S. 65

At the request of Mr. INHOFE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 98

At the request of Mr. ALLARD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 103

At the request of Mr. TALENT, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 132

At the request of Mrs. LINCOLN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

At the request of Mr. SMITH, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 132, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—MONDAY, JANUARY 24, 2005

By Ms. STABENOW (for herself, Mr. REID, Mr. CORZINE, Mr. KENNEDY, Mr. INOUYE, Ms. MIKULSKI, Mr. DORGAN, Mr. LEAHY, Mr. ROCKEFELLER, Mr. SCHUMER, Mr. DURBIN, and Mr. DAYTON):

S. 14. A bill to provide fair wages for America's workers, to create new jobs through investment in America, to provide for fair trade and competitiveness, and for other purposes; to the Committee on Finance.

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

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

S. 14

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Fair Wage, Competition, and Investment Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FAIR WAGES FOR AMERICA'S WORKERS

Subtitle A—Overtime Rights Protection

SEC. 111. SHORT TITLE.

This subtitle may be cited as the ''Overtime Rights Protection Act of 2005''.

SEC. 112. CLARIFICATION OF REGULATIONS RELATING TO OVERTIME COMPENSATION.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

''(k)(1) Notwithstanding the provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly referred to as the Administrative Procedures Act) or any other provision of law, any portion of the final rule promulgated on April 23, 2004, revising part 541 of title 29, Code of Federal Regulations, that exempts from the overtime pay provision of section 7 of this Act any employee who would not otherwise be exempt if the regulations in effect on March 31, 2003 remained in effect, shall have no force or effect and that portion of such regulations (as in effect on March 31, 2003) that would prevent such employee from being exempt shall be reinstated.

''(2) The Secretary shall adjust the minimum salary level for exemption under section 13(a)(1) in the following manner:

''(A) Not later than 60 days after the date of enactment of this subsection, the Secretary shall increase the minimum salary level for exemption under subsection (a)(1) for executive, administrative, and managerial occupations from the level of $155 per week in 1975 to $591 per week (an amount equal to the increase in the Employment Cost Index (published by the Bureau of Labor Statistics) for executive, administrative, and managerial occupations between 1975 and 2005).

''(B) Not later than December 31 of the calendar year following the increase required in subparagraph (A), and each December 31 thereafter, the Secretary shall increase the minimum salary level for exemption under subsection (a)(1) by an amount equal to the

increase in the Employment Cost Index for executive, administrative, and managerial occupations for the year involved.''.

Subtitle B—Fair Minimum Wage

SEC. 121. SHORT TITLE.

This subtitle may be cited as the ''Fair Minimum Wage Act of 2005''.

SEC. 122. 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) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2005;

''(B) $6.55 an hour, beginning 12 months after that 60th day; and

''(C) $7.25 an hour, beginning 24 months after that 60th day;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

Subtitle C—Sense of the Senate Regarding Multiemployer Pension Plans

SEC. 131. SENSE OF THE SENATE REGARDING MULTIEMPLOYER PENSION PLANS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Multiemployer pension plans have been a major force in the delivery of employee benefits to active and retired American workers and their dependents for over half a century.

(2) There are approximately 1,700 multiemployer defined benefit pension plans in which approximately 9,700,000 workers and retirees participate.

(3) Three-quarters of the approximately 60,000 to 65,000 employers that participate in multiemployer plans have fewer that 100 employees.

(4) Multiemployer plans allow for greater access and affordability for smaller employers and pension portability for their employees as they move from one job to another, and permit workers to earn a pension where they might otherwise not be able to do so.

(5) The 2000–2002 drop in the stock market and decline in equity values has affected all investors, including multiemployer plans.

(6) The decline in value sustained by multiemployer defined benefit pension plans have threatened the stability of this private sector source of secure retirement income.

(7) Participating employers could face onerous excise taxes and other penalties as a result of the serious, adverse financial impact due to these market losses.

(8) In 2004, the United States Senate recognized the severity of this situation and passed by an overwhelmingly, large bipartisan margin of 86 to 9 temporary relief provisions for single and multiemployer defined benefit pension plans.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate—

(1) expresses its strong support for multiemployer defined benefit pension plans;

(2) recognizes the importance of an environment in which multiemployer plans can continue their vital role in providing benefits to working men and women;

(3) recognizes that multiemployer pension plan relief must be designed for the multiemployer labor-relations environment that supports the plans; and

(4) supports legislation to strengthen and protect the viability of multiemployer pension plans for the continued benefit of current and retired members, and their families and survivors, and to strengthen the ability of all plans to address funding problems that occur.

TITLE II—CREATING NEW JOBS THROUGH INVESTMENT IN AMERICA

Subtitle A—Eliminating Incentives for Outsourcing

SEC. 211. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 of the Internal Revenue Code of 1986 (defining foreign base company income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) imported property income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5)).''.

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(j) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property;

''(B) the sale, exchange, or other disposition of imported property; or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States; or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States; or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

''(B) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(C) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''.

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) BEFORE 2007.—

(A) IN GENERAL.—Paragraph (1) of section 904(d) of the Internal Revenue Code of 1986 (relating to separate application of section with respect to certain categories of income), as in effect for taxable years beginning before January 1, 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) imported property income, and''.

(B) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) of such Code, as so in effect, is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(C) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) of such Code, as so in effect, is amended by striking ''or (D)'' and inserting ''(D), or (I)''.

(2) AFTER 2006.—

(A) IN GENERAL.—Paragraph (1) of section 904(d) of such Code (relating to separate application of section with respect to certain categories of income), as in effect for taxable years beginning after December 31, 2006, is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) imported property income, and''.

(B) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) of such Code, as so in effect, is amended by redesignating subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(C) CONFORMING AMENDMENT.—Clause (ii) of section 904(d)(2)(A) of such Code, as so in effect, is amended by inserting ''or imported property income'' after ''passive category income''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) of the Internal Revenue Code of 1986 (relating to certain prior year deficits may be taken into account) is amended—

(A) by redesignating subclauses (II), (III), (IV), and (V) as subclauses (III), (IV), (V), and (VI), and

(B) by inserting after subclause (I) the following new subclause:

''(II) imported property income,''.

(2) Paragraph (5) of section 954(b) of such Code (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income''

and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c)(1) shall apply to taxable years beginning after the date of the enactment of this Act and before January 1, 2007, and the amendments made by subsection (c)(2) shall apply to taxable years beginning after December 31, 2006.

SEC. 212. AMENDMENTS TO THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.

(a) DEFINITION.—Section 2(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101(a)) is amended—

(1) in paragraph (3)(B), by striking ''for—'' and all that follows through ''500 employees'' in clause (ii), and inserting ''for not less than 50 employees'';

(2) in paragraph (7), by striking ''and'' after the semicolon;

(3) in paragraph (8), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(9) the term 'offshoring of jobs' means any action taken by an employer the effect of which is to create, shift, or transfer employment positions or facilities outside the United States and which results in an employment loss during any 30-day period for 15 or more employees.''.

(b) NOTICE.—Section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''60-day'' and inserting ''90-day'';

(B) in paragraph (1), by striking ''and'' after the semicolon;

(C) in paragraph (2), by striking the period and inserting ''; and''; and

(D) by inserting after paragraph (2), the following:

''(3) to the Secretary of Labor.'';

(2) in subsection (b), by striking ''60-day'' both places that such term appears and inserting ''90-day''; and

(3) by adding at the end the following:

''(e) NOTICE FOR OFFSHORING OF JOBS.—In the case of a notice under subsection (a) regarding the offshoring of jobs, the notice shall include, in addition to the information otherwise required by the Secretary with respect to other notices under such subsection, information concerning—

''(1) the number of jobs affected;

''(2) the location that the jobs are being shifted or transferred to; and

''(3) the reasons that such shifting or transferring of jobs is occurring.''.

(c) TECHNICAL AMENDMENTS.—The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) is amended—

(1) by striking ''plant closing or mass layoff'' each place that such term appears and inserting ''plant closing, mass layoff, or offshoring of jobs'';

(2) by striking ''closing or layoff'' each place that such term appears and inserting ''closing, layoff, or offshoring'';

(3) in section 3—

(A) in the section heading by striking ''**PLANT CLOSINGS AND MASS LAYOFFS**'' and inserting ''**PLANT CLOSINGS, MASS LAYOFFS, AND OFFSHORING OF JOBS**'';

(B) in subsection (b)(2)(A), by striking ''the closing or mass layoff'' and inserting ''the closing, layoff, or offshoring''; and

(C) in subsection (d), by striking ''section 2(a) (2) or (3)'' and inserting ''paragraph (2), (3), or (9) of section 2(a)''; and

(4) in section 5(a)(1), in the matter following subparagraph (B), by striking ''60 days'' and inserting ''90 days''.

(d) POSTING OF EMPLOYEE RIGHTS.—The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) is amended by adding at the end the following:

''SEC. 12. POSTING OF NOTICE OF RIGHTS.

''(a) DEVELOPMENT.—Not later than 60 days after the date of enactment of this section, the Secretary of Labor shall develop a notice of employee rights under this Act for posting by employers.

''(b) POSTING.—Each employer shall post in a conspicuous place in places of employment the notice of the rights of employees as developed by the Secretary under subsection (a).''.

(e) ANNUAL REPORT.—The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.), as amended by subsection (d), is further amended by adding at the end the following:

''SEC. 13. CONTENTS OF ANNUAL REPORTS BY THE SECRETARY OF LABOR.

''(a) IN GENERAL.—The Secretary of Labor shall collect and compile statistics based on the information submitted to the Secretary under subsections (a)(3) and (e) of section 3.

''(b) REPORT.—Not later than 120 days after the date on which each regular session of Congress commences, the Secretary of Labor shall prepare and submit to the President and the appropriate committees of Congress a report on the offshoring of jobs (as defined in section 2(a)(9)). Each such report shall include information concerning—

''(1) the number of jobs affected by offshoring;

''(2) the locations to which jobs are being shifted or transferred;

''(3) the reasons why such shifts and transfers are occurring; and

''(4) any other relevant data compiled under subsection (a).''.

Subtitle B—Investment in Infrastructure

CHAPTER 1—TRANSPORTATION INFRASTRUCTURE

SEC. 221. TRANSPORTATION INFRASTRUCTURE FUNDING.

(a) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this chapter for each of fiscal years 2005 and 2006 $7,000,000,000, to remain available until expended.

(2) DISTRIBUTION.—The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall distribute funds made available under this subsection to States in accordance with section 105 of title 23, United States Code.

(b) ADDITIONAL REQUIREMENTS.—

(1) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Funds made available under this section shall not be subject to—

(A) section 120 of title 23, United States Code; or

(B) any limitation on obligations under any other provision of law.

(2) USE OF FUNDS FOR NEAR-TERM PROJECTS.—The Secretary of Transportation shall ensure, to the maximum extent practicable, that funds made available under this section are directed to projects that may be obligated in the near term, as determined by the Secretary of Transportation.

CHAPTER 2—WATER INFRASTRUCTURE

SEC. 231. WATER INFRASTRUCTURE FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator of the Environmental Protection Agency to make grants to States under—

(1) title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), $3,000,000,000 for each of fiscal years 2005 and 2006; and

(2) section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12), $3,000,000,000 for each of fiscal years 2005 and 2006.

(b) AVAILABILITY OF FUNDS.—Funds transferred under subsection (a) shall remain available until expended.

CHAPTER 3—RAIL INFRASTRUCTURE

SEC. 241. RAIL INFRASTRUCTURE FUNDING.

(a) AMOUNT FOR CAPITAL PROJECTS GRANTS.—There is authorized to be appropriated to the Secretary of Transportation for each of fiscal years 2005 and 2006, $1,500,000,000, which shall be available for the Secretary of Transportation to make grants to States, rail carriers, and other entities as determined by the Secretary of Transportation for intercity passenger and freight railroad capital projects in accordance with this chapter.

(b) AVAILABILITY OF FUNDS.—Funds transferred under subsection (a) shall remain available until expended.

(c) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Funds made available under this chapter shall not be subject to any limitation on obligations under any other provision of law.

SEC. 242. GRANT AUTHORITY.

(a) PUBLIC BENEFIT PROJECTS.—The Secretary of Transportation shall make grants to States, rail carriers, and other entities, as determined by the Secretary, for intercity passenger and freight railroad capital projects that provide a public benefit, including projects involving the following purposes:

(1) Track and track structure rehabilitation, relocation, improvement, and development.

(2) Railroad safety and security improvements.

(3) Communications and signaling improvements.

(4) Intercity passenger rail equipment acquisition.

(5) Rail station and intermodal facilities development.

(b) PUBLIC BENEFIT DEFINED.—In this section, the term ''public benefit'' means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects (as defined by the Secretary after any consultation with State official and rail carriers that the Secretary determines appropriate).

SEC. 243. GRANT CONDITIONS FOR RIGHT-OF-WAY PROJECTS.

The Secretary of Transportation shall require as a condition of making any grant under this chapter that includes the improvement or use of rights-of-way owned by a railroad that—

(1) a written agreement exist between the applicant and the railroad regarding such use and ownership, including—

(A) any compensation for such use;

(B) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; and

(C) an assurance by the railroad that collective bargaining agreements with the railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for

work performed by the railroad on the railroad transportation corridor; and

(2) the applicant agrees to comply with—

(A) the standards under section 24312 of title 49, United States Code, as such section was in effect on September 1, 2003, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with those standards for construction work financed under an agreement made under section; and

(B) the protective agreements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 with respect to employees affected by actions taken in connection with the project.

SEC. 244. USE OF FUNDS FOR NEAR-TERM PROJECTS.

The Secretary of Transportation shall ensure, to the maximum extent practicable, that funds made available under this chapter are directed to projects that may be obligated in the near term, as determined by the Secretary of Transportation.

SEC. 245. TREATMENT OF RAIL OPERATORS USING GRANT-FUNDED RAIL INFRASTRUCTURE.

A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this chapter—

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 20 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.) unless such a person is an operator with respect to commuter rail passenger transportation (as defined in section 24102(4) of title 49, United States Code) of a State or local government authority (as such terms are defined in section 5302 of such title) eligible to receive financial assistance under section 5307 of such title, a contractor performing services in connection with the operations with respect to commuter rail passenger transportation (as so defined), or the Alaska Railroad or its contractors.

CHAPTER 4—TRANSIT INFRASTRUCTURE

SEC. 251. TRANSIT.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AMOUNTS FOR FISCAL YEARS 2005 AND 2006.—There is authorized to be appropriated to the Secretary of Transportation for each of the fiscal years 2005 and 2006, $1,750,000,000.

(2) AVAILABILITY OF FUNDS.—Funds appropriated under paragraph (1) shall remain available until expended.

(b) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Of the funds authorized to be appropriated under subsection (a)—

(A) 50.18 percent shall be available to carry out section 5307 of title 49, United States Code;

(B) 45 percent shall be available to carry out section 5309(a)(1) of title 49, United States Code, of which—

(i) 40 percent shall be available to carry out subparagraph (A) of such paragraph;

(ii) 40 percent shall be available to carry out subparagraph (E) of such paragraph; and

(iii) 20 percent shall be available to carry out subparagraph (F) of such paragraph;

(C) 1.32 percent shall be available to carry out section 5310 of title 49, United States Code; and

(D) 3.5 percent shall be available to carry out section 5311 of title 49, United States Code.

(2) FORMULAS.—Funds made available under subparagraphs (A), (C), and (D) of paragraph (1) shall be distributed in accordance with the formulas established under sections 5307, 5310, and 5311, respectively, of title 49, United States Code.

(3) DETERMINATION BY SECRETARY.—

(A) IN GENERAL.—The Secretary of Transportation shall determine the allocation of funds made available under clauses (i) and (iii) of paragraph (1)(B).

(B) MODERNIZATION OF EXISTING FIXED GUIDEWAY SYSTEMS.—The Secretary of Transportation shall determine the amount apportioned to each urbanized area under paragraph (1)(B)(ii) on a pro rata basis in accordance with the distribution formula established under section 5337 of title 49, United States Code.

(C) NEAR TERM PROJECTS.—In allocating funds under this paragraph, the Secretary of Transportation shall ensure, to the maximum extent practicable, that funds are directed to near term projects.

(c) LIMITATION FOR CAPITAL PROJECTS.—Funds may be used under this section only for capital projects.

(d) INAPPLICABILITY OF CERTAIN PROVISIONS.—Funds distributed under subsection (b) shall not be subject to sections 5307(e), 5309(h), or 5311(g) of title 49, United States Code.

CHAPTER 5—AVIATION INFRASTRUCTURE

SEC. 261. AUTHORIZATION OF APPROPRIATIONS FOR AVIATION INFRASTRUCTURE.

There is authorized to be appropriated for each of fiscal years 2005 and 2006 to carry out this chapter, $1,500,000,000, to remain available until expended.

SEC. 262. DISTRIBUTION OF FUNDS.

The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall distribute funds made available under this chapter to public use airports for the purposes provided under chapter 471 of title 49, United States Code, including for enhancement of aviation safety, enhancement of aviation capacity, and defrayal of the cost of security requirements imposed on airport operators by the Administrator or by the Administrator of the Transportation Security Administration.

SEC. 263. NONAPPLICABILITY OF CERTAIN LAWS.

Funds made available under this chapter shall not be subject to—

(1) a matching requirement under section 47109 of title 49, United States Code; or

(2) any limitation on obligation under any other provision of law.

SEC. 264. USE OF FUNDS FOR NEAR-TERM PROJECTS.

The Secretary of Transportation shall ensure, to the maximum extent practicable, that funds made available under this chapter are directed to projects that may be obligated in the near-term, as determined by the Secretary of Transportation.

CHAPTER 6—BROADBAND ACCESS TAX CREDIT

SEC. 271. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

"SEC. 191. BROADBAND EXPENDITURES.

''(a) TREATMENT OF EXPENDITURES.—

''(1) IN GENERAL.—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

''(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

''(b) QUALIFIED BROADBAND EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred and properly taken into account with respect to—

''(A) the purchase or installation of qualified equipment (including any upgrades thereto), and

''(B) the connection of such qualified equipment to any qualified subscriber.

''(2) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

''(3) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of qualified equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

''(4) LIMITATION WITH REGARD TO CURRENT GENERATION BROADBAND SERVICES.—Only 50 percent of the amounts taken into account under paragraph (1) with respect to qualified equipment through which current generation broadband services are provided shall be treated as qualified broadband expenditures.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service, after the date of the enactment of this Act.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after the date of the enactment of this Act by any person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

''(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

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

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

''(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by 1 or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber.

''(15) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

''(16) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(17) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(18) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

''(19) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

''(20) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

''(21) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include a commercial mobile service carrier.

''(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(23) UNDERSERVED AREA.—The term 'underserved area' means—

''(A) any census tract which is located in—

''(i) an empowerment zone or enterprise community designated under section 1391, or

''(ii) the District of Columbia Enterprise Zone established under section 1400, or

''(B) any census tract—

''(i) the poverty level of which is at least 30 percent (based on the most recent census data), and

''(ii) the median family income of which does not exceed—

''(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

''(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

''(24) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(f) SPECIAL RULES.—

''(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

''(2) BASIS REDUCTION.—

''(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

''(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).''.

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 512(b) of the Internal Revenue Code of 1986 (relating to modifications) is amended—

(1) by redesignating paragraph (18) as added by section 702(a) of the American Jobs Creation Act of 2004 as paragraph (19), and

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

''(20) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—A mutual or cooperative telephone company which for the taxable year satisfies the requirements of section 501(c)(12)(A) may elect to reduce its unrelated business taxable income for such year, if any, by an amount that does not exceed the qualified broadband expenditures which would be taken into account under section 191 for such year by such company if such company was not exempt from taxation. Any amount which is allowed as a deduction under this paragraph shall not be allowed as a deduction under section 191 and the basis of any property to which this paragraph applies shall be reduced under section 1016(a)(32).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) of the Internal Revenue Code of 1986 (relating to capital expenditures) is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by adding at the end the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 191.''.

(2) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 191(f)(2).''.

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

''Sec. 191. Broadband expenditures.''.

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16), (22), and (23) of section 191(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after the date of the enactment of this Act and before the date which is 60 months after the date of the enactment of this Act.

CHAPTER 7—RESEARCH AND DEVELOPMENT TAX CREDIT

SEC. 281. FINDINGS.

Congress finds the following:

(1) Research and development performed in the United States results in quality jobs, better and safer products, increased ownership of technology-based intellectual property, and higher productivity in the United States.

(2) Since 1994, private sector research and development employment has grown at a faster rate than overall private sector employment in the United States. From 1994 to 2000, there was an average annual growth rate of 5.4 percent in research and development employment, compared with 2.7 percent in total employment.

(3) The extent to which companies perform and increase research and development activities in the United States is in part dependent on Federal tax policy.

(4) The private sector performed most of the Nation's research and development and accounted for more than two-thirds of total research and development performance in 2003. Of the $194,000,000,000 in industrial research and development performed in 2003, more than 90 percent was funded by industry.

(5) Many of the countries with which the United States competes have introduced new or revised national plans for science, technology, and innovation policy, and a growing number of countries have established targets for increased research and development spending. Virtually all countries are seeking ways to enhance the quality and efficiency of public research, stimulate business investments in research and development, and strengthen linkages between the public and private sectors.

(6) Direct government support to business research and development has declined, both in absolute terms and as a share of business research and development, and greater emphasis is being placed on indirect measures, such as tax incentives for research and development.

(7) Congress should make permanent a research and development credit that provides a meaningful incentive to all types of taxpayers.

SEC. 282. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 283. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(1) by striking ''2.65 percent'' and inserting ''3 percent'',

(2) by striking ''3.2 percent'' and inserting ''4 percent'', and

(3) by striking ''3.75 percent'' and inserting ''5 percent''.

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

SEC. 284. ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.

(a) IN GENERAL.—Subsection (c) of section 41 of the Internal Revenue Code of 1986 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''.

(b) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Section 41(c)(4)(B) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''.

(2) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

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

SEC. 285. EXPANSION OF RESEARCH CREDIT.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41(a) of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to a research consortium.''.

(2) RESEARCH CONSORTIUM DEFINED.—Section 41(f) of such Code (relating to special rules) is amended by adding at the end the following new paragraph:

''(6) RESEARCH CONSORTIUM.—

''(A) IN GENERAL.—The term 'research consortium' means any organization—

''(i) which is—

''(I) described in section 501(c)(3) or 501(c)(6) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct research, or

''(II) organized and operated primarily to conduct research in the public interest (within the meaning of section 501(c)(3)),

''(ii) which is not a private foundation,

''(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for research, and

''(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for research.

''(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).''.

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C)(ii) of such Code is amended by inserting ''(other than a research consortium)'' after ''organization''.

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) of the Internal Revenue Code of 1986 (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

''(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

''(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

''(I) an eligible small business,

''(II) an institution of higher education (as defined in section 3304(f)), or

''(III) an organization which is a Federal laboratory,

for qualified research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

''(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

''(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

''(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

''(iii) SMALL BUSINESS.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

''(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

''(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of this subparagraph.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Technology Programs

SEC. 291. AUTHORIZATIONS OF APPROPRIATIONS FOR THE ADVANCED TECHNOLOGY PROGRAM AND THE MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.

(a) ADVANCED TECHNOLOGY PROGRAM.—

(1) FINDINGS.—Congress makes the following findings:

(A) The Advanced Technology Program (ATP) has played an important role in helping United States companies develop new, breakthrough technologies. ATP has funded research ranging from cancer vaccines, to hitech flexible displays, to composite materials, to fuel cells, all of which are the kinds of technological advances that give the United States a competitive advantage globally.

(B) The National Academy of Science has found it to be an effective program that could use more funding wisely, and the National Association of Manufacturers (NAM), the Biotechnology Industry Organization (BIO), the Industrial Research Institute, the Alliance for Science and Technology Research in America, and the American Chemical Society support ATP.

(C) Businesses need this type of program more than ever as venture capital funds have become more scarce in the current economy. ATP bridges this gap between the research lab and market capital, facilitating the critical transfer of technology to the private sector that leads to the development of products and services that make use of new, technological breakthroughs.

(D) Not only does ATP promote economic security and global competitiveness for the nation as a whole, it is an important program for generating jobs domestically. Last year nearly 80 percent of ATP awards went to small businesses, an essential job-creating sector in the United States economy.

(E) ATP is also vital to the homeland security of the United States. ATP has funded many projects in detection, preparedness, prevention and response with significant applications for homeland security. With continued financial support through ATP to develop these projects and their security applications, the United States will become more secure.

(F) Despite the importance and success of ATP, current funding levels do not meet the demand. Over 1,000 proposals for ATP funding that were submitted in 2002 yielded enough high quality projects for the ATP funding that was available in both fiscal years 2002 and 2003. The 870 applications for ATP funding received in fiscal year 2004 made the second highest number of applications for ATP funding that were received in any fiscal year, but funding was only available for 59 awards. No funding for new awards is available in fiscal year 2005.

(G) According to the 2004 annual report on the ATP, returns from just 41 of the 736 ATP

projects have exceeded $17,000,000,000 in economic benefits, more than 8 times the amount of money spent on all 736 projects.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for the Advanced Technology Program of the National Institute of Standards and Technology—

(A) $247,200,000 for fiscal year 2005;

(B) $254,616,000 for fiscal year 2006;

(C) $262,254,000 for fiscal year 2007; and

(D) $270,122,000 for fiscal year 2008.

(b) MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.—

(1) FINDINGS.—Congress makes the following findings:

(A) Small- and medium-sized manufacturers in the United States employ 7,000,000 people and contribute $711,000,000,000, or 7 percent of the Gross Domestic Product to the United States economy. The Hollings Manufacturing Extension Partnership (MEP) Program supports a network of locally run centers that provide technical advice and consulting to these firms in all fifty States and Puerto Rico. Since its inception, the Hollings MEP Program has assisted 149,000 of the 380,000 small and medium-sized manufacturers in the United States.

(B) The Hollings MEP Program is a proven program. Studies show that Hollings MEP Program manufacturers have four times more productivity growth than non-MEP firms, and the program has proven to lead to increased sales, increased capital investment, cost savings and the creation or retention of jobs in the United States.

(C) The Hollings MEP Program is more important today than ever as the Nation faces a looming current account deficit. The United States has lost over 880,000 manufacturing jobs during 2003 and 2004. Such manufacturing jobs pay on average 19 percent higher wages than the industry average.

(D) The Hollings MEP Program is not just about economic security. Manufacturers with fewer than 500 employees comprise more than 80 percent of the suppliers in key defense sectors. Helping such manufacturers helps the national security of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for the Hollings Manufacturing Extension Partnership Program of the National Institute of Standards and Technology—

(A) $110,210,000 for fiscal year 2005;

(B) $113,516,000 for fiscal year 2006;

(C) $116,921,000 for fiscal year 2007; and

(D) $120,429,000 for fiscal year 2008.

(3) MANUFACTURING EXTENSION PARTNERSHIP PROGRAM DEFINED.—In this subsection, the term ''Hollings Manufacturing Extension Partnership Program'' means the program of Hollings Manufacturing Extension Partnership carried out by the National Institute of Standards and Technology under section 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278l), as provided in part 292 of title 15, Code of Federal Regulations.

SEC. 292. SENSE OF THE SENATE PROMOTING SCIENCE AND TECHNOLOGY FUNDING FOR A STRONGER ECONOMIC FUTURE.

(a) FINDINGS.—The Senate makes the following findings:

(1) Leading economists have consistently attributed more than 50 percent of the growth in the economy of the United States to scientific and technological innovation. The economic future of the United States, thus, depends on the United States remaining the world leader in science and technology.

(2) If the United States loses its leadership in science and technology, its capacity for economic growth and high-wage job creation will soon atrophy, with deleterious effects on the national security of the United States. In 2001, the Hart-Rudman Commission on National Security for the 21st Century characterized the failure of the United States to invest in science and to reform science and mathematics education as the second biggest threat to national security, stating that ''[s]econd only to a weapon of mass destruction detonating in an American city, we can think of nothing more dangerous than a failure to manage properly science, technology, and education for the common good over the next quarter century''.

(3) The United States has reaped enormous economic benefits from being the first country to lead in the development of the Internet and the harnessing of biotechnology. These developments, though, are far from being the last technological revolutions to influence the economy of the United States. Technological changes that promise major economic effects are now being made in areas such as—

(A) microelectronics, including the continued miniaturization of electronic devices and the increasingly widespread diffusion of data processing power;

(B) high-end supercomputing;

(C) telecommunications technologies;

(D) artificial materials, including materials in which the structure has been designed and built at the atomic or molecular level, the essence of nanotechnology;

(E) robotics; and

(F) new energy technologies, particular including renewable energy technologies that are as inexpensive as traditional fossil sources of energy, technologies using hydrogen as an energy carrier, and technologies for energy efficiencies.

(4) Because of the interconnected nature of modern science and technology, advances in one field depend on research results in other, seemingly unrelated fields. Biomedical science has been consistently shown to rely on advances in fields such as chemistry, materials science, mathematics, computer science, and physics. Without basic advances in chemistry, computer science, and mathematics, the sequencing of the human genome could not have been successfully undertaken.

(5) In the 60 years since World War II, other countries and regions of the world have built science and technology capabilities that rival those of the United States today, or that could rival such capabilities of the United States in the future. The governments of China, India, Japan, and the countries of the European Union have all targeted significant advancements in research and innovation as central elements of the plans for future national and regional economic prosperity.

(6) President George W. Bush has largely ignored this challenge, proposing budgets that have under-funded or terminated key programs promoting United States scientific and technological strength, including cuts to—

(A) basic and applied research in the Department of Defense;

(B) agricultural research;

(C) transportation research; and

(D) fundamental research in the physical sciences and engineering at the Department of Energy and elsewhere.

(7) For other programs that have been proposed for small increases, such as the National Science Foundation, the amount of funding provided to individual grantees is well below the amounts that would lead to optimal scientific productivity and continued United States leadership in science and technology. In fiscal year 2004, the National Science Foundation's stringent peer review evaluation process judged approximately 12,000 out of some 40,000 proposals as ''very good to excellent'' or ''excellent,'' yet, due to budget constraints, only 56 percent of such proposals were funded.

(8) The National Science Foundation and the Office of Science in the Department of Energy are among the greatest assets of the United States for the advancement of science, mathematical, engineering, and technology research and education. Although the National Science Foundation accounts for only 4 percent of Federal research and development spending, it provides nearly 50 percent of all Federal support for nonmedical basic research conducted in United States colleges and universities. Similarly, the Office of Science of the Department of Energy funds over half of all university research in disciplines such as physics and materials science, and has played a crucial role in national science and technology initiatives such as advancing high-performance computing and the sequencing of the human genome. Both the National Science Foundation and the Office of Science fund research in new frontiers of scientific inquiry and contribute to creating a highly skilled, competitive workforce in science and engineering.

(9) President Bush has also consistently proposed terminating the Advanced Technology Program at the Department of Commerce, which helps stimulate companies to participate in high-risk, high-payoff research and development and is perhaps one of the most successful programs in directly stimulating industrial innovation in the United States. Projects supported by the Advanced Technology Program span a broad range of key technology areas, such as oil exploration, automobile manufacturing, and new medical diagnostic and therapeutic technologies and investments made by the program accelerate the development process for innovative technologies that promise significant commercial payoff and widespread benefits.

(10) The continual cycle of basic research, applied research, and development gives rise to new products and processes, new ideas and understanding, and new researchers and educators. Each link in this chain depends on the others. Basic research produces the fundamental understandings that underpin applications and the development process. The resulting technologies and innovations create economic growth through new products and job creation and stimulate new thinking and advances in scientific instrumentation, which in turn stimulate new inquiries that lead to new fundamental research. All of this activity improves the quality of life in the United States, and when adequately supported, contributes to the continued leadership of the United States in science and technology.

(11) A revitalized science and technology policy focused on advancing all of the links of this chain, from basic research through technology deployment, is necessary if the United States is to maintain its technological preeminence over the next decade and beyond. Applications stemming from basic research can take over 20 years to evolve into next generation technologies. Inadequate funding of basic research may not seem acute today, but 20 years from now, it will be extremely difficult to correct an inability of the United States to compete scientifically and technologically, which could be caused by inadequate funding now.

(12) In order to ensure strength in these areas, it is necessary for the United States Government to ensure that scientists and technology experts in the United States receive the best education possible. After the Russians launched Sputnik, Congress passed the National Defense Education Act of 1958

(Public Law 85–864), which declared ''an educational emergency'' and led to the more than doubling of Federal expenditures for education. The programs authorized under that Act helped the United States to improve rapidly in the areas of science and technology, and led to United States dominance in the arms race and the global economy.

(13) The United States would be well served by the enactment of a new National Defense Education Act. Third in the world in 1975, America now ranks 15th in the development of new scientists and engineers. Today, India and China annually produce 10 times as many new engineers as the United States. Out of over 15,000,000 college students in the United States, fewer than 400,000 individuals graduate with a bachelor's degree in math, science, engineering, or technology each year, and only 75,000 postgraduate students go on to obtain a master's degree in math, science, engineering, or technology.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Congress and the President should direct significant new investments in the National Science Foundation, the Office of Science at the Department of Energy, the National Institutes of Health, and the National Institute of Standards and Technology to increase federally funded research in basic science and technology so that the United States can better compete in the international economy; and

(2) Congress and the President should direct significant new investments into the enhancement of elementary and secondary education programs related to math, science, and technology and substantially expand access to postsecondary education for United States students seeking degrees in math, science, and technology.

TITLE III—FAIR TRADE AND COMPETITIVENESS

Subtitle A—Trade Enforcement Enhancement

SEC. 311. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

Section 310 of the Trade Act of 1974 (19 U.S.C. 2420) is amended to read as follows:

''SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

''(a) IDENTIFICATION.—

''(1) IDENTIFICATION AND REPORT.—Within 30 days after the submission in each of calendar year 2005 through 2009 of the report required by section 181(b), the Trade Representative shall—

''(A) review United States trade expansion priorities;

''(B) identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent; and

''(C) submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and publish in the Federal Register a report on the priority foreign country practices identified.

''(2) FACTORS.—In identifying priority foreign country practices under paragraph (1), the Trade Representative shall take into account all relevant factors, including—

''(A) the major barriers and trade distorting practices described in the National Trade Estimate Report required under section 181(b);

''(B) the trade agreements to which a foreign country is a party and its compliance with those agreements;

''(C) the medium- and long-term implications of foreign government procurement plans; and

''(D) the international competitive position and export potential of United States products and services.

''(3) CONTENTS OF REPORT.—The Trade Representative may include in the report, if appropriate—

''(A) a description of foreign country practices that may in the future warrant identification as priority foreign country practices; and

''(B) a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, by existing bilateral trade agreements, or as part of trade negotiations with other countries and progress is being made toward the elimination of such practices.

''(b) INITIATION OF CONSULTATIONS.—By no later than the date that is 21 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1), the Trade Representative shall seek consultations with each foreign country identified in the report as engaging in priority foreign country practices for the purpose of reaching a satisfactory resolution of such priority practices.

''(c) INITIATION OF INVESTIGATION.—If a satisfactory resolution of priority foreign country practices has not been reached under subsection (b) within 90 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1), the Trade Representative shall initiate under section 302(b)(1) an investigation under this chapter with respect to such priority foreign country practices.

''(d) AGREEMENTS FOR THE ELIMINATION OF BARRIERS.—In the consultations with a foreign country that the Trade Representative is required to request under section 303(a) with respect to an investigation initiated by reason of subsection (c), the Trade Representative shall seek to negotiate an agreement that provides for the elimination of the practices that are the subject of the investigation as quickly as possible or, if elimination of the practices is not feasible, an agreement that provides for compensatory trade benefits.

''(e) REPORTS.—The Trade Representative shall include in the semiannual report required by section 309 a report on the status of any investigations initiated pursuant to subsection (c) and, where appropriate, the extent to which such investigations have led to increased opportunities for the export of products and services of the United States.''.

SEC. 312. CHIEF ENFORCEMENT NEGOTIATOR.

(a) ESTABLISHMENT OF POSITION.—Section 141(b)(2) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended to read as follows:

''(2) There shall be in the Office 3 Deputy United States Trade Representatives, 1 Chief Agricultural Negotiator, and 1 Chief Enforcement Negotiator. The 3 Deputy United States Trade Representatives and the 2 Chief Negotiators shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of a Deputy United States Trade Representative, the Chief Agricultural Negotiator, or the Chief Enforcement Negotiator submitted to the Senate for its advice and consent, and referred to a committee, shall be referred to the Committee on Finance. Each Deputy United States Trade Representative, the Chief Agricultural Negotiator, and the Chief Enforcement Negotiator shall hold office at the pleasure of the President and shall have the rank of Ambassador.''.

(b) FUNCTIONS OF POSITION.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following new paragraph:

''(6) The principal function of the Chief Enforcement Negotiator shall be to conduct negotiations to ensure compliance with trade agreements relating to United States manufactured goods and services. The Chief Enforcement Negotiator shall recommend investigating and prosecuting cases before the World Trade Organization and under trade agreements to which the United States is a party. The Chief Enforcement Negotiator shall recommend administering United States trade laws relating to foreign government barriers to United States goods and services. The Chief Enforcement Negotiator shall perform such other functions as the United States Trade Representative may direct.''.

SEC. 313. FOREIGN DEBT.

(a) SHORT TITLE.—This section may be cited as the ''Foreign Debt Ceiling Act of 2005''.

(b) FOREIGN DEBT CEILING.—

(1) FINDINGS.—Congress makes the following findings:

(A) The United States has become the world's largest net debtor Nation, having run up massive trade deficits since the 1990s.

(B) At the end of 2002, the net United States foreign debt stood at $2,553,000,000,000.

(C) The United States foreign debt position worsened in 2003, when the United States had a record trade deficit of $489,000,000,000, equivalent to 4.4 percent of the United States GDP that year.

(D) The large and growing United States foreign debt represents claims on United States assets by foreign nationals, which will eventually have to be repaid. If unchecked, the foreign debt could seriously undermine our children's future standard of living.

(E) Moreover, the growing accumulation of foreign claims on United States assets, including over $1,200,000,000,000 in United States Treasury securities, makes the United States economy vulnerable to the whims of foreign investors.

(F) Congress presently places a ceiling on United States public debt, but does not place a ceiling on United States foreign debt.

(G) Just as Congress recognized the importance of placing a ceiling on the United States public debt, it is appropriate that Congress place a limit on the United States foreign debt.

(2) ACTIONS TRIGGERED BY UNITED STATES FOREIGN DEBT.—

(A) IN GENERAL.—Not later than the 15th day of the second month after the date of enactment of this Act, and every 3 months thereafter, the United States Trade Representative shall determine if—

(i) the net United States foreign debt for the preceding 12-month period is more than 25 percent of United States GDP for the same period; or

(ii) the United States trade deficit for the preceding 12-month period is more than 5 percent of United States GDP for the same period.

(B) ACTION BY USTR.—Whenever an affirmative determination is made under subparagraph (A) (i) or (ii), the United States Trade Representative shall—

(i) within 15 days of the determination, convene an emergency meeting of the Trade Policy Review Group to develop a plan of action to reduce the United States trade deficit; and

(ii) within 45 days of the determination, present to Congress a report detailing the Trade Policy Review Group's trade deficit reduction plan.

(3) MEASUREMENT OF FOREIGN DEBT.—

(A) STATISTICAL SOURCES.—For purposes of the calculations described in paragraph (2)(A), the United States Trade Representative shall rely on the most recent period for

which the following data, published by the Department of Commerce, is available:

(i) In the case of United States foreign debt, the United States Trade Representative shall use the net international investment position of the United States, with direct investment positions determined at market value, as compiled by the Bureau of Economic Analysis.

(ii) In the case of the United States trade deficit, the United States Trade Representative shall use the goods and services trade deficit data compiled by the United States Census Bureau.

(iii) In the case of the United States GDP, the United States Trade Representative shall use the nominal gross domestic product data compiled by the Bureau of Economic Analysis.

(B) ADJUSTMENT.—The United States Trade Representative may adjust the data described in subparagraph (A) to ensure that the determination is made for comparable time period.

SEC. 314. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE GENERAL COUNSEL AND THE OFFICE OF MONITORING AND ENFORCEMENT.—There are authorized to be appropriated to the Office of the United States Trade Representative for the appointment of additional staff in the Office of the General Counsel and the Office of Monitoring and Enforcement—

(1) $2,000,000 for fiscal year 2005; and

(2) $2,000,000 for fiscal year 2006.

(b) RESPONSIBILITIES OF ADDITIONAL STAFF.—The responsibilities of the additional staff appointed under subsection (a) shall include—

(1) investigating, prosecuting, and defending cases before the World Trade Organization and under trade agreements to which the United States is a party;

(2) administering United States trade laws, including title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) and other trade laws relating to foreign government barriers to United States goods and services, including barriers involving intellectual property rights, government procurement, and telecommunications; and

(3) monitoring compliance with the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)) and other trade agreements, particularly by the People's Republic of China.

Subtitle B—Exchange Rate Policy and Currency Manipulation

SEC. 321. NEGOTIATIONS REGARDING CURRENCY VALUATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The currency of the People's Republic of China, known as the yuan or renminbi, is artificially pegged at a level significantly below its market value. Economists estimate the yuan to be undervalued by between 15 percent and 40 percent or an average of 27.5 percent.

(2) The undervaluation of the yuan provides the People's Republic of China with a significant trade advantage by making exports less expensive for foreign consumers and by making foreign products more expensive for Chinese consumers. The effective result is a significant subsidization of China's exports and a virtual tariff on foreign imports.

(3) The Government of the People's Republic of China has intervened in the foreign exchange markets to hold the value of the yuan within an artificial trading range. China's foreign reserves are estimated to be over $609,900,000,000 as of January 12, 2004, and have increased by over $206,700,000,000 in the last 12 months.

(4) China's undervalued currency, China's trade advantage from that undervaluation, and the Chinese Government's intervention in the value of its currency violates the spirit and letter of the world trading system of which the People's Republic of China is now a member.

(5) The Government of the People's Republic of China has failed to promptly address concerns or to provide a definitive timetable for resolution of these concerns raised by the United States and the international community regarding the value of its currency.

(6) Article XXI of the GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B))) allows a member of the World Trade Organization to take any action which it considers necessary for the protection of its essential security interests. Protecting the United States manufacturing sector is essential to the interests of the United States.

(b) NEGOTIATIONS AND CERTIFICATION REGARDING THE CURRENCY VALUATION POLICY OF THE PEOPLE'S REPUBLIC OF CHINA.—

(1) IN GENERAL.—Notwithstanding the provisions of title I of Public Law 106–286 (19 U.S.C. 2431 note), on and after the date that is 180 days after the date of enactment of this Act, unless a certification described in paragraph (2) has been made to Congress, in addition to any other duty, there shall be imposed a rate of duty of 27.5 percent ad valorem on any article that is the growth, product, or manufacture of the People's Republic of China, imported directly or indirectly into the United States.

(2) CERTIFICATION.—The certification described in this paragraph means a certification by the President to Congress that the People's Republic of China is no longer acquiring foreign exchange reserves to prevent the appreciation of the rate of exchange between its currency and the United States dollar for purposes of gaining an unfair competitive advantage in international trade. The certification shall also include a determination that the currency of the People's Republic of China has undergone a substantial upward revaluation placing it at or near its fair market value.

(3) ALTERNATIVE CERTIFICATION.—If the President certifies to Congress 180 days after the date of enactment of this Act that the People's Republic of China has made a good faith effort to revalue its currency upward placing it at or near its fair market value, the President may delay the imposition of the tariffs described in paragraph (1) for an additional 180 days. If at the end of the 180-day period the President determines that China has developed and started actual implementation of a plan to revalue its currency, the President may delay imposition of the tariffs for an additional 12 months, so that the People's Republic of China shall have time to implement the plan.

(4) NEGOTIATIONS.—Beginning on the date of enactment of this Act, the Secretary of the Treasury, in consultation with the United States Trade Representative, shall begin negotiations with the People's Republic of China to ensure that the People's Republic of China adopts a process that leads to a substantial upward currency revaluation within 180 days after the date of enactment of this Act. Because various Asian governments have also been acquiring substantial foreign exchange reserves in an effort to prevent appreciation of their currencies for purposes of gaining an unfair competitive advantage in international trade, and because the People's Republic of China has concerns about the value of those currencies, the Secretary shall also seek to convene a multilateral summit to discuss exchange rates with representatives of various Asian governments and other interested parties, including representatives of other G–7 nations.

Subtitle C—Trade Adjustment Assistance

CHAPTER 1—SERVICE WORKERS

SEC. 331. SHORT TITLE.

This chapter may be cited as the ''Trade Adjustment Assistance Equity for Service Workers Act of 2005''.

SEC. 332. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)''.

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (1), by inserting ''or public agency'' after ''of the firm''; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''like or directly competitive with articles produced'' and inserting ''or services like or directly competitive with articles produced or services provided''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided, by such firm, subdivision, or public agency; or

''(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (2), by inserting ''or service'' after ''related to the article''; and

(C) in paragraph (3)(A), by inserting ''or services'' after ''component parts'';

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by inserting ''or services'' after ''value-added production processes'';

(ii) by striking ''assembly or finishing'' and inserting ''assembly, finishing, or testing'';

(iii) by inserting ''or services'' after ''for articles''; and

(iv) by inserting ''(or subdivision)'' after ''such other firm''; and

(B) in paragraph (4)—

(i) by striking ''for articles'' and inserting '', or services, used in the production of articles or in the provision of services''; and

(ii) by inserting ''(or subdivision)'' after ''such other firm''; and

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

''(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

''(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a firm in a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

''(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.''.

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking ''$220,000,000'' and inserting ''$440,000,000''.

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting ''or public agency'' after ''of a firm''; and

(B) by inserting ''or public agency'' after ''or subdivision'';

(2) in paragraph (2)(B), by inserting ''or public agency'' after ''the firm'';

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

''(8) The term 'service sector firm' means an entity engaged in the business of providing services.''.

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking '', other than subchapter D''.

SEC. 333. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—

(1) ASSISTANCE.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting ''or service sector firm'' after ''(including any agricultural firm'';

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting ''or service sector firm'' after ''(including any agricultural firm'';

(ii) in subparagraph (B)(ii), by inserting ''or service'' after ''of an article''; and

(iii) in subparagraph (C), by striking ''articles like or directly competitive with articles which are produced'' and inserting ''articles or services like or directly competitive with articles or services which are produced or provided''; and

(C) by adding at the end the following:

''(e) BASIS FOR SECRETARY DETERMINATION.—

''(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive articles or services exist if customers accounting for not less than 20 percent of the sales of the workers' firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The Secretary may exercise the authority under section 249 in carrying out this subsection.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''$16,000,000'' and inserting ''$32,000,000''.

(3) DEFINITIONS.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended to read as follows:

''SEC. 261. DEFINITIONS.

''For purposes of this chapter:

''(1) FIRM.—The term 'firm' includes an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustee in bankruptcy, and receiver under decree of any court. A firm, together with any predecessor or successor firm, or any affiliated firm controlled or substantially beneficially owned by substantially the same persons, may be considered a single firm where necessary to prevent unjustifiable benefits.

''(2) SERVICE SECTOR FIRM.—The term 'service sector firm' means a firm engaged in the business of providing services.''.

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting ''or service'' after ''new product''.

SEC. 334. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking ''The Secretary'' and inserting ''(a) MONITORING PROGRAMS.—The Secretary'';

(B) by inserting ''and services'' after ''imports of articles'';

(C) by inserting ''and domestic provision of services'' after ''domestic production'';

(D) by inserting ''or providing services'' after ''producing articles''; and

(E) by inserting '', or provision of services,'' after ''changes in production''; and

(2) by adding at the end the following:

''(b) COLLECTION OF DATA AND REPORTS ON SERVICES SECTOR.—

''(1) SECRETARY OF LABOR.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Equity for Service Workers Act of 2005, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

''(2) SECRETARY OF COMMERCE.—Not later than 6 months after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.''.

SEC. 335. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Section 246(a)(3) of the Trade Act of 1974 (19 U.S.C. 2318(a)(3)) is amended to read as follows:

''(3) ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

''(A) is covered by a certification under subchapter A of this chapter;

''(B) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

''(C) is at least 40 years of age;

''(D) earns not more than $50,000 a year in wages from reemployment;

''(E) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

''(F) does not return to the employment from which the worker was separated.''.

(b) CONFORMING AMENDMENTS.—Section 246 of the Trade Act of 1974 (19 U.S.C. 2318) is amended—

(1) in subsection (a)(2)(A), by striking ''paragraph (3)(B)'' and inserting ''paragraph (3)'';

(2) in subsection (a)(2)(B), by striking ''paragraph (3)(B)'' and inserting ''paragraph (3)''; and

(3) in subsection (b)(2), by striking ''subsection (a)(3)(B)'' and inserting ''subsection (a)(3)''.

SEC. 336. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this chapter shall take effect on the date of enactment of this Act.

(b) SPECIAL RULE FOR CERTAIN SERVICE WORKERS.—A group of workers in a service sector firm, or subdivision of a service sector firm, or public agency (as defined in section 247 (7) and (8) of the Trade Act of 1974, as added by section 332(d) of this Act) who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002; and

(2) file a petition pursuant to section 221 of the Trade Act of 1974 (19 U.S.C. 2271) not later than 6 months after the date of enactment of this Act, shall be eligible for certification under section 223 of the Trade Act of 1974 (19 U.S.C. 2273) if the workers' last total or partial separation from the firm or subdivision of the firm or public agency occurred on or after November 4, 2002 and before the date of enactment of this Act.

CHAPTER 2—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

SEC. 341. SHORT TITLE.

This chapter may be cited as the ''Trade Adjustment Assistance for Communities Act of 2005''.

SEC. 342. PURPOSE.

The purpose of this chapter is to assist communities negatively impacted by trade with economic adjustment through the integration of political and economic organizations, the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the provision of economic transition assistance.

SEC. 343. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

(a) REPEAL OF TERMINATED PROVISIONS.—Chapter 4 of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is repealed.

(b) TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.—Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) is amended by inserting after chapter 3 the following new chapter:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''SEC. 271. DEFINITIONS.

''In this chapter:

''(1) AFFECTED DOMESTIC PRODUCER.—The term 'affected domestic producer' means any manufacturer, producer, service provider, farmer, rancher, fisherman or worker representative (including associations of such persons) that was affected by a finding under the Antidumping Act, 1921 (title II of the Act of May 27, 1921; 42 Stat. 11, chapter 14), or by an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

''(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(e) of the Food Security Act of 1985 (7 U.S.C. 1308(e)).

''(3) COMMUNITY.—The term 'community' means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State that the Secretary certifies as being negatively impacted by trade.

''(4) COMMUNITY NEGATIVELY IMPACTED BY TRADE.—A community negatively impacted by trade means a community with respect to which a determination has been made under section 273.

''(5) ELIGIBLE COMMUNITY.—The term 'eligible community' means a community certified under section 273 for assistance under this chapter.

''(6) FISHERMAN.—

''(A) IN GENERAL.—The term 'fisherman' means any person who—

''(i) is engaged in commercial fishing; or

''(ii) is a United States fish processor.

''(B) COMMERCIAL FISHING, FISH, FISHERY, FISHING, FISHING VESSEL, PERSON, AND UNITED STATES FISH PROCESSOR.—The terms 'commercial fishing', 'fish', 'fishery', 'fishing', 'fishing vessel', 'person', and 'United States fish processor' have the same meanings as given such terms in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(7) JOB LOSS.—The term 'job loss' means the total separation or partial separation of an individual, as those terms are defined in section 247.

''(8) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Commerce.

''SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance for Communities Act of 2005, the Secretary shall establish a Trade Adjustment Assistance for Communities Program at the Department of Commerce.

''(b) PERSONNEL.—The Secretary shall designate such staff as may be necessary to carry out the responsibilities described in this chapter.

''(c) COORDINATION OF FEDERAL RESPONSE.—The Secretary shall—

''(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

''(2) coordinate the Federal response to an eligible community—

''(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

''(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

''(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning economic adjustment for an eligible community; and

''(D) by identifying and strengthening existing agency mechanisms designed to assist eligible communities in their efforts to achieve economic adjustment and workforce reemployment;

''(3) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

''(A) identify serious economic problems in the community that are the result of negative impacts from trade;

''(B) integrate the major groups and organizations significantly affected by the economic adjustment;

''(C) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;

''(D) diversify and strengthen the community economy; and

''(E) develop a community-based strategic plan to address economic development and workforce dislocation, including unemployment among agricultural commodity producers, and fishermen;

''(4) establish specific criteria for submission and evaluation of a strategic plan submitted under section 274(d);

''(5) establish specific criteria for submitting and evaluating applications for grants under section 275;

''(6) administer the grant programs established under sections 274 and 275; and

''(7) establish an interagency Trade Adjustment Assistance for Communities Working Group, consisting of the representatives of any Federal department or agency with responsibility for economic adjustment assistance, including the Department of Agriculture, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the Department of Commerce, and any other Federal, State, or regional department or agency the Secretary determines necessary or appropriate.

''SEC. 273. CERTIFICATION AND NOTIFICATION.

''(a) CERTIFICATION.—Not later than 45 days after an event described in subsection (c)(1), the Secretary shall determine if a community described in subsection (b)(1) is negatively impacted by trade, and if a positive determination is made, shall certify the community for assistance under this chapter.

''(b) DETERMINATION THAT COMMUNITY IS ELIGIBLE.—

''(1) COMMUNITY DESCRIBED.—A community described in this paragraph means a community with respect to which on or after October 1, 2005—

''(A) the Secretary of Labor certifies a group of workers (or their authorized representative) in the community as eligible for assistance pursuant to section 223;

''(B) the Secretary of Commerce certifies a firm located in the community as eligible for adjustment assistance under section 251;

''(C) the Secretary of Agriculture certifies a group of agricultural commodity producers (or their authorized representative) in the community as eligible for adjustment assistance under section 293;

''(D) an affected domestic producer is located in the community; or

''(E) the Secretary determines that a significant number of fishermen in the community is negatively impacted by trade.

''(2) NEGATIVELY IMPACTED BY TRADE.—The Secretary shall determine that a community is negatively impacted by trade, after taking into consideration—

''(A) the number of jobs affected compared to the size of the workforce in the community;

''(B) the severity of the rates of unemployment in the community and the duration of the unemployment in the community;

''(C) the income levels and the extent of underemployment in the community;

''(D) the outmigration of population from the community and the extent to which the outmigration is causing economic injury in the community; and

''(E) the unique problems and needs of the community.

''(c) EVENTS DESCRIBED.—

''(1) IN GENERAL.—An event described in this paragraph means one of the following:

''(A) A notification described in paragraph (2).

''(B) A certification of a firm under section 251.

''(C) A finding under the Antidumping Act, 1921, or an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(D) A determination by the Secretary that a significant number of fishermen in a community have been negatively impacted by trade.

''(2) NOTIFICATION.—The Secretary of Labor, immediately upon making a determination that a group of workers is eligible for trade adjustment assistance under section 223, (or the Secretary of Agriculture, immediately upon making a determination that a group of agricultural commodity producers is eligible for adjustment assistance under section 293, as the case may be) shall notify the Secretary of the determination.

''(d) NOTIFICATION TO ELIGIBLE COMMUNITIES.—Immediately upon certification by the Secretary that a community is eligible for assistance under subsection (b), the Secretary shall notify the community—

''(1) of the determination under subsection (b);

''(2) of the provisions of this chapter;

''(3) how to access the clearinghouse established by the Department of Commerce regarding available economic assistance;

''(4) how to obtain technical assistance provided under section 272(c)(3); and

''(5) how to obtain grants, tax credits, low income loans, and other appropriate economic assistance.

''SEC. 274. STRATEGIC PLANS.

''(a) IN GENERAL.—An eligible community may develop a strategic plan for community economic adjustment and diversification.

''(b) REQUIREMENTS FOR STRATEGIC PLAN.—A strategic plan shall contain, at a minimum, the following:

''(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used.

''(2) A description of the commitment of the community to the strategic plan over the long term and the participation and input of groups affected by economic dislocation.

''(3) A description of the projects to be undertaken by the eligible community.

''(4) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.

''(5) A description of how the plan will achieve economic adjustment and diversification.

''(6) A description of how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.

''(7) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.

''(8) A description of how the plan will address the occupational and workforce conditions in the eligible community.

''(9) A description of the educational programs available for workforce training and future employment needs.

''(10) A description of how the plan will adapt to changing markets and business cycles.

''(11) A description and justification for the cost and timing of the total funds required by the community for economic assistance.

''(12) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.

''(c) GRANTS TO DEVELOP STRATEGIC PLANS.—The Secretary, upon receipt of an application from an eligible community, may award a grant to that community to be used to develop the strategic plan.

''(d) SUBMISSION OF PLAN.—A strategic plan developed under subsection (a) shall be submitted to the Secretary for evaluation and approval.

''SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, upon approval of a strategic plan from an eligible

community, may award a grant to that community to carry out any project or program that is certified by the Secretary to be included in the strategic plan approved under section 274(d), or consistent with that plan.

''(b) ADDITIONAL GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), in order to assist eligible communities to obtain funds under Federal grant programs, other than the grants provided for in section 274(c) or subsection (a), the Secretary may, on the application of an eligible community, make a supplemental grant to the community if—

''(A) the purpose of the grant program from which the grant is made is to provide technical or other assistance for planning, constructing, or equipping public works facilities or to provide assistance for public service projects; and

''(B) the grant is one for which the community is eligible except for the community's inability to meet the non-Federal share requirements of the grant program.

''(2) USE AS NON-FEDERAL SHARE.—A supplemental grant made under this subsection may be used to provide the non-Federal share of a project, unless the total Federal contribution to the project for which the grant is being made exceeds 80 percent and that excess is not permitted by law.

''(c) RURAL COMMUNITY PREFERENCE.—The Secretary shall develop guidelines to ensure that rural communities receive preference in the allocation of resources.

''SEC. 276. GENERAL PROVISIONS.

''(a) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter. Before implementing any regulation or guideline proposed by the Secretary with respect to this chapter, the Secretary shall submit the regulation or guideline to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for approval.

''(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $100,000,000 for each of fiscal years 2005 through 2008, to carry out this chapter. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

SEC. 344. CONFORMING AMENDMENTS.

(a) TERMINATION.—Section 285(b) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by adding at the end the following new paragraph:

''(3) ASSISTANCE FOR COMMUNITIES.—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2008.''.

(b) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting after the items relating to chapter 3 the following new items:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''Sec. 271. Definitions.
''Sec. 272. Community Trade Adjustment Assistance Program.
''Sec. 273. Certification and notification.
''Sec. 274. Strategic plans.
''Sec. 275. Grants for economic development.
''Sec. 276. General provisions.''.

(c) JUDICIAL REVIEW.—Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by striking ''section 271'' and inserting ''section 273''.

SEC. 345. EFFECTIVE DATE.

The amendments made by this chapter shall take effect on the date of enactment of this Act.

CHAPTER 3—OFFICE OF TRADE ADJUSTMENT ASSISTANCE

SEC. 351. SHORT TITLE.

This chapter may be cited as the ''Trade Adjustment Assistance for Firms Reorganization Act''.

SEC. 352. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following new section:

''SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Trade Adjustment Assistance for Firms Reorganization Act, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance.

''(b) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.

''(c) FUNCTIONS.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following new item:

''Sec. 255A. Office of Trade Adjustment Assistance.''.

SEC. 353. EFFECTIVE DATE.

The amendments made by this chapter shall take effect on the date of enactment of this Act.

CHAPTER 4—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 361. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IMPROVEMENT OF AFFORDABILITY.—

(1) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended to read as follows:

''(a) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to the excess of—

''(A) the amount paid by the taxpayer for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year, over

''(B) the amount described in paragraph (2).

''(2) AMOUNT DESCRIBED.—For purposes of paragraph (1), the amount described in this paragraph is the lesser of—

''(A) the amount equal to 20 percent of the amount determined under paragraph (1)(A) for the taxable year, or

''(B) the amount equal to 5 percent of the taxpayer's certified income (as determined under subsection (g)(9)) for such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by striking ''65 percent of the amount'' and all that follows through the period at the end and inserting ''the amount determined under section 35(a)(1) for such taxable year.''.

(b) DETERMINATION OF CERTIFIED INCOME.—Section 35(g) of such Code (relating to special rules), is amended—

(1) by redesignating paragraph (9) as paragraph (10), and

(2) by inserting after paragraph (8) the following new paragraph:

''(9) CERTIFIED INCOME.—

''(A) IN GENERAL.—The Secretary shall enter into agreements with States to determine an individual's certified income for purposes of subsection (a)(2)(B) for any taxable year.

''(B) REQUIREMENTS.—An agreement under subparagraph (A) with a State shall—

''(i) permit an individual to complete an application for certification of income for a taxable year (in such form and manner as the Secretary shall determine) and to submit the application to the State,

''(ii) require the State to determine the individual's income for the taxable year on the basis of the individual's monthly family income as of the month preceding the month in which the application is submitted, and

''(iii) require the State to issue a certification of income to the individual upon receipt of an application under clause (i), which shall apply for purposes of determining the taxpayer's certified income for purposes of subsection (a)(2)(B) for the taxable year unless the State determines upon completion of the processing of the application that the certification is erroneous.

''(C) NOTIFICATION OF CHANGE IN INCOME.—An individual issued a certification of income shall notify the State of any substantial change in income that applies for at least 60 days and the taxpayer's certified income for the taxable year shall be adjusted accordingly. An individual who fails to so notify the State shall remit the difference (if any) between the amount described in subsection (a)(2) for the taxable year and such amount which would have been described under such subsection for such taxable year if the notification had been made as an addition to tax, plus interest at the underpayment rate established under section 6621.''.

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

SEC. 362. OFFERING OF FEDERAL FALLBACK COVERAGE.

(a) PROVISION OF FALLBACK COVERAGE.—

(1) IN GENERAL.—The Director of the Office of Personnel Management jointly with the Secretary of the Treasury shall establish a program under which eligible individuals (as defined in section 35(c) of the Internal Revenue Code of 1986) are offered enrollment under health benefit plans that are made available under FEHBP.

(2) TERMS AND CONDITIONS.—The terms and conditions of health benefits plans offered under paragraph (1) shall be the same as the terms and coverage offered under FEHBP, except that the percentage of the premium charged to eligible individuals (as so defined) for such health benefit plans shall be equal to the percentage that an employee would be required to contribute for coverage under FEHBP.

(3) STUDY.—The Director of the Office of Personnel Management jointly with the Secretary of the Treasury shall conduct a study of the impact of the offering of health benefit plans under this subsection on the terms and conditions, including premiums, for health benefit plans offered under FEHBP and shall submit to Congress, not later than 2 years after the date of the enactment of this Act, a report on such study. Such report may contain such recommendations regarding the establishment of separate risk pools for individuals covered under FEHBP and eligible individuals covered under health benefit plans offered under paragraph (1) as may

be appropriate to protect the interests of individuals covered under FEHBP and alleviate any adverse impact on FEHBP that may result from the offering of such health benefit plans.

(4) FEHBP DEFINED.—In this section, the term ''FEHBP'' means the Federal Employees Health Benefits Program offered under chapter 89 of title 5, United States Code.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 35(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(K) Coverage under a health benefits plan offered under section 362(a)(1) of the Fair Wage, Competition, and Investment Act of 2005.''.

(2) Section 173(f)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(A)) is amended by adding at the end the following new clause:

''(xi) Coverage under a health benefits plan offered under section 362(a)(1) of the Fair Wage, Competition, and Investment Act of 2005.''.

SEC. 363. CLARIFICATION OF ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.

(a) IN GENERAL.—Subsection (b) of section 35 of the Internal Revenue Code of 1986 (defining eligible coverage month) is amended by adding at the end the following:

''(3) SPECIAL RULE FOR SPOUSE OF INDIVIDUAL ENTITLED TO MEDICARE.—Any month which would be an eligible coverage month with respect to a taxpayer (determined without regard to subsection (f)(2)(A)) shall be an eligible coverage month for any spouse of such taxpayer.''.

(b) CONFORMING AMENDMENT.—Section 173(f)(5)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(5)(A)(i)) is amended by inserting ''(including with respect to any month for which the eligible individual would have been treated as such but for the application of paragraph (7)(B)(i))'' before the comma.

Subtitle D—Sense of the Senate on Free Trade Agreements

SEC. 371. SENSE OF THE SENATE ON FREE TRADE AGREEMENTS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States is participating in the Doha Round of World Trade Organization (''WTO'') negotiations, which seeks to lower trade barriers for all members of the WTO.

(2) In addition to participating in the Doha Round of WTO negotiations, the United States is negotiating bilateral free trade agreements with 20 countries.

(3) Only 1 of those 20 countries is among the top 30 trading partners of the United States.

(4) During the debate on the legislation that was enacted as the Trade Act of 2002 (Public Law 107–210; 116 Stat. 933), a representative of the President argued that ''[i]ncreased trade will help our workers, farmers, businesses, and economy by enhancing employment opportunities, opening more markets to American goods and services, and increasing choices and lowering costs for consumers''.

(5) During that debate and on other occasions, the President and individuals in the Executive Branch of the United States have repeatedly argued that increased trade means an increase in the number of jobs in the United States and a higher standard of living for people in the United States.

(6) The President and individuals in the Executive Branch of the United States have also argued that trade expands markets for United States goods and services, creates higher-paying jobs in the United States, and invigorates local communities and their economies.

(7) Trade agreements between the United States and countries with small economies have little impact on creating jobs in the United States or a higher standard of living for people in the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the trade policy of the United States should focus on creating more jobs in the United States and a higher standard of living for people in the United States; and

(2) to best accomplish these goals, the United States should focus its efforts on trade negotiations occurring at the WTO and, when negotiating trade agreements on a bilateral basis, focus on agreements with countries that have large economies that will provide meaningful export opportunities for United States farmers, workers, and businesses.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. KOHL, Mr. HATCH, Mr. CARPER, Mr. FRIST, Mr. CHAFEE, Mr. DODD, Mrs. FEINSTEIN, Mr. HAGEL, Mr. KYL, Ms. LANDRIEU, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCONNELL, Mr. SCHUMER, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. LOTT, Mr. ALEXANDER, Ms. SNOWE, Mr. SESSIONS, Mr. DEMINT, Mr. LIEBERMAN, Mr. MARTINEZ, and Mr. ENSIGN):

S. 5. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to join Senators GRASSLEY, HATCH, CARPER, and many others in introducing the Class Action Fairness Act of 2005. This legislation addresses the continuing problems in class action litigation, particularly unfair and abusive settlements that shortchange consumers across America.

The time for this bill has come. We have worked together on a bipartisan basis on this legislation in past Congresses. In fact, versions of this bill have passed the House of Representatives on two occasions in the past. In the Senate, we passed this bill through the Judiciary Committee in each of the last two Congresses and came within one vote of gaining cloture on the bill.

We worked successfully to substantially improve this bill during the last Congress. As a result of the interest of Senators FEINSTEIN, DODD, SCHUMER and LANDRIEU, we have changed the bill in important ways. Now, only cases that are truly national in scope will be tried primarily in the Federal courts. Cases that primarily involve people from only one State and that interpret State law will remain in State court. These changes will ensure that class action cases are handled efficiently and in the appropriate venues and that no case that has merit will be turned away.

We have a simple story to tell. Consumers are too often getting the short end of the stick in class action cases, recovering coupons or pocket change, while their lawyers reap millions. Many of these complex class action cases proceed exactly as we would hope. Injured parties, represented by strong advocates, get their day in court or reach a positive settlement that is good for the parties and handled well by their attorney.

Unfortunately, this is not how it always works. Rather, more and more frequently, some are taking advantage of the system and, as a result, consumers are getting the short end of the stick, recovering coupons or pocket change, while the real reward is going to others. The Washington Post put it clearly, ''no portion of the American civil justice system is more of a mess than the world of class actions.''

Our remedy is straightforward. Consumers deserve notices that are written in plain English so they can understand their rights and responsibilities in the lawsuit. Too many of the class action notices are designed to be impossible to comprehend. Further, if the cases are settled, the notice to the class members must clearly describe the terms of the settlement, the benefits to each plaintiff and a summary of the attorneys' fees in the case and how they were calculated. We are grateful that the Federal Judicial Conference has adopted our idea and has already begun to improve the notices provided to class action plaintiffs.

Second, State attorneys general should be notified of proposed class action settlements to stop abusive cases if they want. This encourages a neutral third party to weigh in on whether a settlement is fair and to alert the court if they do not believe that it is. The Attorney General review is an extra layer of security for the plaintiffs and is designed to ensure that abusive settlements are not approved without a critical review by one or more experts.

Third, a class action consumer bill of rights will help limit coupon or other unfair settlements.

Finally, we allow many class action lawsuits to be removed to Federal court. This is only common sense. These are national cases affecting consumers in 50 States. If the court rules were being drafted today, these are exactly the types of cases which we would want and expect to be tried in Federal court.

Stories of nightmare class action settlements that affect consumers around the country are all too frequent. For example, a suit against Blockbuster video yielded dollar off coupons for future video rentals for the plaintiffs while their attorneys collected $9.25 million. In California State court, a class of 40 million consumers received $13 rebates on their next purchase of a computer or monitor—in other words they had to purchase hundreds of dollars more of the defendants' product to redeem the coupons. In essence, the