; and

“(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that assist a small entity in meeting such requirements.

“(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

“(i) shall be suggestions to assist small entities; and

“(ii) shall not be additional requirements relating to the rule.

“(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule

and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules."

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting "and entitled" after "designated".

**Subtitle F—Minimum Wage Tip Credit**  
**SEC. 51. TIPPED WAGE FAIRNESS.**

Section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended—

(1) in paragraph (2), by inserting before the period the following: "Provided, That the tips shall not be included as part of the wage paid to an employee to the extent they are excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee"; and

(2) adding at the end the following: "Notwithstanding any other provision of this Act, any State or political subdivision of a State which, on and after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006, excludes all of a tipped employee's tips from being considered as wages in determining if such tipped employee has been paid the applicable minimum wage rate, may not establish or enforce the minimum wage rate provisions of such law, ordinance, regulation, or order in such State or political subdivision thereof with respect to tipped employees unless such law, ordinance, regulation, or order is revised or amended to permit a tip credit in an amount not less than an amount equal to—

"(A) the cash wage paid such employee which is required under such law, ordinance, regulation, or order on the date of enactment of such Act; and

"(B) an additional amount on account of tips received by such employee which amount is equal to the difference between such cash wage and the minimum wage rate in effect under such law, ordinance, regulation, or order or the minimum wage rate in effect under section 6, whichever is higher."

**Subtitle G—Small Business Tax Relief**  
**SEC. 60. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this subtitle 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.

**CHAPTER 1—PROVISIONS RELATING TO ECONOMIC STIMULUS FOR SMALL BUSINESSES**

**SEC. 61. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.**

(a) IN GENERAL.—Section 179 (relating to election to expense certain depreciable business assets) is amended by striking "2008" each place it appears and inserting "2009".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 62. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.**

(a) CASH ACCOUNTING PERMITTED.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

"(g) CERTAIN SMALL BUSINESS TAXPAYERS PERMITTED TO USE CASH ACCOUNTING METHOD WITHOUT LIMITATION.—

"(1) IN GENERAL.—An eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

"(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

"(A) IN GENERAL.—A taxpayer is an eligible taxpayer with respect to any taxable year if—

"(i) for all prior taxable years beginning after December 31, 2004, the taxpayer (or any predecessor) met the gross receipts test of subparagraph (B), and

"(ii) the taxpayer is not subject to section 447 or 448.

"(B) GROSS RECEIPTS TEST.—A taxpayer meets the gross receipts test of this subparagraph if any prior taxable year if the average annual gross receipts of the taxpayer for the 3-taxable-year period ending with such prior taxable year does not exceed \$10,000,000. The rules of paragraphs (2) and (3) of section 448(c) shall apply for purposes of the preceding sentence.

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, the dollar amount contained in subparagraph (B) 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 the calendar year in which the taxable year begins, by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under this subparagraph is not a multiple of \$100,000, such amount shall be rounded to the nearest multiple of \$100,000."

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED TO USE INVENTORIES.—

"(1) IN GENERAL.—An eligible taxpayer shall not be required to use inventories under this section for a taxable year.

"(2) TREATMENT OF TAXPAYERS NOT USING INVENTORIES.—If an eligible taxpayer does not use inventories with respect to any property for any taxable year beginning after December 31, 2004, such property shall be treated as a material or supply which is not incidental.

"(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' has the meaning given such term by section 446(g)(2)."

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(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 over a period (not greater than 4 taxable years) beginning with such taxable year.

**SEC. 63. RECOVERY PERIOD FOR DEPRECIATION OF RESTAURANT BUILDINGS.**

(a) 15-YEAR RECOVERY PERIOD.—Subparagraph (E) of section 168(e)(3) (relating to 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) any section 1250 property which is a retail restaurant facility."

(b) RETAIL RESTAURANT FACILITY.—Subsection (e) of section 168 is amended by adding at the end the following new paragraph:

"(6) RETAIL RESTAURANT FACILITY.—The term 'retail restaurant facility' means any building if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals."

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iii) the following new item:

"(E)(iv) ..... 39".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to retail restaurant buildings placed in service, and to all improvements made, after September 30, 2004, and before October 1, 2009.

**CHAPTER 2—REVENUE PROVISIONS**

**SEC. 71. 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”;

(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. 72. 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.

**SEC. 73. 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 March 2, 2005, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

**SEC. 74. 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 striking section 7874 and inserting the following:

**“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 striking the item relating to section 7874 and inserting the following:

“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.

(e) DISCLOSURE OF CORPORATE EXPATRIATION TRANSACTIONS.—

(1) IN GENERAL.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

“(i) PROXY SOLICITATIONS IN CONNECTION WITH CORPORATE EXPATRIATION TRANSACTIONS.—

“(1) DISCLOSURE TO SHAREHOLDERS OF EFFECTS OF CORPORATE EXPATRIATION TRANSACTION.—The Commission shall, by rule, require that each domestic issuer shall prominently disclose, not later than 5 business days before any shareholder vote relating to a corporate expatriation transaction, as a separate and distinct document accompanying each proxy statement relating to the transaction—

“(A) the number of employees of the domestic issuer that would be located in the new foreign jurisdiction of incorporation or organization of that issuer upon completion of the corporate expatriation transaction;

“(B) how the rights of holders of the securities of the domestic issuer would be impacted by a completed corporate expatriation transaction, and any differences in such rights before and after a completed corporate expatriation transaction; and

“(C) that, as a result of a completed corporate expatriation transaction, any taxable holder of the securities of the domestic issuer shall be subject to the taxation of any capital gains realized with respect to such securities, and the amount of any such capital gains tax that would apply as a result of the transaction.

“(2) DEFINITIONS.—In this subsection, the following definitions shall apply:

“(A) CORPORATE EXPATRIATION TRANSACTION.—The term ‘corporate expatriation transaction’ means any transaction, or series of related transactions, described in subsection (a) or (b) of section 7874 of the Internal Revenue Code of 1986.

“(A) DOMESTIC ISSUER.—The term ‘domestic issuer’ means an issuer created or organized in the United States or under the law of the United States or of any State.”

(2) EFFECTIVE DATE.—Section 14(i) of the Securities Exchange Act of 1934 (as added by this subsection) shall apply with respect to corporate expatriation transactions (as defined in that section 14(i)) proposed on and after the date of enactment of this Act.

(f) EFFECTIVE DATE.—Except as provided in subsection (e)(2), the amendments made by this section shall take effect as if included in the American Jobs Creation Act of 2004.

**SEC. 75. 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 includable 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 includable in gross income.

“(B) COST-OF-LIVING ADJUSTMENT.—

“(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the \$600,000 amount under subparagraph (A) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting ‘calendar year 2003’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of \$1,000, such amount shall be rounded to the next lower multiple of \$1,000.

“(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

“(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

“(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

“(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

“(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

“(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

“(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

“(iii) complies with such other requirements as the Secretary may prescribe.

“(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to

property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

“(b) ELECTION TO DEFER TAX.—

“(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

“(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

“(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

“(4) SECURITY.—

“(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

“(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

“(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

“(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

“(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

“(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

“(7) INTEREST.—For purposes of section 6601—

“(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

“(B) section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(c) COVERED EXPATRIATE.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘covered expatriate’ means an expatriate.

“(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

“(A) the individual—

“(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

“(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

“(B)(i) the individual’s relinquishment of United States citizenship occurs before such individual attains age 18½, and

“(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

“(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

“(1) EXEMPT PROPERTY.—This section shall not apply to the following:

“(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

“(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

“(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

“(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

“(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

“(ii) an amount equal to the present value of the expatriate’s nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

“(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

“(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan’s behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

“(D) APPLICABLE PLANS.—This paragraph shall apply to—

“(i) any qualified retirement plan (as defined in section 4974(c)),

“(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

“(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

“(e) DEFINITIONS.—For purposes of this section—

“(1) EXPATRIATE.—The term ‘expatriate’ means—

“(A) any United States citizen who relinquishes citizenship, and

“(B) any long-term resident of the United States who—

“(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

“(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive

the benefits of such treaty applicable to residents of the foreign country.

“(2) EXPATRIATION DATE.—The term ‘expatriation date’ means—

“(A) the date an individual relinquishes United States citizenship, or

“(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

“(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

“(A) the date the individual renounces such individual’s United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

“(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

“(D) the date a court of the United States cancels a naturalized citizen’s certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

“(4) LONG-TERM RESIDENT.—The term ‘long-term resident’ has the meaning given to such term by section 877(e)(2).

“(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES’ INTERESTS IN TRUST.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

“(A) the individual shall not be treated as having sold such interest,

“(B) such interest shall be treated as a separate share in the trust, and

“(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

“(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

“(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(i). 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(1) (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 (1)(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 (1)(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 April 1, 2005.”

(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 April 1, 2005.

(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 April 1, 2005, 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. 76. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.**

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement to which any initiative described in paragraph (2) applied, or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (2), shall be made without regard to section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term “applicable taxpayer” means 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).

(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 Treas-

ury 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. 77. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.**

Section 901 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

“(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.”.

**SEC. 78. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.**

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking “The Secretary” and inserting the following:

“(1) IN GENERAL.—The Secretary”, and

(2) by adding at the end the following new paragraph:

“(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

“(A) IN GENERAL.—In the case of a debt instrument which—

“(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

“(ii) provides for contingent payments, any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed rate debt instrument shall be applied as requiring that such comparable yield be determined by reference to a noncontingent fixed rate debt instrument which is convertible into stock.

“(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.”.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

“For the treatment of contingent payment convertible debt, see section 1275(d)(2).”.

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

**SA 2116.** Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing

and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, line 19, strike the period and insert “; Provided further, That of the funds provided under this paragraph \$250,000 shall be available for the Learning Collaborative, to implement the Web Portal Technology Development Initiative in Daviess County schools (not for Daviess County generally).”.

**SA 2117.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, line 17, insert “, of which \$5,000,000 shall be made available to carry out the grant program authorized under section 158(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(b)) and not more than 10 percent of this amount may be used for administrative purposes:” after “Highway Trust Fund:”.

**SA 2118.** Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, add the following:

SEC. 18 \_\_\_\_ Notwithstanding any other provision of law, a vehicle that, with respect to weight or weight distribution characteristics, could lawfully operate in the State of North Dakota as of January 1, 2004, on United States Highway 52 (including the United States Highway 52 bypass of Jamestown, North Dakota) or on United States Highway 281 may operate on Interstate Route 94 in North Dakota between the intersection of Interstate Route 94 and United States Route 281 and the intersection of Interstate Route 94 and the United States Highway 52 bypass (including interchanges), under the same conditions as the vehicle may operate in that State on those United States highways (including that bypass).

**SA 2119.** Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 230, after line 22, insert the following:

SEC. 109. Section 40128(e) of title 49, United States Code, is amended by adding at the end the following: "For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route."

**SA 2120.** Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 10 and 11, insert the following:

SEC. 8 \_\_\_\_.(a) The table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1144) is amended in item number 4632 by striking "Construct 1,100 foot bulkhead/riverwalk connecting Front and Maine Ave. public rights-of-way" and inserting "For roadway improvements and construction of 1,100 foot bulkhead/riverwalk connecting Front and Maine Ave. public rights-of-way".

(b) The table contained in section 3044 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1144) is amended in item number 516 by striking "Dayton Wright Stop Plaza" and inserting "Downtown Dayton Transit Enhancements".

**SA 2121.** Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 348, between lines 5 and 6, insert the following:

**SEC. 321. OPERATING FUND PROGRAM FINAL RULE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, or of the Operating Fund program final rule published by the Department of Housing and Urban Development on September 19, 2005, 79 Fed. Reg. 54984, the 5 year schedule set out in the table appearing in §990.230(e) of the final rule shall commence 1 year from the Secretary's publication of guidance in a Federal Register notice defining specifically the manner in which public housing authorities shall comply with the provisions of §990.275 (Project-Based Management) and §990.280 (Project-Based Accounting and Budgeting).

(b) COMPLIANCE.—Each public housing authority shall be deemed in compliance with Subpart H of the final rule described in subsection (a), pending completion of the Secretary's review of the asset management demonstration submitted by the housing authority based on the guidance issued by the Secretary or the review conducted by the Secretary's independent assessor.

**SA 2122.** Mr. SCHUMER submitted an amendment intended to be proposed by

him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 338, line 15, strike "and is occupied primarily by elderly or disabled families".

On page 338, line 19, insert ", and the contract for such payments shall be renewable by the owner under the provisions of section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)" after "in the property".

**SA 2123.** Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the end of the bill, add the following:  
**TITLE \_\_\_\_—NATURAL DISASTER OIL AND GAS PRICE GOUGING PREVENTION ACT OF 2005**

**SEC. 01. SHORT TITLE.**

This title may be cited as the "Natural Disaster Oil and Gas Price Gouging Prevention Act of 2005".

**SEC. 02. DEFINITIONS.**

In this title:

(1) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(2) QUALIFYING NATURAL DISASTER DECLARATION.—The term "qualifying natural disaster declaration" means—

(A) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(B) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**SEC. 03. RESTRICTION ON PRICE GOUGING.**

(a) RESTRICTIONS.—It shall be unlawful in the United States during the period of a qualifying natural disaster declaration in the United States to increase the price of any oil or gas product more than 15 percent above the price of that product immediately prior to the declaration unless the increase in the amount charged is attributable to additional costs incurred by the seller or national or international market trends.

(b) ENFORCEMENT.—

(1) ENFORCEMENT POWERS.—

(A) IN GENERAL.—The Commission shall enforce this section as part of its duties under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(B) REPORTING OF VIOLATIONS.—For purposes of the enforcement of this section, the Commission shall establish procedures to permit the reporting of violations of this section to the Commission, including appropriate links on the Internet website of the Commission and the use of a toll-free telephone number for such purposes.

(2) PENALTY.—

(A) CRIMINAL PENALTY.—A violation of this section shall be deemed a felony and a person, upon conviction of a violation of this section, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding 3 years, or both.

(B) CIVIL PENALTY.—The Commission may impose a civil penalty not to exceed \$5,000 for each violation of this section. For purposes of this subparagraph, each day of violation shall constitute a separate offense. Civil penalties under this subparagraph shall not exceed amounts provided in subparagraph (A).

(C) ACTION BY STATE ATTORNEY GENERAL.—The attorney general of a State may bring a civil action for a violation of this section pursuant to section 4C of the Clayton Act (15 U.S.C. 15c).

**SA 2124.** Mr. SCHUMER (for himself, Ms. SNOWE, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, line 26, strike "\$60,000,000" and all that follows through the period on page 221, line 2, and insert the following: "\$77,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That not to exceed \$17,000,000 for fiscal year 2006 shall be used for adjustments to account for significantly increased costs as provided for in section 41737(e)(1) of title 49, United States Code: *Provided further*, That amounts provided in this Act for salaries and expenses for the Department of Transportation, the Department of the Treasury, the Department of Housing and Urban Development, the Judiciary, and the Executive Office of the President are reduced by an aggregate of \$17,000,000 on a pro rata basis."

**SA 2125.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, line 26, strike "\$60,000,000" and all that follows through the period on page 221, line 2, and insert the following: "\$170,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That not to exceed \$17,000,000 for fiscal year 2006 shall be used for adjustments to account for significantly increased costs as provided for in section 41737(e)(1) of title 49, United States Code."

**SA 2126.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 226, line 17, strike "\$3,390,000,000" and insert "\$3,468,904,000".

On page 227, line 3, strike "\$71,096,000" and insert "\$150,000,000".

**SA 2127.** Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 310 line 11, strike the word “and” after the word “LISC” and insert “,” and on page 310 on line 12 after the words “Enterprise Foundation” insert “,” and the Habitat for Humanity”; and on page 319 line 17 after the word “Foundation” insert the following “Habitat for Humanity.”.

**SA 2128.** Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 310 line 11, strike the word “and” after the word “LISC” and insert “,” and on page 310 on line 12 after the words “Enterprise Foundation” insert “,” and the Habitat for Humanity”.

**SA 2129.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, add the following:

SEC. \_\_\_\_\_. The item numbered 1832 in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1144) is amended by inserting “, in fiscal year 2006” after “Virginia”.

**SA 2130.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, add the following:

SEC. \_\_\_\_\_. The item numbered 2551 in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1144) is amended by inserting “in fiscal year 2006” after “2007”.

**SA 2131.** Mr. CORNYN submitted an amendment intended to be proposed by

him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 10 and 11, insert the following:

**SEC. 844. EMINENT DOMAIN.**

None of the funds made available in this Act may be used by any state, county, municipality, city, town or other political subdivision that engages or participates in the taking of private property by eminent domain without the consent of the owner and conveys or leases such property to another private person or entity for commercial, financial or retail enterprise, or to increase tax revenue, tax base, employment, or general economic health, unless the taking involves (a) conveying private property for the occupation and enjoyment of the land by the general public, or by public agencies, such as for a roadway, waterway, airport, school, hospital, military base, prison, public park, or a government building; or (b) conveying private property to an entity, such as a state or federally regulated public utility or common carrier, for the creation or functioning of public service infrastructure, such as for public utilities, waste treatment facilities, railroads, or transportation of natural gas, crude oil or refined petroleum products; or (c) condemning property that constitutes a severe threat to public health and safety, such as structures that are beyond repair or otherwise unfit for human habitation or use; or (d) leasing property to a private person or entity that occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building; or (e) acquiring abandoned property.

**SA 2132.** Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 290, between lines 14 and 15, insert the following:

SEC. 209A.(a) The Senate makes the following findings:

(1) For a voluntary, self-reporting tax system to work, taxpayers must believe that all taxpayers pay their fair share of taxes.

(2) Many States base State income tax liability on amounts reported with respect to Federal income taxes, with the result that amounts not collected with respect to Federal income taxes are also not collected with respect to State income taxes at a time when many States are hard-pressed to meet their many financial demands.

(3) A study conducted by the National Research Program of the Internal Revenue Service determined that taxpayer non-compliance costs the Federal Government over \$300,000,000,000 each year in uncollected taxes.

(4) The National Research Program study estimates that the tax shortfall attributable to individual income taxes is as high as \$100,000,000,000 with respect to business income and more than \$50,000,000,000 with respect to non-business income.

(5) An analysis published in 2005 by tax law Professors Joseph Dodge and Jay Soled estimated that the loss of Federal income tax revenue associated with the under reporting of capital gains is \$250,000,000,000 over the coming decade.

(6) Non-compliance places an unfair burden on all taxpayers.

(7) Prior to launching the National Research Program, the Internal Revenue Service did not have in place an automated system to verify and audit capital gains information reported on Schedule D of Federal income tax returns, and now only examines Schedule D information when it is part of a larger tax audit.

(8) The reliance on random audits has created an impression in the investment community that enforcement of capital gains is limited or, worse, non-existent, and has also created an environment of inaccuracy and non-compliance with respect to Schedule D.

(9) Internal Revenue Service efforts to reduce the tax gap focus on increasing field examinations and audits, particularly of high-income taxpayers.

(10) One of the key components of National Research Program was the introduction, on a pilot basis, of a “smart” process to assist with the determination of the correct cost basis of capital gains and losses reported on Schedule D.

(b) It is the sense of the Senate that the Internal Revenue Service should utilize processes and technological tools that assist with the independent verification of taxpayer data, including the cost basis information of capital gains and losses reported on Schedule D, that will comply with all of the applicable rules and methods of the Internal Revenue Code of 1986 to ensure that all taxpayers pay their fair share of Federal income tax and to decrease the shortfall in tax revenues to the benefit of all taxpayers.

**SA 2133.** Mr. DORGAN (for himself, Mr. CRAIG, Mr. ENZI, and Mr. BAUCUS) proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. \_\_\_\_\_. (a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to—

(1) the administration of general or specific licenses for travel or travel-related transactions;

(2) section 515.204, 515.206, 515.332, 515.536, 515.544, 515.547, 515.560(c)(3), 515.569, 515.571, or 515.803 of such part 515; or

(3) transactions in relation to any business travel covered by section 515.560(g) of such part 515.

**SA 2134.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 356, between lines 4 and 5, insert the following:

SEC. 408.(a) The division of the court shall release to the Congress and to the public not later than 60 days after the date of enactment of this Act all portions of the final report of the independent counsel of the investigation of Henry Cisneros made under section 594(h) of title 28, United States Code, except for any such portions that contain information of a personal nature that the division of the court determines the disclosure of which would cause a clearly unwarranted invasion of privacy that outweighs the public interest in a full accounting of this investigation. Upon the release of the final report, the final report shall be published pursuant to section 594(h)(3) of title 28, United States Code.

(b)(1) After the release and publication of the final report referred to in subsection (a), the independent counsel shall continue his office only to the extent necessary and appropriate to perform the noninvestigative and nonprosecutorial tasks remaining of his statutory duties as required to conclude the functions of his office.

(2) The duties referred to in paragraph (1) shall specifically include—

(A) the evaluation of claims for attorney fees, pursuant to section 593(l) of title 28, United States Code;

(B) the transfer of records to the Archivist of the United States pursuant to section 594(k) of title 28, United States Code;

(C) compliance with oversight obligations pursuant to section 595(a) of title 28, United States Code; and

(D) preparation of statements of expenditures pursuant to section 595(c) of title 28, United States Code.

(3) Upon completion of his remaining statutory duties, the independent counsel shall move the division of the court to terminate his office.

**SA 2135.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, between lines 8 and 9, insert the following:

SEC. 122.(a) The Secretary of Transportation shall conduct a study regarding—

(1) Federal and State efforts to waive or relax truck weight and length requirements on highways within the Eisenhower Interstate System, including the timing of such waivers, during the response to Hurricane Katrina and other emergencies;

(2) the extent to which differing regulatory responses by States confused first responders and other aid providers during the response to Hurricane Katrina and other emergencies;

(3) the extent of the Secretary of Transportation's authority to waive or relax truck weight and length requirements on highways in the Eisenhower Interstate System; and

(4) the need for the authority described in paragraph (3) in the event of an emergency.

(b) Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall submit a report to Congress that contains—

(1) the results of the study conducted under subsection (a);

(2) recommendations regarding the appropriate extent and form of the waiver authority described in subsection (a)(3) in the event of an emergency; and

(3) proposed legislation to provide such authority.

**SA 2136.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 10 and 11, insert the following:

SEC. . None of the funds made available by this Act shall be used to enter into any lease for a facility under the jurisdiction of the General Services Administration unless the Administrator of General Services first submits to Congress a report demonstrating that the life of the lease would cost less than the full and total costs of each considered option.

**SA 2137.** Mr. COLEMAN (for himself, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 406, between lines 7 and 8, insert the following:

**SEC. 724. PAYMENTS TO FEDERAL CONTRACTORS WITH FEDERAL TAX DEBT.**

The General Services Administration, in conjunction with the Financial Management Service, shall develop procedures to subject purchase card payments to Federal contractors to the Federal Payment Levy Program.

**SEC. 520. REPORTING OF AIR TRAVEL BY FEDERAL GOVERNMENT EMPLOYEES.**

(a) ANNUAL REPORTS REQUIRED.—The Administrator of General Services shall submit annually to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on all first class and business class travel by employees of each agency undertaken at the expense of the Federal Government.

(b) CONTENT.—The reports submitted pursuant to subsection (a) shall include, at a minimum, with respect to each travel by first class or business class—

(1) the names of each traveler;

(2) the date of travel;

(3) the points of origination and destination;

(4) the cost of the first class or business class travel; and

(5) the cost difference between such travel and travel by coach class fare available under contract with the General Services Administration or, if no contract is available, the lowest coach class fare available.

(c) AGENCY DEFINED.—In this section, the term “agency” has the meaning given such term in section 5701(1) of title 5, United States Code.

**SA 2138.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary,

District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, line 15, strike “in accordance” and all that follows through “Act” on line 17.

**SA 2139.** Mr. BOND (for Mrs. BOXER) proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 219, line 5, strike the period and insert the following: “: *Provided further*, That the Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Administrator of the Federal Aviation Administration, not later than 60 days after the date of enactment of this Act, shall establish procedures with airport directors located at United States airports that have incoming flights from any country that has had cases of avian flu and with air carriers that provide such flights to deal with situations where a passenger on one of the flights has symptoms of avian flu.”

**SA 2140.** Mr. BOND (for Ms. STABENOW) submitted an amendment intended to be proposed by Mr. BOND to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 316, line 26, after “Provided,” insert “That of the amount made available under this heading, \$10,000,000 shall be made available to carry out section 203 of Public Law 108-186.”

**SA 2141.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following: Page 406, line 8 insert a new paragraph.

Sec. 724. The United States Interagency Council on Homelessness shall conduct an assessment of the guidance disseminated by the Department of Education, the Department of Housing and Urban Development, and other related federal agencies for grantees of homeless assistance programs on whether such guidance is consistent with and does not restrict the exercise of education rights provided to parents, youth, and children under subtitle B of title VII of the McKinney-Vento Act: *Provided*, That such assessment shall address whether the practices, outreach, and training efforts of said agencies serve to protect and advance such rights: *Provided further*, That the Council shall submit to the House and Senate Committees on Appropriations an interim report by May 1, 2006, and a final report by September 1, 2006.

**SA 2142.** Mr. McCONNELL (for Mr. ENZI) proposed an amendment to the bill H.R. 3204, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "State High Risk Pool Funding Extension Act of 2005".

**SEC. 2. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.**

Section 2745 of the Public Health Service Act (42 U.S.C. 300gg-45) is amended to read as follows:

**"SEC. 2745. RELIEF FOR HIGH RISK POOLS.**

"(a) SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (d)(1)(A) a grant of up to \$1,000,000 to each State that has not created a qualified high risk pool as of the date of enactment of the State High Risk Pool Funding Extension Act of 2005 for the State's costs of creation and initial operation of such a pool.

"(b) GRANTS FOR OPERATIONAL LOSSES.—

"(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

"(A) restricts premiums charged under the pool to no more than 200 percent of the premium for applicable standard risk rates;

"(B) offers a choice of two or more coverage options through the pool; and

"(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State in connection with operation of the pool after the end of the last fiscal year for which a grant is provided under this paragraph;

the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) and allotted to the State under paragraph (2), a grant for the losses incurred by the State in connection with the operation of the pool.

"(2) ALLOTMENT.—Subject to paragraph (4), the amounts appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) for a fiscal year shall be allotted and made available to the States (or the entities that operate the high risk pool under applicable State law) that qualify for a grant under paragraph (1) as follows:

"(A) An amount equal to 40 percent of such appropriated amount for the fiscal year shall be allotted in equal amounts to each qualifying State that is one of the 50 States or the District of Columbia and that applies for a grant under this subsection.

"(B) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to such a State bears the same ratio to such appropriated amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals (as determined by the Secretary) in all qualifying States that so apply.

"(C) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to a State bears the same ratio to such appropriated amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools (as determined by the Secretary) in all qualifying States that so apply.

"(3) SPECIAL RULE FOR POOLS CHARGING HIGHER PREMIUMS.—In the case of a qualified

high risk pool of a State which charges premiums that exceed 150 percent of the premium for applicable standard risks, the State shall use at least 50 percent of the amount of the grant provided to the State to carry out this subsection to reduce premiums for enrollees.

"(4) LIMITATION FOR TERRITORIES.—In no case shall the aggregate amount allotted and made available under paragraph (2) for a fiscal year to States that are not the 50 States or the District of Columbia exceed \$1,000,000.

"(c) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—

"(1) IN GENERAL.—In the case of a State that is one of the 50 States or the District of Columbia, that has established a qualified high risk pool, and that is receiving a grant under subsection (b)(1), the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) and allotted to the State under paragraph (3), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

"(2) BENEFITS.—A State shall use amounts received under a grant under this subsection to provide one or more of the following benefits:

"(A) Low-income premium subsidies.

"(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

"(C) An expansion or broadening of the pool of individuals eligible for coverage, such as through eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules.

"(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

"(E) Increased benefits.

"(F) The establishment of disease management programs.

"(3) ALLOTMENT; LIMITATION.—The Secretary shall allot funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) among States qualifying for a grant under paragraph (1) in a manner specified by the Secretary, but in no case shall the amount so allotted to a State for a fiscal year exceed 10 percent of the funds so appropriated for the fiscal year.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a State that, on the date of the enactment of the State High Risk Pool Funding Extension Act of 2005, is in the process of implementing a program to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

"(d) FUNDING.—

"(1) APPROPRIATION FOR FISCAL YEAR 2006.—There are authorized to be appropriated and there are appropriated for fiscal year 2006—

"(A) \$15,000,000 to carry out subsection (a); and

"(B) \$75,000,000, of which, subject to paragraph (4)—

"(i) two-thirds of the amount appropriated shall be made available for allotments under subsection (b)(2); and

"(ii) one-third of the amount appropriated shall be made available for allotments under subsection (c)(3).

"(2) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2007 THROUGH 2010.—There are authorized to be appropriated \$75,000,000 for each of fiscal years 2007 through 2010, of which, subject to paragraph (4)—

"(A) two-thirds of the amount appropriated for a fiscal year shall be made available for allotments under subsection (b)(2); and

"(B) one-third of the amount appropriated for a fiscal year shall be made available for allotments under subsection (c)(3).

"(3) AVAILABILITY.—Funds appropriated for purposes of carrying out this section for a fiscal year shall remain available for obligation through the end of the following fiscal year.

"(4) REALLOTMENT.—If, on June 30 of each fiscal year for which funds are appropriated under paragraph (1)(B) or (2), the Secretary determines that all the amounts so appropriated are not allotted or otherwise made available to States, such remaining amounts shall be allotted and made available under subsection (b) among States receiving grants under subsection (b) for the fiscal year based upon the allotment formula specified in such subsection.

"(5) NO ENTITLEMENT.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

"(e) APPLICATIONS.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(f) ANNUAL REPORT.—The Secretary shall submit to Congress an annual report on grants provided under this section. Each such report shall include information on the distribution of such grants among States and the use of grant funds by States.

"(g) DEFINITIONS.—In this section:

"(1) QUALIFIED HIGH RISK POOL.—

"(A) IN GENERAL.—The term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2), except that a State may elect to meet the requirement of subparagraph (A) of such section (insofar as it requires the provision of coverage to all eligible individuals) through providing for the enrollment of eligible individuals through an acceptable alternative mechanism (as defined for purposes of section 2744) that includes a high risk pool as a component.

"(2) STANDARD RISK RATE.—The term 'standard risk rate' means a rate—

"(A) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

"(B) that is established using reasonable actuarial techniques; and

"(C) that reflects anticipated claims experience and expenses for the coverage involved.

"(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands."

**SA 2143.** Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**TITLE XX —NATURAL DISASTER OIL AND GAS PRICE GOUGING PREVENTION ACT OF 2005**

**SEC. 01. SHORT TITLE.**

This title may be cited as the "Natural Disaster Oil and Gas Price Gouging Prevention Act of 2005".

**SEC. 02. DEFINITIONS.**

In this title:

(1) COMMISSION.—The term “Commission” means the Federal Trade Commission.

(2) QUALIFYING NATURAL DISASTER DECLARATION.—The term “qualifying natural disaster declaration” means—

(A) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(B) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**SEC. 03. RESTRICTION ON PRICE GOUGING.**

(a) RESTRICTIONS.—It shall be unlawful in the United States during the period of a qualifying natural disaster declaration in the United States to increase the price of any oil or gas product more than 15 percent above the price of that product immediately prior to the declaration unless the increase in the amount charged is attributable to additional costs incurred by the seller or national or international market trends.

(b) ENFORCEMENT.—

(1) ENFORCEMENT POWERS.—

(A) IN GENERAL.—The Commission shall enforce this section as part of its duties under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(B) REPORTING OF VIOLATIONS.—For purposes of the enforcement of this section, the Commission shall establish procedures to permit the reporting of violations of this section to the Commission, including appropriate links on the Internet website of the Commission and the use of a toll-free telephone number for such purposes.

(2) PENALTY.—

(A) CRIMINAL PENALTY.—A violation of this section shall be deemed a felony and a person, upon conviction of a violation of this section, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding 3 years, or both.

(B) CIVIL PENALTY.—The Commission may impose a civil penalty not to exceed \$5,000 for each violation of this section. For purposes of this subparagraph, each day of violation shall constitute a separate offense. Civil penalties under this subparagraph shall not exceed amounts provided in subparagraph (A).

(c) ACTION BY STATE ATTORNEY GENERAL.—The attorney general of a State may bring a civil action for a violation of this section pursuant to section 4C of the Clayton Act (15 U.S.C. 15c).

(d) This section becomes effective 1 day after enactment.

**SA 2144.** Mr. CORZINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 252, between lines 11 and 12, insert the following: “*Provided further*, That the Corporation shall not create a wholly owned Northeast Corridor subsidiary or transfer the Northeast Corridor infrastructure into such subsidiary unless such activities are specifically authorized by an Act of Congress.”.

**SA 2145.** Mr. LAUTENBERG (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of

Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 250, line 9, beginning with “expended:” strike through line 17 on page 252 and insert “expended.”.

**SA 2146.** Mr. ENSIGN (for himself, Mr. ALLEN, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 293, after line 25, add the following:

SEC. \_\_\_\_\_. The Internal Revenue Service shall provide taxpayers with free individual tax electronic preparation and filing services only through the Free File program and the Internal Revenue Service’s Taxpayer Assistance Centers and Volunteer Income Tax Assistance program.

**SA 2147.** Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, line 17, insert “of which \$13,679,000 shall be for the ‘New Car Assessment Program’ (including \$6,000,000, which shall remain available until September 30, 2007) and \$1,000,000 shall be for the ‘Vehicle Crash Causation Study:’” after “Highway Trust Fund”.

**SA 2148.** Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, insert the following:

SEC. 1 \_\_\_\_\_. Section 127(a) of title 23, United States Code, is amended by adding at the end the following:

“(13) ARKANSAS.—During the period beginning on the date of enactment of this paragraph and ending on September 30, 2009, the State of Arkansas may allow the operation of vehicles with a gross vehicle weight of up to 80,000 pounds for the hauling of cotton seed on Interstate Route 555 during the months of August through December to cross the St. Francis Floodway from Marked Tree to Payneway, when that route is open to traffic.”.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, October 27, 2005 at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony from the Administration on hurricane recovery efforts related to energy and to discuss energy policy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Lisa Epifani 202-224-5269 or Shannon Ewan at 202-224-7555.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, November 3, 2005 at 10 a.m. in Room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to evaluate and receive a status report on the Environmental Management Programs of the Department of Energy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Clint Williamson 202-224-7556 or Steve Waskiewicz at 202-228-6195.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a business meeting during the session of the Senate on Wednesday, October 19, 2005 at 10 a.m. in SR-328A, Russell Senate Office Building. The purpose of this meeting will be to consider an original bill to comply with the Committee’s reconciliation instructions as contained in H. Con. Res. 95.

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