

PROVIDING FOR CONSIDERATION OF H.R. 4520,
AMERICAN JOBS CREATION ACT OF 2004

JUNE 17 (legislative day, JUNE 16), 2004.—Referred to the House Calendar and
ordered to be printed

Mr. REYNOLDS, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 681]

The Committee on Rules, having had under consideration House Resolution 681, by a record vote of 9 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of H.R. 4520, the American Jobs Creation Act of 2004, under a closed rule. The rule provides one hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The rule provides that the amendment in the nature of a substitute recommended by the Committee on Ways and Means, as modified by the amendment printed in this report, shall be considered as adopted. The rule waives all points of order against the bill, as amended, and against its consideration. Finally, the rule provides one motion to recommit with or without instructions.

The waiver of all points of order against consideration of the bill includes a waiver of clause 4(a) of rule XIII (requiring a three-day layover of the committee report), which is necessary because the committee report (H. Rept. 108-548) was not filed until Wednesday, June 16, 2004, and the bill may be considered by the House as early as Thursday, June 17, 2004.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 280

Date: June 17, 2004 (legislative day of June 16, 2004).

Measure: H.R. 4520, American Jobs Creation Act of 2004.

Motion by: Mr. Frost.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Rangel which strikes the reported bill except Title VII and inserts the following provisions: (1) Repeals the exclusion for extraterritorial income, effective January 1, 2005. The amendment contains binding contract relief and general transition relief that retains 80 percent of the benefit for 2005 and 60 percent for 2006. (2) Provides a deduction for a portion of the income attributable to U.S. production activities. U.S. production activities are defined as activities in producing goods that were eligible for the FSC/ETI benefits if exported. This includes movies and software. The deduction applies to both corporate and noncorporate taxpayers. The deduction is phased in, ultimately reaching 10 percent. As a result, there is a 10 percent across-the-board rate reduction for income from those productive activities for both corporate and non-corporate taxpayers. Taxpayers at the maximum tax rate will receive a 3.5 point reduction. (3) Extends the current level of small business expensing identical to the extension included in the reported bill. The amendment also includes all of the subchapter S corporate reform and simplification changes that are contained in the reported bill. (4) Extends the research credit and other expiring tax provisions in a form identical to that included in the reported bill. (5) Includes a permanent deduction for State and local general sales taxes. Taxpayers would have the election of deducting income taxes or sales taxes. The amount of the deduction for sales taxes would be computed under pre-1986 laws. It would not be limited to the amount determined under a table, as in the reported bill, and it would not be subject to a cap, as in the reported bill. (6) Includes a temporary reduction in tax on repatriated earnings identical to the provision in the Senate bill.

The amendment is revenue neutral and includes the following offsets: (A) The tax shelter provisions adopted on a bipartisan basis by the Senate. (B) Permanent extension of IRS and custom user fees identical to provisions in the reported bill. (C) Provisions preventing corporations from avoiding tax by reincorporating overseas. (D) Provisions preventing individuals from renouncing their citizenship for tax avoidance purposes identical to the provisions passed by the Senate. (E) Restructuring ethanol incentives identical to provisions in the reported bill. (F) Provisions addressing fuel tax evasion identical to provisions in the reported bill. (G) Provisions adding two vaccines to the list of taxable vaccines, identical to provisions in the reported bill. (H) Provisions preventing foreign entities from avoiding U.S. taxes through treaty-shopping.

Results: Defeated 3 to 9.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 281

Date: June 17, 2004 (legislative day of June 16, 2004).

Measure: H.R. 4520, American Jobs Creation Act of 2004.

Motion by: Mr. Frost.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Frost which returns to pre-1986 law the deduction of state sales taxes. The amendment gives taxpayers the option of either using the Treasury-developed table to take their sales tax deduction or submitting their actual sales tax receipts. It also gives taxpayers the opportunity to deduct big ticket items like cars, on top of the deduction received from the official table. Finally, it makes the deduction permanent.

Results: Defeated 4 to 8.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Yea; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 282

Date: June 17, 2004 (legislative day of June 16, 2004).

Measure: H.R. 4520, American Jobs Creation Act of 2004.

Motion by: Mr. Frost.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Frost which makes the sales tax deduction in the bill permanent.

Results: Defeated 4 to 8.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Yea; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 283

Date: June 17, 2004 (legislative day of June 16, 2004).

Measure: H.R. 4520, American Jobs Creation Act of 2004.

Motion by: Mrs. Slaughter.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Representative McCarthy which encourages film producers to keep feature film and television production projects in the U.S.

Results: Defeated 3 to 9.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 284

Date: June 17, 2004 (legislative day of June 16, 2004).

Measure: H.R. 4520, American Jobs Creation Act of 2004.

Motion by: Mrs. Slaughter.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Emanuel which increases penalties for promoting abusive tax shelter by setting penalties at 150 percent of the fees earned by accountants, attorneys, investment advisors and other tax professionals who design and sell them.

Results: Defeated 3 to 9.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 285

Date: June 17, 2004 (legislative day of June 16, 2004).

Measure: H.R. 4520, American Jobs Creation Act of 2004.

Motion by: Mrs. Slaughter.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Emanuel which requires businesses to reimburse municipalities for economic assistance exceeding \$100,000 once a business relocates offshore and before the term of the agreement providing for the economic assistance is completed.

Results: Defeated 3 to 9.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 286

Date: June 17, 2004 (legislative day of June 16, 2004).

Measure: H.R. 4520, American Jobs Creation Act of 2004.

Motion by: Mr. McGovern.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Representatives Lantos and McGovern which creates a tax credit for employers continuing to pay activated Guard and Reserve employees equal to 50 percent of the compensation (capped at \$30,000 for a \$15,000 maximum credit per employee per year). This credit rewards those employers already going above and beyond what the law mandates and encourages more employers to do so which will alleviate strains on Guard and Reserve families caused by longer than expected activations. The offset for this legislation is found by striking Section 311, relating to look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company income rules.

Results: Defeated 3 to 9.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 287

Date: June 17, 2004 (legislative day of June 16, 2004).

Measure: H.R. 4520, American Jobs Creation Act of 2004.

Motion By: Mr. Goss.

Summary of motion: To report the rule.

Results: Agreed to 9 to 3.

Vote by Members: Goss—Yea; Linder—Yea; Pryce—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Myrick—Yea; Sessions—Yea; Reynolds—Yea; Frost—Nay; Slaughter—Nay; McGovern—Nay; Dreier—Yea.

SUMMARY OF AMENDMENT TO BE CONSIDERED AS ADOPTED

Thomas: Manager's Amendment. Modification of Aquatic Resources Trust Fund Provision, Section 251: Provides for the transfer of a portion of the fuel excise taxes paid on fuel used by motorboats and small engines from the general fund to the Aquatic Resources Trust Fund beginning in 2007.

Modification of Attorney-Client Privilege, Section 615: Strikes provision that clarifies that taxpayer identity is not covered by attorney-client or authorized tax-practitioner privilege with respect to tax shelter investor lists.

Limiting Cost of Tobacco Program Repeal, New Section 713 and Section 725: The current "no net cost" tobacco program employs assessments on producers, manufacturers and tobacco importers to offset the program's cost. The amendment ensures that the buyout will cost no more than \$9.6 billion by continuing to apply the current assessments to tobacco currently covered by the "no net cost" program and clarifies the limitation.

TEXT OF AMENDMENT TO BE CONSIDERED AS ADOPTED

Amend subsection (c) of section 251 to read as follows:

(c) TRANSFERS TO HIGHWAY TRUST FUND.—

(1) Paragraph (4) of section 9503(b) is amended by adding "or" at the end of subparagraph (C), by striking the comma at the end of subparagraph (D) and inserting a period, and by striking subparagraphs (E) and (F).

(2) Paragraph (4) of section 9503(b), as amended by paragraph (1), is further amended by adding "or" at the end of subparagraph (B), by striking the comma at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

Amend paragraph (2) of section 251(e) to read as follows:

(2) SUBSECTION (c).—

(A) The amendments made by subsection (c)(1) shall apply to taxes imposed after September 30, 2003.

(B) The amendments made by subsection (c)(2) shall apply to taxes imposed after September 30, 2006.

In section 615, strike subsections (c) and (d) and insert the following new subsection:

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

Strike section 713 and insert the following new section (and conform the table of contents accordingly):

SEC. 713. CONTINUATION OF LIABILITY AND NO NET LOSS ASSESSMENTS TO PREVENT LOSSES ON PRICE SUPPORT LOANS.

(a) LIABILITY.—The amendments made by this subtitle shall not affect the liability of any person under any provision of law so amended with respect to any crop of tobacco planted before the effective date applicable to that kind of tobacco under section 702.

(b) ASSESSMENT AUTHORITY.—

(1) ASSESSMENTS TO COVER OUTSTANDING LOAN COSTS.—The Commodity Credit Corporation shall impose and collect an as-

assessment on the sale of 2005 and subsequent crops of each kind of tobacco and on the importation of tobacco in such amounts as may be necessary to obtain funds sufficient to cover any losses incurred by the Corporation with respect to price support loans that—

(A) were made for that kind of tobacco under section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445), before the repeal of such section by section 712 of this Act; and

(B) remain outstanding on or after the date of the enactment of this Act.

(2) **ADMINISTRATION.**—Assessments under paragraph (1) shall be administered in the manner provided for in section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2), as in effect the day before the date of the enactment of this Act. To cover the costs of administering such assessments, the Commodity Credit Corporation shall use funds remaining in the No Net Cost Tobacco Funds and No Net Cost Tobacco Accounts established pursuant to sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2).

Strike section 725 and insert the following new section:

SEC. 725. SOURCE OF FUNDS FOR PAYMENTS.

There is hereby appropriated to the Secretary, from amounts in the general fund of the Treasury, such amounts as the Secretary needs in order to make the payments required by sections 722 and 723, except that such amounts shall not exceed the lesser of—

(1) amounts received in the Treasury under chapter 52 of the Internal Revenue Code of 1986 (relating to tobacco products and cigarette papers and tubes) during the period beginning on October 1, 2004, and ending on September 30, 2009, or

(2) \$9,600,000,000.