

Calendar No. 22108TH CONGRESS
1ST SESSION**S. 476****[Report No. 108-11]**

To provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2003

Mr. GRASSLEY, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “CARE Act of 2003”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—CHARITABLE GIVING INCENTIVES

- Sec. 101. Deduction for portion of charitable contributions to be allowed to individuals who do not itemize deductions.
- Sec. 102. Tax-free distributions from individual retirement accounts for charitable purposes.
- Sec. 103. Charitable deduction for contributions of food inventories.
- Sec. 104. Charitable deduction for contributions of book inventories.
- Sec. 105. Expansion of charitable contribution allowed for scientific property used for research and for computer technology and equipment used for educational purposes.
- Sec. 106. Modifications to encourage contributions of capital gain real property made for conservation purposes.
- Sec. 107. Exclusion of 25 percent of gain on sales or exchanges of land or water interests to eligible entities for conservation purposes.
- Sec. 108. Tax exclusion for cost-sharing payments under Partners for Fish and Wildlife Program.
- Sec. 109. Adjustment to basis of S corporation stock for certain charitable contributions.
- Sec. 110. Enhanced deduction for charitable contribution of literary, musical, artistic, and scholarly compositions.
- Sec. 111. Mileage reimbursements to charitable volunteers excluded from gross income.
- Sec. 112. Extension of enhanced deduction for inventory to include public schools.

TITLE II—PROPOSALS IMPROVING THE OVERSIGHT OF TAX-EXEMPT ORGANIZATIONS

- Sec. 201. Disclosure of written determinations.
- Sec. 202. Disclosure of Internet web site and name under which organization does business.
- Sec. 203. Modification to reporting capital transactions.
- Sec. 204. Disclosure that Form 990 is publicly available.
- Sec. 205. Disclosure to State officials of proposed actions related to section 501(c) organizations.
- Sec. 206. Expansion of penalties to preparers of Form 990.

- Sec. 207. Notification requirement for entities not currently required to file.
- Sec. 208. Suspension of tax-exempt status of terrorist organizations.

TITLE III—OTHER CHARITABLE AND EXEMPT ORGANIZATION PROVISIONS

- Sec. 301. Modification of excise tax on unrelated business taxable income of charitable remainder trusts.
- Sec. 302. Modifications to section 512(b)(13).
- Sec. 303. Simplification of lobbying expenditure limitation.
- Sec. 304. Expedited review process for certain tax-exemption applications.
- Sec. 305. Clarification of definition of church tax inquiry.
- Sec. 306. Expansion of declaratory judgment remedy to tax-exempt organizations.
- Sec. 307. Definition of convention or association of churches.
- Sec. 308. Payments by charitable organizations to victims of war on terrorism and families of astronauts killed in the line of duty.
- Sec. 309. Modification of scholarship foundation rules.
- Sec. 310. Treatment of certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness.
- Sec. 311. Charitable contribution deduction for certain expenses incurred in support of Native Alaskan subsistence whaling.
- Sec. 312. Matching grants to low-income taxpayer clinics for return preparation.

TITLE IV—SOCIAL SERVICES BLOCK GRANT

- Sec. 401. Restoration of funds for the Social Services Block Grant.
- Sec. 402. Restoration of authority to transfer up to 10 percent of TANF funds to the Social Services Block Grant.
- Sec. 403. Requirement to submit annual report on State activities.

TITLE V—INDIVIDUAL DEVELOPMENT ACCOUNTS

- Sec. 501. Short title.
- Sec. 502. Purposes.
- Sec. 503. Definitions.
- Sec. 504. Structure and administration of qualified individual development account programs.
- Sec. 505. Procedures for opening and maintaining an individual development account and qualifying for matching funds.
- Sec. 506. Deposits by qualified individual development account programs.
- Sec. 507. Withdrawal procedures.
- Sec. 508. Certification and termination of qualified individual development account programs.
- Sec. 509. Reporting, monitoring, and evaluation.
- Sec. 510. Authorization of appropriations.
- Sec. 511. Matching funds for individual development accounts provided through a tax credit for qualified financial institutions.
- Sec. 512. Account funds disregarded for purposes of certain means-tested Federal programs.

TITLE VI—MANAGEMENT OF EXEMPT ORGANIZATIONS

- Sec. 601. Authorization of appropriations.

TITLE VII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

- Sec. 701. Clarification of economic substance doctrine.
 Sec. 702. Penalty for failing to disclose reportable transaction.
 Sec. 703. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
 Sec. 704. Penalty for understatements attributable to transactions lacking economic substance, etc.
 Sec. 705. Modifications of substantial understatement penalty for nonreportable transactions.
 Sec. 706. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
 Sec. 707. Disclosure of reportable transactions.
 Sec. 708. Modifications to penalty for failure to register tax shelters.
 Sec. 709. Modification of penalty for failure to maintain lists of investors.
 Sec. 710. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
 Sec. 711. Understatement of taxpayer's liability by income tax return preparer.
 Sec. 712. Penalty on failure to report interests in foreign financial accounts.
 Sec. 713. Frivolous tax submissions.
 Sec. 714. Regulation of individuals practicing before the Department of Treasury.
 Sec. 715. Penalty on promoters of tax shelters.
 Sec. 716. Statute of limitations for taxable years for which listed transactions not reported.
 Sec. 717. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
 Sec. 718. Authorization of appropriations for tax law enforcement.

Subtitle B—Other Provisions

- Sec. 721. Affirmation of consolidated return regulation authority.
 Sec. 722. Signing of corporate tax returns by chief executive officer.

1 **TITLE I—CHARITABLE GIVING**
 2 **INCENTIVES**

3 **SEC. 101. DEDUCTION FOR PORTION OF CHARITABLE CON-**
 4 **TRIBUTIONS TO BE ALLOWED TO INDIVID-**
 5 **UALS WHO DO NOT ITEMIZE DEDUCTIONS.**

6 (a) IN GENERAL.—Section 170 (relating to chari-
 7 table, etc., contributions and gifts) is amended by redesi-
 8 gnating subsection (m) as subsection (n) and by inserting
 9 after subsection (l) the following new subsection:

1 “(m) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING
2 DEDUCTIONS.—In the case of an individual who does not
3 itemize deductions for any taxable year, there shall be
4 taken into account as a direct charitable deduction under
5 section 63 an amount equal to the amount allowable under
6 subsection (a) for the taxable year for cash contributions,
7 to the extent that such contributions exceed \$250 (\$500
8 in the case of a joint return) but do not exceed \$500
9 (\$1,000 in the case of a joint return).”.

10 (b) DIRECT CHARITABLE DEDUCTION.—

11 (1) IN GENERAL.—Subsection (b) of section 63
12 (defining taxable income) is amended by striking
13 “and” at the end of paragraph (1), by striking the
14 period at the end of paragraph (2) and inserting “,
15 and”, and by adding at the end the following new
16 paragraph:

17 “(3) the direct charitable deduction.”.

18 (2) DEFINITION.—Section 63 is amended by re-
19 designating subsection (g) as subsection (h) and by
20 inserting after subsection (f) the following new sub-
21 section:

22 “(g) DIRECT CHARITABLE DEDUCTION.—For pur-
23 poses of this section, the term ‘direct charitable deduction’
24 means that portion of the amount allowable under section

1 170(a) which is taken as a direct charitable deduction for
2 the taxable year under section 170(m).”.

3 (3) CONFORMING AMENDMENT.—Subsection (d)
4 of section 63 is amended by striking “and” at the
5 end of paragraph (1), by striking the period at the
6 end of paragraph (2) and inserting “, and”, and by
7 adding at the end the following new paragraph:

8 “(3) the direct charitable deduction.”.

9 (c) STUDY.—

10 (1) IN GENERAL.—The Secretary of the Treas-
11 ury shall study the effect of the amendments made
12 by this section on increased charitable giving and
13 taxpayer compliance, including a comparison of tax-
14 payer compliance between taxpayers who itemize
15 their charitable contributions and taxpayers who
16 claim a direct charitable deduction.

17 (2) REPORT.—By not later than December 31,
18 2004, the Secretary of the Treasury shall report on
19 the study required under paragraph (1) to the Com-
20 mittee on Finance of the Senate and the Committee
21 on Ways and Means of the House of Representa-
22 tives.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2002, and before January 1, 2005.

1 **SEC. 102. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
 2 **TIREMENT ACCOUNTS FOR CHARITABLE**
 3 **PURPOSES.**

4 (a) IN GENERAL.—Subsection (d) of section 408 (re-
 5 lating to individual retirement accounts) is amended by
 6 adding at the end the following new paragraph:

7 “(8) DISTRIBUTIONS FOR CHARITABLE PUR-
 8 POSES.—

9 “(A) IN GENERAL.—No amount shall be
 10 includible in gross income by reason of a quali-
 11 fied charitable distribution.

12 “(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the
 13 term ‘qualified charitable distribution’ means
 14 any distribution from an individual retirement
 15 account—
 16

17 “(i) which is made directly by the
 18 trustee—

19 “(I) to an organization described
 20 in section 170(c), or

21 “(II) to a split-interest entity,
 22 and

23 “(ii) which is made on or after—

24 “(I) in the case of any distribu-
 25 tion described in clause (i)(I), the
 26 date that the individual for whose

1 benefit the account is maintained has
2 attained age 70½, and

3 “(II) in the case of any distribu-
4 tion described in clause (i)(II), the the
5 date that such individual has attained
6 age 59½.

7 A distribution shall be treated as a qualified
8 charitable distribution only to the extent that
9 the distribution would be includible in gross in-
10 come without regard to subparagraph (A) and,
11 in the case of a distribution to a split-interest
12 entity, only if no person holds an income inter-
13 est in the amounts in the split-interest entity
14 attributable to such distribution other than one
15 or more of the following: the individual for
16 whose benefit such account is maintained, the
17 spouse of such individual, or any organization
18 described in section 170(c).

19 “(C) CONTRIBUTIONS MUST BE OTHER-
20 WISE DEDUCTIBLE.—For purposes of this para-
21 graph—

22 “(i) DIRECT CONTRIBUTIONS.—A dis-
23 tribution to an organization described in
24 section 170(c) shall be treated as a quali-
25 fied charitable distribution only if a deduc-

1 tion for the entire distribution would be al-
2 lowable under section 170 (determined
3 without regard to subsection (b) thereof
4 and this paragraph).

5 “(ii) SPLIT-INTEREST GIFTS.—A dis-
6 tribution to a split-interest entity shall be
7 treated as a qualified charitable distribu-
8 tion only if a deduction for the entire value
9 of the interest in the distribution for the
10 use of an organization described in section
11 170(c) would be allowable under section
12 170 (determined without regard to sub-
13 section (b) thereof and this paragraph).

14 “(D) APPLICATION OF SECTION 72.—Not-
15 withstanding section 72, in determining the ex-
16 tent to which a distribution is a qualified chari-
17 table distribution, the entire amount of the dis-
18 tribution shall be treated as includible in gross
19 income without regard to subparagraph (A) to
20 the extent that such amount does not exceed
21 the aggregate amount which would have been so
22 includible if all amounts were distributed from
23 all individual retirement accounts treated as 1
24 contract under paragraph (2)(A) for purposes
25 of determining the inclusion on such distribu-

1 tion under section 72. Proper adjustments shall
2 be made in applying section 72 to other dis-
3 tributions in such taxable year and subsequent
4 taxable years.

5 “(E) SPECIAL RULES FOR SPLIT-INTEREST
6 ENTITIES.—

7 “(i) CHARITABLE REMAINDER
8 TRUSTS.—Notwithstanding section 664(b),
9 distributions made from a trust described
10 in subparagraph (G)(i) shall be treated as
11 ordinary income in the hands of the bene-
12 ficiary to whom is paid the annuity de-
13 scribed in section 664(d)(1)(A) or the pay-
14 ment described in section 664(d)(2)(A).

15 “(ii) POOLED INCOME FUNDS.—No
16 amount shall be includible in the gross in-
17 come of a pooled income fund (as defined
18 in subparagraph (G)(ii)) by reason of a
19 qualified charitable distribution to such
20 fund, and all distributions from the fund
21 which are attributable to qualified chari-
22 table distributions shall be treated as ordi-
23 nary income to the beneficiary.

24 “(iii) CHARITABLE GIFT ANNU-
25 ITIES.—Qualified charitable distributions

1 made for a charitable gift annuity shall not
 2 be treated as an investment in the con-
 3 tract.

4 “(F) DENIAL OF DEDUCTION.—Qualified
 5 charitable distributions shall not be taken into
 6 account in determining the deduction under sec-
 7 tion 170.

8 “(G) SPLIT-INTEREST ENTITY DEFINED.—
 9 For purposes of this paragraph, the term ‘split-
 10 interest entity’ means—

11 “(i) a charitable remainder annuity
 12 trust or a charitable remainder unitrust
 13 (as such terms are defined in section
 14 664(d)) which must be funded exclusively
 15 by qualified charitable distributions,

16 “(ii) a pooled income fund (as defined
 17 in section 642(c)(5)), but only if the fund
 18 accounts separately for amounts attrib-
 19 utable to qualified charitable distributions,
 20 and

21 “(iii) a charitable gift annuity (as de-
 22 fined in section 501(m)(5)).”.

23 (b) MODIFICATIONS RELATING TO INFORMATION RE-
 24 TURNS BY CERTAIN TRUSTS.—

1 (1) RETURNS.—Section 6034 (relating to re-
2 turns by trusts described in section 4947(a)(2) or
3 claiming charitable deductions under section 642(c))
4 is amended to read as follows:

5 **“SEC. 6034. RETURNS BY TRUSTS DESCRIBED IN SECTION**
6 **4947(a)(2) OR CLAIMING CHARITABLE DEDUC-**
7 **TIONS UNDER SECTION 642(c).**

8 “(a) TRUSTS DESCRIBED IN SECTION 4947(a)(2).—
9 Every trust described in section 4947(a)(2) shall furnish
10 such information with respect to the taxable year as the
11 Secretary may by forms or regulations require.

12 “(b) TRUSTS CLAIMING A CHARITABLE DEDUCTION
13 UNDER SECTION 642(c).—

14 “(1) IN GENERAL.—Every trust not required to
15 file a return under subsection (a) but claiming a de-
16 duction under section 642(c) for the taxable year
17 shall furnish such information with respect to such
18 taxable year as the Secretary may by forms or regu-
19 lations prescribe, including—

20 “(A) the amount of the deduction taken
21 under section 642(c) within such year,

22 “(B) the amount paid out within such year
23 which represents amounts for which deductions
24 under section 642(c) have been taken in prior
25 years,

1 “(C) the amount for which such deductions
2 have been taken in prior years but which has
3 not been paid out at the beginning of such year,

4 “(D) the amount paid out of principal in
5 the current and prior years for the purposes de-
6 scribed in section 642(c),

7 “(E) the total income of the trust within
8 such year and the expenses attributable thereto,
9 and

10 “(F) a balance sheet showing the assets, li-
11 abilities, and net worth of the trust as of the
12 beginning of such year.

13 “(2) EXCEPTIONS.—Paragraph (1) shall not
14 apply to a trust for any taxable year if—

15 “(A) all the net income for such year, de-
16 termined under the applicable principles of the
17 law of trusts, is required to be distributed cur-
18 rently to the beneficiaries, or

19 “(B) the trust is described in section
20 4947(a)(1).”.

21 (2) INCREASE IN PENALTY RELATING TO FIL-
22 ING OF INFORMATION RETURN BY SPLIT-INTEREST
23 TRUSTS.—Paragraph (2) of section 6652(c) (relating
24 to returns by exempt organizations and by certain

1 trusts) is amended by adding at the end the fol-
2 lowing new subparagraph:

3 “(C) SPLIT-INTEREST TRUSTS.—In the
4 case of a trust which is required to file a return
5 under section 6034(a), subparagraphs (A) and
6 (B) of this paragraph shall not apply and para-
7 graph (1) shall apply in the same manner as if
8 such return were required under section 6033,
9 except that—

10 “(i) the 5 percent limitation in the
11 second sentence of paragraph (1)(A) shall
12 not apply,

13 “(ii) in the case of any trust with
14 gross income in excess of \$250,000, the
15 first sentence of paragraph (1)(A) shall be
16 applied by substituting ‘\$100’ for ‘\$20’,
17 and the second sentence thereof shall be
18 applied by substituting ‘\$50,000’ for
19 ‘\$10,000’, and

20 “(iii) the third sentence of paragraph
21 (1)(A) shall be disregarded.

22 In addition to any penalty imposed on the trust
23 pursuant to this subparagraph, if the person re-
24 quired to file such return knowingly fails to file
25 the return, such penalty shall also be imposed

1 on such person who shall be personally liable
2 for such penalty.”.

3 (3) CONFIDENTIALITY OF NONCHARITABLE
4 BENEFICIARIES.—Subsection (b) of section 6104
5 (relating to inspection of annual information re-
6 turns) is amended by adding at the end the fol-
7 lowing new sentence: “In the case of a trust which
8 is required to file a return under section 6034(a),
9 this subsection shall not apply to information re-
10 garding beneficiaries which are not organizations de-
11 scribed in section 170(c).”.

12 (c) EFFECTIVE DATES.—

13 (1) SUBSECTION (a).—The amendment made
14 by subsection (a) shall apply to distributions—

15 (A) described in section 408(d)(8)(B)(i)(I)
16 of the Internal Revenue Code of 1986, as added
17 by this section, made after the date of the en-
18 actment of this Act, and

19 (B) described in section
20 408(d)(8)(B)(i)(II) of such Code, as so added,
21 made after December 31, 2003.

22 (2) SUBSECTION (b).—The amendments made
23 by subsection (b) shall apply to returns for taxable
24 years beginning after December 31, 2003.

1 **SEC. 103. CHARITABLE DEDUCTION FOR CONTRIBUTIONS**
2 **OF FOOD INVENTORIES.**

3 (a) IN GENERAL.—Subsection (e) of section 170 (re-
4 lating to certain contributions of ordinary income and cap-
5 ital gain property) is amended by adding at the end the
6 following new paragraph:

7 “(7) APPLICATION OF PARAGRAPH (3) TO CER-
8 TAIN CONTRIBUTIONS OF FOOD INVENTORY.—For
9 purposes of this section—

10 “(A) EXTENSION TO INDIVIDUALS.—In the
11 case of a charitable contribution of apparently
12 wholesome food—

13 “(i) paragraph (3)(A) shall be applied
14 without regard to whether the contribution
15 is made by a C corporation, and

16 “(ii) in the case of a taxpayer other
17 than a C corporation, the aggregate
18 amount of such contributions from any
19 trade or business (or interest therein) of
20 the taxpayer for any taxable year which
21 may be taken into account under this sec-
22 tion shall not exceed 10 percent of the tax-
23 payer’s net income from any such trade or
24 business, computed without regard to this
25 section, for such taxable year.

1 “(B) LIMITATION ON REDUCTION.—In the
2 case of a charitable contribution of apparently
3 wholesome food, notwithstanding paragraph
4 (3)(B), the amount of the reduction determined
5 under paragraph (1)(A) shall not exceed the
6 amount by which the fair market value of such
7 property exceeds twice the basis of such prop-
8 erty.

9 “(C) DETERMINATION OF BASIS.—If a
10 taxpayer—

11 “(i) does not account for inventories
12 under section 471, and

13 “(ii) is not required to capitalize indi-
14 rect costs under section 263A,

15 the taxpayer may elect, solely for purposes of
16 paragraph (3)(B), to treat the basis of any ap-
17 parently wholesome food as being equal to 25
18 percent of the fair market value of such food.

19 “(D) DETERMINATION OF FAIR MARKET
20 VALUE.—In the case of a charitable contribu-
21 tion of apparently wholesome food which is a
22 qualified contribution (within the meaning of
23 paragraph (3), as modified by subparagraph
24 (A) of this paragraph) and which, solely by rea-
25 son of internal standards of the taxpayer or

1 lack of market, cannot or will not be sold, the
 2 fair market value of such contribution shall be
 3 determined—

4 “(i) without regard to such internal
 5 standards or such lack of market and

6 “(ii) by taking into account the price
 7 at which the same or substantially the
 8 same food items (as to both type and qual-
 9 ity) are sold by the taxpayer at the time of
 10 the contribution (or, if not so sold at such
 11 time, in the recent past).

12 “(E) APPARENTLY WHOLESOME FOOD.—
 13 For purposes of this paragraph, the term ‘ap-
 14 parently wholesome food’ has the meaning given
 15 such term by section 22(b)(2) of the Bill Emer-
 16 son Good Samaritan Food Donation Act (42
 17 U.S.C. 1791(b)(2)), as in effect on the date of
 18 the enactment of this paragraph.”.

19 (b) EFFECTIVE DATE.—The amendment made by
 20 this section shall apply to contributions made after the
 21 date of the enactment of this Act.

22 **SEC. 104. CHARITABLE DEDUCTION FOR CONTRIBUTIONS**
 23 **OF BOOK INVENTORIES.**

24 (a) IN GENERAL.—Section 170(e)(3) (relating to cer-
 25 tain contributions of ordinary income and capital gain

1 property) is amended by redesignating subparagraph (C)
 2 as subparagraph (D) and by inserting after subparagraph
 3 (B) the following new subparagraph:

4 “(C) SPECIAL RULE FOR CONTRIBUTIONS
 5 OF BOOK INVENTORY FOR EDUCATIONAL PUR-
 6 POSES.—

7 “(i) CONTRIBUTIONS OF BOOK INVEN-
 8 TORY.—In determining whether a qualified
 9 book contribution is a qualified contribu-
 10 tion, subparagraph (A) shall be applied
 11 without regard to whether—

12 “(I) the donee is an organization
 13 described in the matter preceding
 14 clause (i) of subparagraph (A), and

15 “(II) the property is to be used
 16 by the donee solely for the care of the
 17 ill, the needy, or infants.

18 “(ii) AMOUNT OF REDUCTION.—Not-
 19 withstanding subparagraph (B), the
 20 amount of the reduction determined under
 21 paragraph (1)(A) shall not exceed the
 22 amount by which the fair market value of
 23 the contributed property (as determined by
 24 the taxpayer using a bona fide published

1 market price for such book) exceeds twice
2 the basis of such property.

3 “(iii) QUALIFIED BOOK CONTRIBU-
4 TION.—For purposes of this paragraph,
5 the term ‘qualified book contribution’
6 means a charitable contribution of books,
7 but only if the requirements of clauses (iv)
8 and (v) are met.

9 “(iv) IDENTITY OF DONEE.—The re-
10 quirement of this clause is met if the con-
11 tribution is to an organization—

12 “(I) described in subclause (I) or
13 (III) of paragraph (6)(B)(i), or

14 “(II) described in section
15 501(c)(3) and exempt from tax under
16 section 501(a) (other than a private
17 foundation, as defined in section
18 509(a), which is not an operating
19 foundation, as defined in section
20 4942(j)(3)), which is organized pri-
21 marily to make books available to the
22 general public at no cost or to operate
23 a literacy program.

24 “(v) CERTIFICATION BY DONEE.—The
25 requirement of this clause is met if, in ad-

1 dition to the certifications required by sub-
2 paragraph (A) (as modified by this sub-
3 paragraph), the donee certifies in writing
4 that—

5 “(I) the books are suitable, in
6 terms of currency, content, and quan-
7 tity, for use in the donee’s educational
8 programs, and

9 “(II) the donee will use the books
10 in its educational programs.

11 “(vi) BONA FIDE PUBLISHED MARKET
12 PRICE.—For purposes of this subpara-
13 graph, the term ‘bona fide published mar-
14 ket price’ means, with respect to any book,
15 a price—

16 “(I) determined using the same
17 printing and edition,

18 “(II) determined in the usual
19 market in which such a book has been
20 customarily sold by the taxpayer, and

21 “(III) for which the taxpayer can
22 demonstrate to the satisfaction of the
23 Secretary that the taxpayer custom-
24 arily sold such books in arm’s length

1 transactions within 7 years preceding
 2 the contribution of such a book.”.

3 (b) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to contributions made after the
 5 date of the enactment of this Act

6 **SEC. 105. EXPANSION OF CHARITABLE CONTRIBUTION AL-**
 7 **LOWED FOR SCIENTIFIC PROPERTY USED**
 8 **FOR RESEARCH AND FOR COMPUTER TECH-**
 9 **NOLOGY AND EQUIPMENT USED FOR EDU-**
 10 **CATIONAL PURPOSES.**

11 (a) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

12 (1) IN GENERAL.—Clause (ii) of section
 13 170(e)(4)(B) (defining qualified research contribu-
 14 tions) is amended by inserting “or assembled” after
 15 “constructed”.

16 (2) CONFORMING AMENDMENT.—Clause (iii) of
 17 section 170(e)(4)(B) is amended by inserting “or as-
 18 sembling” after “construction”.

19 (b) COMPUTER TECHNOLOGY AND EQUIPMENT FOR
 20 EDUCATIONAL PURPOSES.—

21 (1) IN GENERAL.—Clause (ii) of section
 22 170(e)(6)(B) is amended by inserting “or assem-
 23 bled” after “constructed” and “or assembling” after
 24 “construction”.

1 (2) SPECIAL RULE EXTENDED.—Section
2 170(e)(6)(G) is amended by striking “2003” and in-
3 serting “2005”.

4 (3) CONFORMING AMENDMENTS.—Subpara-
5 graph (D) of section 170(e)(6) is amended by insert-
6 ing “or assembled” after “constructed” and “or as-
7 sembling” after “construction”.

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

11 **SEC. 106. MODIFICATIONS TO ENCOURAGE CONTRIBU-**
12 **TIONS OF CAPITAL GAIN REAL PROPERTY**
13 **MADE FOR CONSERVATION PURPOSES.**

14 (a) IN GENERAL.—Section 170(h) (relating to quali-
15 fied conservation contribution) is amended by adding at
16 the end the following new paragraph:

17 “(7) ADDITIONAL INCENTIVES FOR QUALIFIED
18 CONSERVATION CONTRIBUTIONS.—

19 “(A) IN GENERAL.—In the case of any
20 qualified conservation contribution (as defined
21 in paragraph (1)) made by an individual—

22 “(i) subparagraph (C) of subsection
23 (b)(1) shall not apply,

24 “(ii) except as provided in subpara-
25 graph (B)(i), subsections (b)(1)(A) and

1 (d)(1) shall be applied separately with re-
2 spect to such contributions by treating ref-
3 erences to 50 percent of the taxpayer's
4 contribution base as references to the
5 amount of such base reduced by the
6 amount of other contributions allowable
7 under subsection (b)(1)(A), and

8 “(iii) subparagraph (A) of subsection
9 (d)(1) shall be applied—

10 “(I) by substituting ‘15 suc-
11 ceeding taxable years’ for ‘5 suc-
12 ceeding taxable years’, and

13 “(II) by applying clause (ii) to
14 each of the 15 succeeding taxable
15 years.

16 “(B) SPECIAL RULES FOR ELIGIBLE FARM-
17 ERS AND RANCHERS.—

18 “(i) IN GENERAL.—In the case of any
19 such contributions made by an eligible
20 farmer or rancher—

21 “(I) if the taxpayer is an indi-
22 vidual, subsections (b)(1)(A) and
23 (d)(1) shall be applied separately with
24 respect to such contributions by sub-
25 stituting ‘the taxpayer’s contribution

1 base reduced by the amount of other
2 contributions allowable under sub-
3 section (b)(1)(A) for ‘50 percent of
4 the taxpayer’s contribution base’ each
5 place it appears, and

6 “(II) if the taxpayer is a corpora-
7 tion, subsections (b)(2) and (d)(2)
8 shall be applied separately with re-
9 spect to such contributions, subsection
10 (b)(2) shall be applied with respect to
11 such contributions as if such sub-
12 section did not contain the words ‘10
13 percent of’ and as if subparagraph
14 (A) thereof read ‘the deduction under
15 this section for qualified conservation
16 contributions’, and rules similar to the
17 rules of subparagraph (A)(iii) shall
18 apply for purposes of subsection
19 (d)(2).

20 “(ii) DEFINITION.—For purposes of
21 clause (i), the term ‘eligible farmer or
22 rancher’ means a taxpayer whose gross in-
23 come from the trade or business of farm-
24 ing (within the meaning of section
25 2032A(e)(5)) is at least 51 percent of the

1 taxpayer's gross income for the taxable
 2 year, and, in the case of a C corporation,
 3 the stock of which is not publicly traded on
 4 a recognized exchange.”.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 this section shall apply to contributions made after the
 7 date of the enactment of this Act.

8 **SEC. 107. EXCLUSION OF 25 PERCENT OF GAIN ON SALES**
 9 **OR EXCHANGES OF LAND OR WATER INTER-**
 10 **ESTS TO ELIGIBLE ENTITIES FOR CONSERVA-**
 11 **TION PURPOSES.**

12 (a) IN GENERAL.—Part III of subchapter B of chap-
 13 ter 1 (relating to items specifically excluded from gross
 14 income) is amended by inserting after section 121 the fol-
 15 lowing new section:

16 **“SEC. 121A. 25-PERCENT EXCLUSION OF GAIN ON SALES OR**
 17 **EXCHANGES OF LAND OR WATER INTERESTS**
 18 **TO ELIGIBLE ENTITIES FOR CONSERVATION**
 19 **PURPOSES.**

20 “(a) EXCLUSION.—Gross income shall not include 25
 21 percent of the qualifying gain from a conservation sale of
 22 a long-held qualifying land or water interest.

23 “(b) QUALIFYING GAIN.—For purposes of this sec-
 24 tion—

1 “(1) IN GENERAL.—The term ‘qualifying gain’
2 means any gain which would be recognized as long-
3 term capital gain, reduced by the amount of any
4 long-term capital gain attributable to disqualified
5 improvements.

6 “(2) DISQUALIFIED IMPROVEMENT.—For pur-
7 poses of paragraph (1), the term ‘disqualified im-
8 provement’ means any building, structure, or other
9 improvement, other than—

10 “(A) any improvement which is described
11 in section 175(c)(1), determined—

12 “(i) without regard to the require-
13 ments that the taxpayer be engaged in
14 farming, and

15 “(ii) without taking into account sub-
16 paragraphs (A) and (B) thereof, or

17 “(B) any improvement which the Secretary
18 determines directly furthers conservation pur-
19 poses.

20 “(3) SPECIAL RULE FOR SALES OF STOCK.—If
21 the long-held qualifying land or water interest is 1
22 or more shares of stock in a qualifying land or water
23 corporation, the qualifying gain is equal to the lesser
24 of—

1 “(A) the qualifying gain determined under
2 paragraph (1), or

3 “(B) the product of—

4 “(i) the percentage of such corpora-
5 tion’s stock which is transferred by the
6 taxpayer, times

7 “(ii) the amount which would have
8 been the qualifying gain (determined under
9 paragraph (1)) if there had been a con-
10 servation sale by such corporation of all of
11 its interests in the land and water for a
12 price equal to the product of the fair mar-
13 ket value of such interests times the ratio
14 of—

15 “(I) the proceeds of the conserva-
16 tion sale of the stock, to

17 “(II) the fair market value of the
18 stock which was the subject of the
19 conservation sale.

20 “(c) CONSERVATION SALE.—For purposes of this
21 section, the term ‘conservation sale’ means a sale or ex-
22 change which meets the following requirements:

23 “(1) TRANSFEREE IS AN ELIGIBLE ENTITY.—

24 The transferee of the long-held qualifying land or
25 water interest is an eligible entity.

1 “(2) QUALIFYING LETTER OF INTENT RE-
2 QUIRED.—At the time of the sale or exchange, such
3 transferee provides the taxpayer with a qualifying
4 letter of intent.

5 “(3) NONAPPLICATION TO CERTAIN SALES.—
6 The sale or exchange is not made pursuant to an
7 order of condemnation or eminent domain.

8 “(4) CONTROLLING INTEREST IN STOCK SALE
9 REQUIRED.—In the case of the sale or exchange of
10 stock in a qualifying land or water corporation, at
11 the end of the taxpayer’s taxable year in which such
12 sale or exchange occurs, the transferee’s ownership
13 of stock in such corporation meets the requirements
14 of section 1504(a)(2) (determined by substituting
15 ‘90 percent’ for ‘80 percent’ each place it appears).

16 “(d) LONG-HELD QUALIFYING LAND OR WATER IN-
17 TEREST.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘long-held quali-
19 fying land or water interest’ means any qualifying
20 land or water interest owned by the taxpayer or a
21 member of the taxpayer’s family (as defined in sec-
22 tion 2032A(e)(2)) at all times during the 5-year pe-
23 riod ending on the date of the sale.

24 “(2) QUALIFYING LAND OR WATER INTER-
25 EST.—

1 “(A) IN GENERAL.—The term ‘qualifying
2 land or water interest’ means a real property
3 interest which constitutes—

4 “(i) a taxpayer’s entire interest in
5 land,

6 “(ii) a taxpayer’s entire interest in
7 water rights,

8 “(iii) a qualified real property interest
9 (as defined in section 170(h)(2)), or

10 “(iv) stock in a qualifying land or
11 water corporation.

12 “(B) ENTIRE INTEREST.—For purposes of
13 clause (i) or (ii) of subparagraph (A)—

14 “(i) a partial interest in land or water
15 is not a taxpayer’s entire interest if an in-
16 terest in land or water was divided in order
17 to create such partial interest in order to
18 avoid the requirements of such clause or
19 section 170(f)(3)(A), and

20 “(ii) a taxpayer’s entire interest in
21 certain land does not fail to satisfy sub-
22 paragraph (A)(i) solely because the tax-
23 payer has retained an interest in other
24 land, even if the other land is contiguous
25 with such certain land and was acquired by

1 the taxpayer along with such certain land
2 in a single conveyance.

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

5 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
6 tity’ means—

7 “(A) a governmental unit referred to in
8 section 170(e)(1), or an agency or department
9 thereof operated primarily for 1 or more of the
10 conservation purposes specified in clause (i),
11 (ii), or (iii) of section 170(h)(4)(A), or

12 “(B) an entity which is—

13 “(i) described in section
14 170(b)(1)(A)(vi) or section 170(h)(3)(B),
15 and

16 “(ii) organized and at all times oper-
17 ated primarily for 1 or more of the con-
18 servation purposes specified in clause (i),
19 (ii), or (iii) of section 170(h)(4)(A).

20 “(2) QUALIFYING LETTER OF INTENT.—The
21 term ‘qualifying letter of intent’ means a written let-
22 ter of intent which includes the following statement:
23 ‘The transferee’s intent is that this acquisition will
24 serve 1 or more of the conservation purposes speci-
25 fied in clause (i), (ii), or (iii) of section 170(h)(4)(A)

1 of the Internal Revenue Code of 1986, that the
2 transferee's use of the property so acquired will be
3 consistent with section 170(h)(5) of such Code, and
4 that the use of the property will continue to be con-
5 sistent with such section, even if ownership or pos-
6 session of such property is subsequently transferred
7 to another person.'

8 “(3) QUALIFYING LAND OR WATER CORPORA-
9 TION.—The term ‘qualifying land or water corpora-
10 tion’ means a C corporation (as defined in section
11 1361(a)(2)) if, as of the date of the conservation
12 sale—

13 “(A) the fair market value of the corpora-
14 tion's interests in land or water held by the cor-
15 poration at all times during the preceding 5
16 years equals or exceeds 90 percent of the fair
17 market value of all of such corporation's assets,
18 and

19 “(B) not more than 50 percent of the total
20 fair market value of such corporation's assets
21 consists of water rights or infrastructure re-
22 lated to the delivery of water, or both.

23 “(f) TAX ON SUBSEQUENT TRANSFERS OR REMOV-
24 ALS OF CONSERVATION RESTRICTIONS.—

1 “(1) IN GENERAL.—A tax is hereby imposed on
2 any subsequent—

3 “(A) transfer by an eligible entity of own-
4 ership or possession, whether by sale, exchange,
5 or lease, of property acquired directly or indi-
6 rectly in—

7 “(i) a conservation sale described in
8 subsection (a), or

9 “(ii) a transfer described in clause (i),
10 (ii), or (iii) of paragraph (4)(A), or

11 “(B) removal of a conservation restriction
12 contained in an instrument of conveyance of
13 such property.

14 “(2) AMOUNT OF TAX.—The amount of tax im-
15 posed by paragraph (1) on any transfer or removal
16 shall be equal to the sum of—

17 “(A) either—

18 “(i) 20 percent of the fair market
19 value (determined at the time of the trans-
20 fer) of the property the ownership or pos-
21 session of which is transferred, or

22 “(ii) 20 percent of the fair market
23 value (determined at the time immediately
24 after the removal) of the property upon

1 which the conservation restriction was re-
2 moved, plus

3 “(B) the product of—

4 “(i) the highest rate of tax specified
5 in section 11, times

6 “(ii) any gain or income realized by
7 the transferor or person removing such re-
8 striction as a result of the transfer or re-
9 moval.

10 “(3) LIABILITY.—The tax imposed by para-
11 graph (1) shall be paid—

12 “(A) on any transfer, by the transferor,
13 and

14 “(B) on any removal of a conservation re-
15 striction contained in an instrument of convey-
16 ance, by the person removing such restriction.

17 “(4) RELIEF FROM LIABILITY.—The person
18 (otherwise liable for any tax imposed by paragraph
19 (1)) shall be relieved of liability for the tax imposed
20 by paragraph (1)—

21 “(A) with respect to any transfer if—

22 “(i) the transferee is an eligible entity
23 which provides such person, at the time of
24 transfer, a qualifying letter of intent,

1 “(ii) in any case where the transferee
2 is not an eligible entity, it is established to
3 the satisfaction of the Secretary, that the
4 transfer of ownership or possession, as the
5 case may be, will be consistent with section
6 170(h)(5), and the transferee provides
7 such person, at the time of transfer, a
8 qualifying letter of intent, or

9 “(iii) tax has previously been paid
10 under this subsection as a result of a prior
11 transfer of ownership or possession of the
12 same property, or

13 “(B) with respect to any removal of a con-
14 servation restriction contained in an instrument
15 of conveyance, if it is established to the satis-
16 faction of the Secretary that the retention of
17 the restriction was impracticable or impossible
18 and the proceeds continue to be used in a man-
19 ner consistent with 1 or more of the conserva-
20 tion purposes specified in clause (i), (ii), or (iii)
21 of section 170(h)(4)(A).

22 “(5) ADMINISTRATIVE PROVISIONS.—For pur-
23 poses of subtitle F, the taxes imposed by this sub-
24 section shall be treated as excise taxes with respect

1 to which the deficiency procedures of such subtitle
2 apply.

3 “(6) REPORTING.—The Secretary may require
4 such reporting as may be necessary or appropriate
5 to further the purpose under this section that any
6 conservation use be in perpetuity.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 for part III of subchapter B of chapter 1 is amended by
9 inserting after the item relating to section 121 the fol-
10 lowing new item:

“Sec. 121A. 25-percent exclusion of gain on sales or exchanges
of land or water interests to eligible entities for
conservation purposes.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to sales or exchanges occurring
13 after the date of the enactment of this Act.

14 **SEC. 108. TAX EXCLUSION FOR COST-SHARING PAYMENTS**
15 **UNDER PARTNERS FOR FISH AND WILDLIFE**
16 **PROGRAM.**

17 (a) IN GENERAL.—Section 126(a) (relating to cer-
18 tain cost-sharing payments) is amended by redesignating
19 paragraph (10) as paragraph (11) and by inserting after
20 paragraph (9) the following:

21 “(10) The Partners for Fish and Wildlife Pro-
22 gram authorized by the Fish and Wildlife Act of
23 1956 (16 U.S.C. 742a et seq.).”.

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to payments received after the date
 3 of the enactment of this Act.

4 **SEC. 109. ADJUSTMENT TO BASIS OF S CORPORATION**
 5 **STOCK FOR CERTAIN CHARITABLE CON-**
 6 **TRIBUTIONS.**

7 (a) IN GENERAL.—Paragraph (2) of section 1367(a)
 8 (relating to adjustments to basis of stock of shareholders,
 9 etc.) is amended by adding at the end the following new
 10 flush sentence:

11 “The decrease under subparagraph (B) by reason of
 12 a charitable contribution (as defined in section
 13 170(c)) of property shall be the amount equal to the
 14 shareholder’s pro rata share of the adjusted basis of
 15 such property.”.

16 (b) EFFECTIVE DATE.—The amendment made by
 17 this section shall apply to contributions made after the
 18 date of the enactment of this Act.

19 **SEC. 110. ENHANCED DEDUCTION FOR CHARITABLE CON-**
 20 **TRIBUTION OF LITERARY, MUSICAL, ARTIS-**
 21 **TIC, AND SCHOLARLY COMPOSITIONS.**

22 (a) IN GENERAL.—Subsection (e) of section 170 (re-
 23 lating to certain contributions of ordinary income and cap-
 24 ital gain property), as amended by this Act, is amended
 25 by adding at the end the following new paragraph:

1 “(8) SPECIAL RULE FOR CERTAIN CONTRIBU-
2 TIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOL-
3 ARLY COMPOSITIONS.—

4 “(A) IN GENERAL.—In the case of a quali-
5 fied artistic charitable contribution—

6 “(i) the amount of such contribution
7 taken into account under this section shall
8 be the fair market value of the property
9 contributed (determined at the time of
10 such contribution), and

11 “(ii) no reduction in the amount of
12 such contribution shall be made under
13 paragraph (1).

14 “(B) QUALIFIED ARTISTIC CHARITABLE
15 CONTRIBUTION.—For purposes of this para-
16 graph, the term ‘qualified artistic charitable
17 contribution’ means a charitable contribution of
18 any literary, musical, artistic, or scholarly com-
19 position, or similar property, or the copyright
20 thereon (or both), but only if—

21 “(i) such property was created by the
22 personal efforts of the taxpayer making
23 such contribution no less than 18 months
24 prior to such contribution,

25 “(ii) the taxpayer—

1 “(I) has received a qualified ap-
2 praisal of the fair market value of
3 such property in accordance with the
4 regulations under this section, and

5 “(II) attaches to the taxpayer’s
6 income tax return for the taxable year
7 in which such contribution was made
8 a copy of such appraisal,

9 “(iii) the donee is an organization de-
10 scribed in subsection (b)(1)(A),

11 “(iv) the use of such property by the
12 donee is related to the purpose or function
13 constituting the basis for the donee’s ex-
14 emption under section 501 (or, in the case
15 of a governmental unit, to any purpose or
16 function described under section 501(c)),

17 “(v) the taxpayer receives from the
18 donee a written statement representing
19 that the donee’s use of the property will be
20 in accordance with the provisions of clause
21 (iv), and

22 “(vi) the written appraisal referred to
23 in clause (ii) includes evidence of the ex-
24 tent (if any) to which property created by
25 the personal efforts of the taxpayer and of

1 the same type as the donated property is
2 or has been—

3 “(I) owned, maintained, and dis-
4 played by organizations described in
5 subsection (b)(1)(A), and

6 “(II) sold to or exchanged by
7 persons other than the taxpayer,
8 donee, or any related person (as de-
9 fined in section 465(b)(3)(C)).

10 “(C) MAXIMUM DOLLAR LIMITATION; NO
11 CARRYOVER OF INCREASED DEDUCTION.—The
12 increase in the deduction under this section by
13 reason of this paragraph for any taxable year—

14 “(i) shall not exceed the artistic ad-
15 justed gross income of the taxpayer for
16 such taxable year, and

17 “(ii) shall not be taken into account in
18 determining the amount which may be car-
19 ried from such taxable year under sub-
20 section (d).

21 “(D) ARTISTIC ADJUSTED GROSS IN-
22 COME.—For purposes of this paragraph, the
23 term ‘artistic adjusted gross income’ means
24 that portion of the adjusted gross income of the
25 taxpayer for the taxable year attributable to—

1 “(i) income from the sale or use of
2 property created by the personal efforts of
3 the taxpayer which is of the same type as
4 the donated property, and

5 “(ii) income from teaching, lecturing,
6 performing, or similar activity with respect
7 to property described in clause (i).

8 “(E) PARAGRAPH NOT TO APPLY TO CER-
9 TAIN CONTRIBUTIONS.—Subparagraph (A) shall
10 not apply to any charitable contribution of any
11 letter, memorandum, or similar property which
12 was written, prepared, or produced by or for an
13 individual while the individual is an officer or
14 employee of any person (including any govern-
15 ment agency or instrumentality) unless such
16 letter, memorandum, or similar property is en-
17 tirely personal.

18 “(F) COPYRIGHT TREATED AS SEPARATE
19 PROPERTY FOR PARTIAL INTEREST RULE.—In
20 the case of a qualified artistic charitable con-
21 tribution, the tangible literary, musical, artistic,
22 or scholarly composition, or similar property
23 and the copyright on such work shall be treated
24 as separate properties for purposes of this para-
25 graph and subsection (f)(3).”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to contributions made after the
 3 date of the enactment of this Act.

4 **SEC. 111. MILEAGE REIMBURSEMENTS TO CHARITABLE**
 5 **VOLUNTEERS EXCLUDED FROM GROSS IN-**
 6 **COME.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-
 8 ter 1 is amended by inserting after section 139 the fol-
 9 lowing new section:

10 **“SEC. 139A. MILEAGE REIMBURSEMENTS TO CHARITABLE**
 11 **VOLUNTEERS.**

12 “(a) IN GENERAL.—Gross income of an individual
 13 does not include amounts received, from an organization
 14 described in section 170(c), as reimbursement of operating
 15 expenses with respect to use of a passenger automobile
 16 for the benefit of such organization. The preceding sen-
 17 tence shall apply only to the extent that the expenses
 18 which are reimbursed would be deductible under this chap-
 19 ter if section 274(d) were applied—

20 “(1) by using the standard business mileage
 21 rate established under such section, and

22 “(2) as if the individual were an employee of an
 23 organization not described in section 170(c).

24 “(b) APPLICATION TO VOLUNTEER SERVICES
 25 ONLY.—Subsection (a) shall not apply with respect to any

1 expenses relating to the performance of services for com-
2 pensation.

3 “(c) NO DOUBLE BENEFIT.—A taxpayer may not
4 claim a deduction or credit under any other provision of
5 this title with respect to the expenses under subsection (a).

6 “(d) EXEMPTION FROM REPORTING REQUIRE-
7 MENTS.—Section 6041 shall not apply with respect to re-
8 imbursements excluded from income under subsection
9 (a).”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for part III of subchapter B of chapter 1 is amended by
12 inserting after the item relating to section 139 the fol-
13 lowing new item:

“Sec. 139A. Mileage reimbursements to charitable volunteers.”.

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

17 **SEC. 112. EXTENSION OF ENHANCED DEDUCTION FOR IN-**
18 **VENTORY TO INCLUDE PUBLIC SCHOOLS.**

19 (a) IN GENERAL.—Subparagraph (A) of section
20 170(e)(3) (relating to special rule for certain contributions
21 of inventory and other property) is amended by striking
22 “to an organization which is described in” and all that
23 follows through the end of clause (i) and inserting “to a
24 qualified organization, but only if—

1 “(i) the property is to be used by the
2 donee solely for the care of the ill, the
3 needy, or infants and, in the case of—

4 “(I) an organization described in
5 section 501(c)(3) (other than an orga-
6 nization described in subclause (II)),
7 the use of the property by the donee
8 is related to the purpose or function
9 constituting the basis for its exemp-
10 tion under section 501, and

11 “(II) an organization described
12 in subsection (b)(1)(A)(ii), the use of
13 the property by the donee is related to
14 educational purposes and such prop-
15 erty is not computer technology or
16 equipment (as defined in paragraph
17 (6)(F)(i));”.

18 (b) QUALIFIED ORGANIZATION.—Paragraph (3) of
19 section 170(e) of such Code is amended by redesignating
20 subparagraph (C) as subparagraph (D) and by inserting
21 after subparagraph (B) the following new subparagraph:

22 “(C) QUALIFIED ORGANIZATION.—For
23 purposes of this paragraph, the term ‘qualified
24 organization’ means—

1 “(i) an organization which is de-
 2 scribed in section 501(c)(3) and is exempt
 3 under section 501(a) (other than a private
 4 foundation, as defined in section 509(a),
 5 which is not an operating foundation, as
 6 defined in section 4942(j)(3)), and

7 “(ii) an educational organization de-
 8 scribed in subsection (b)(1)(A)(ii).”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to contributions made after De-
 11 cember 31, 2003.

12 **TITLE II—PROPOSALS IMPROV-**
 13 **ING THE OVERSIGHT OF TAX-**
 14 **EXEMPT ORGANIZATIONS**

15 **SEC. 201. DISCLOSURE OF WRITTEN DETERMINATIONS.**

16 (a) IN GENERAL.—Section 6110(l) (relating to sec-
 17 tion not to apply) is amended by striking all matter before
 18 subparagraph (A) of paragraph (2) and inserting the fol-
 19 lowing:

20 “(1) SECTION NOT TO APPLY.—

21 “(1) IN GENERAL.—This section shall not apply
 22 to any matter to which section 6104 or 6105 ap-
 23 plies, except that this section shall apply to any writ-
 24 ten determination and related background file docu-
 25 ment relating to an organization described under

1 subsection (c) or (d) of section 501 (including any
 2 written determination denying an organization tax-
 3 exempt status under such subsection) or a political
 4 organization described in section 527 which is not
 5 required to be disclosed by section 6104(a)(1)(A).

6 “(2) ADDITIONAL MATTERS.—This section shall
 7 not apply to any—”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to written determinations issued
 10 after the date of the enactment of this Act.

11 **SEC. 202. DISCLOSURE OF INTERNET WEB SITE AND NAME**
 12 **UNDER WHICH ORGANIZATION DOES BUSI-**
 13 **NESS.**

14 (a) IN GENERAL.—Section 6033 (relating to returns
 15 by exempt organizations) is amended by redesignating
 16 subsection (h) as subsection (i) and by inserting after sub-
 17 section (g) the following new subsection:

18 “(h) DISCLOSURE OF NAME UNDER WHICH ORGANI-
 19 ZATION DOES BUSINESS AND ITS INTERNET WEB
 20 SITE.—Any organization which is subject to the require-
 21 ments of subsection (a) shall include on the return re-
 22 quired under subsection (a)—

23 “(1) any name under which such organization
 24 operates or does business, and

1 “(2) the Internet web site address (if any) of
2 such organization.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to returns filed after December 31,
5 2003.

6 **SEC. 203. MODIFICATION TO REPORTING CAPITAL TRANS-**
7 **ACTIONS.**

8 (a) REQUIREMENT OF SUMMARY REPORT.—Section
9 6033(c) (relating to additional provisions relating to pri-
10 vate foundations) is amended by adding at the end the
11 following new sentence: “Any information included in an
12 annual return regarding the gain or loss from the sale or
13 other disposition of stock or securities which are listed on
14 an established securities market which is required to be
15 furnished in order to calculate the tax on net investment
16 income shall also be reported in summary form with a no-
17 tice that detailed information is available upon request by
18 the public.”.

19 (b) DISCLOSURE REQUIREMENT.—Section 6104(b)
20 (relating to inspection of annual information returns), as
21 amended by this Act, is amended by adding at the end
22 the following new sentence: “With respect to any private
23 foundation (as defined in section 509(a)), any information
24 regarding the gain or loss from the sale or other disposi-
25 tion of stock or securities which are listed on an estab-

1 lished securities market which is required to be furnished
2 in order to calculate the tax on net investment income but
3 which is not in summary form is not required to be made
4 available to the public under this subsection except upon
5 the explicit request by a member of the public to the Sec-
6 retary.”.

7 (c) PUBLIC INSPECTION REQUIREMENT.—Section
8 6104(d) (relating to public inspection of certain annual
9 returns, applications for exemptions, and notices of sta-
10 tus) is amended by adding at the end the following new
11 paragraph:

12 “(9) APPLICATION TO PRIVATE FOUNDATION
13 CAPITAL TRANSACTION INFORMATION.—With re-
14 spect to any private foundation (as defined in sec-
15 tion 509(a)), any information regarding the gain or
16 loss from the sale or other disposition of stock or se-
17 curities which are listed on an established securities
18 market which is required to be furnished in order to
19 calculate the tax on net investment income but
20 which is not in summary form is not required to be
21 made available to the public under this subsection
22 except upon the explicit request by a member of the
23 public to the private foundation in the form and
24 manner of a request described in paragraph
25 (1)(B).”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to returns filed after December 31,
 3 2003.

4 **SEC. 204. DISCLOSURE THAT FORM 990 IS PUBLICLY AVAIL-**
 5 **ABLE.**

6 (a) IN GENERAL.—The Commissioner of the Internal
 7 Revenue shall notify the public in appropriate publications
 8 or other materials of the extent to which an exempt orga-
 9 nization’s Form 990, Form 990–EZ, or Form 990–PF is
 10 publicly available.

11 (b) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to publications or other materials
 13 issued or revised after the date of the enactment of this
 14 Act.

15 **SEC. 205. DISCLOSURE TO STATE OFFICIALS OF PROPOSED**
 16 **ACTIONS RELATED TO SECTION 501(c) ORGA-**
 17 **NIZATIONS.**

18 (a) IN GENERAL.—Subsection (c) of section 6104 is
 19 amended by striking paragraph (2) and inserting the fol-
 20 lowing new paragraphs:

21 “(2) DISCLOSURE OF PROPOSED ACTIONS RE-
 22 LATED TO CHARITABLE ORGANIZATIONS.—

23 “(A) SPECIFIC NOTIFICATIONS.—In the
 24 case of an organization to which paragraph (1)

1 applies, the Secretary may disclose to the ap-
2 propriate State officer—

3 “(i) a notice of proposed refusal to
4 recognize such organization as an organi-
5 zation described in section 501(c)(3) or a
6 notice of proposed revocation of such orga-
7 nization’s recognition as an organization
8 exempt from taxation,

9 “(ii) the issuance of a letter of pro-
10 posed deficiency of tax imposed under sec-
11 tion 507 or chapter 41 or 42, and

12 “(iii) the names, addresses, and tax-
13 payer identification numbers of organiza-
14 tions which have applied for recognition as
15 organizations described in section
16 501(c)(3).

17 “(B) ADDITIONAL DISCLOSURES.—Returns
18 and return information of organizations with
19 respect to which information is disclosed under
20 subparagraph (A) may be made available for in-
21 spection by or disclosed to an appropriate State
22 officer.

23 “(C) PROCEDURES FOR DISCLOSURE.—In-
24 formation may be inspected or disclosed under
25 subparagraph (A) or (B) only—

1 “(i) upon written request by an ap-
2 propriate State officer, and

3 “(ii) for the purpose of, and only to
4 the extent necessary in, the administration
5 of State laws regulating such organiza-
6 tions.

7 Such information may only be inspected by or
8 disclosed to representatives of the appropriate
9 State officer designated as the individuals who
10 are to inspect or to receive the returns or re-
11 turn information under this paragraph on be-
12 half of such officer. Such representatives shall
13 not include any contractor or agent.

14 “(D) DISCLOSURES OTHER THAN BY RE-
15 QUEST.—The Secretary may make available for
16 inspection or disclose returns and return infor-
17 mation of an organization to which paragraph
18 (1) applies to an appropriate State officer of
19 any State if the Secretary determines that such
20 inspection or disclosure may facilitate the reso-
21 lution of Federal or State issues relating to the
22 tax-exempt status of such organization.

23 “(3) DISCLOSURE WITH RESPECT TO CERTAIN
24 OTHER EXEMPT ORGANIZATIONS.—Upon written re-
25 quest by an appropriate State officer, the Secretary

1 may make available for inspection or disclosure re-
2 turns and return information of an organization de-
3 scribed in paragraph (2), (4), (6), (7), (8), (10), or
4 (13) of section 501(c) for the purpose of, and to the
5 extent necessary in, the administration of State laws
6 regulating the solicitation or administration of the
7 charitable funds or charitable assets of such organi-
8 zations. Such information may be inspected only by
9 or disclosed only to representatives of the appro-
10 priate State officer designated as the individuals who
11 are to inspect or to receive the returns or return
12 information under this paragraph on behalf of such
13 officer. Such representatives shall not include any
14 contractor or agent.

15 “(4) USE IN CIVIL JUDICIAL AND ADMINISTRA-
16 TIVE PROCEEDINGS.—Returns and return informa-
17 tion disclosed pursuant to this subsection may be
18 disclosed in civil administrative and civil judicial pro-
19 ceedings pertaining to the enforcement of State laws
20 regulating such organizations in a manner pre-
21 scribed by the Secretary similar to that for tax ad-
22 ministration proceedings under section 6103(h)(4).

23 “(5) NO DISCLOSURE IF IMPAIRMENT.—Re-
24 turns and return information shall not be disclosed
25 under this subsection, or in any proceeding described

1 in paragraph (4), to the extent that the Secretary
2 determines that such disclosure would seriously im-
3 pair Federal tax administration.

4 “(6) DEFINITIONS.—For purposes of this sub-
5 section—

6 “(A) RETURN AND RETURN INFORMA-
7 TION.—The terms ‘return’ and ‘return informa-
8 tion’ have the respective meanings given to such
9 terms by section 6103(b).

10 “(B) APPROPRIATE STATE OFFICER.—The
11 term ‘appropriate State officer’ means—

12 “(i) the State attorney general,

13 “(ii) in the case of an organization to
14 which paragraph (1) applies, any other
15 State official charged with overseeing orga-
16 nizations of the type described in section
17 501(c)(3), and

18 “(iii) in the case of an organization to
19 which paragraph (3) applies, the head of
20 an agency designated by the State attorney
21 general as having primary responsibility
22 for overseeing the solicitation of funds for
23 charitable purposes.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Subsection (a) of section 6103 is amend-
2 ed—

3 (A) by inserting “or any appropriate State
4 officer who has or had access to returns or re-
5 turn information under section 6104(c)” after
6 “this section” in paragraph (2), and

7 (B) by striking “or subsection (n)” in
8 paragraph (3) and inserting “subsection (n), or
9 section 6104(c)”.

10 (2) Subparagraph (A) of section 6103(p)(3) is
11 amended by inserting “and section 6104(c)” after
12 “section” in the first sentence.

13 (3) Paragraph (4) of section 6103(p), as
14 amended by section 202(b)(2)(B) of the Trade Act
15 of 2002 (Public Law 107–210; 116 Stat. 961), is
16 amended by striking “or (17)” after “any other per-
17 son described in subsection (l)(16)” each place it ap-
18 pears and inserting “or (18) or any appropriate
19 State officer (as defined in section 6104(c))”.

20 (4) The heading for paragraph (1) of section
21 6104(c) is amended by inserting “FOR CHARITABLE
22 ORGANIZATIONS”.

23 (5) Paragraph (2) of section 7213(a) is amend-
24 ed by inserting “or under section 6104(c)” after
25 “6103”.

1 (6) Paragraph (2) of section 7213A(a) is
2 amended by inserting “or 6104(c)” after “6103”.

3 (7) Paragraph (2) of section 7431(a) is amend-
4 ed by inserting “(including any disclosure in viola-
5 tion of section 6104(c))” after “6103”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the date of the enactment
8 of this Act but shall not apply to requests made before
9 such date.

10 **SEC. 206. EXPANSION OF PENALTIES TO PREPARERS OF**
11 **FORM 990.**

12 (a) IN GENERAL.—Section 6695 (relating to other
13 assessable penalties with respect to the preparation of in-
14 come tax returns for other persons) is amended by adding
15 at the end the following new subsections:

16 “(h) CERTAIN OMISSIONS AND MISREPRESENTA-
17 TIONS.—

18 “(1) IN GENERAL.—Any person who prepares
19 for compensation any return under section 6033 who
20 omits or misrepresents any information with respect
21 to such return which was known or should have been
22 known by such person shall pay a penalty of \$250
23 with respect to such return.

1 “(2) EXCEPTION FOR MINOR, INADVERTENT
2 OMISSIONS.—Paragraph (1) shall not apply to
3 minor, inadvertent omissions.

4 “(3) RULES FOR DETERMINING RETURN PRE-
5 PARER.—For purposes of this subsection and sub-
6 section (i), any reference to a person who prepares
7 for compensation a return under section 6033—

8 “(A) shall include any person who employs
9 1 or more persons to prepare for compensation
10 a return under section 6033, and

11 “(B) shall not include any person who
12 would be described in clause (i), (ii), (iii), or
13 (iv) of section 7701(a)(36)(B) if such section
14 referred to a return under section 6033.

15 “(i) WILLFUL OR RECKLESS CONDUCT.—

16 “(1) IN GENERAL.—Any person who prepares
17 for compensation any return under section 6033 who
18 recklessly or intentionally misrepresents any infor-
19 mation or recklessly or intentionally disregards any
20 rule or regulation with respect to such return shall
21 pay a penalty of \$1,000 with respect to such return.

22 “(2) COORDINATION WITH OTHER PEN-
23 ALTIES.—With respect to any return, the amount of
24 the penalty payable by any person by reason of para-
25 graph (1) shall be reduced by the amount of the

1 penalty paid by such person by reason of subsection
2 (h) or section 6694.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) The heading for section 6695 is amended by
5 inserting “**AND OTHER**” after “**INCOME TAX**”.

6 (2) The item relating to section 6695 in the
7 table of sections for part I of subchapter B of chap-
8 ter 68 is amended by inserting “and other” after
9 “income tax”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to documents pre-
12 pared after the date of the enactment of this Act.

13 **SEC. 207. NOTIFICATION REQUIREMENT FOR ENTITIES NOT**
14 **CURRENTLY REQUIRED TO FILE.**

15 (a) IN GENERAL.—Section 6033 (relating to returns
16 by exempt organizations), as amended by this Act, is
17 amended by redesignating subsection (i) as subsection (j)
18 and by inserting after subsection (h) the following new
19 subsection:

20 “(i) ADDITIONAL NOTIFICATION REQUIREMENTS.—
21 Any organization the gross receipts of which in any tax-
22 able year result in such organization being referred to in
23 subsection (a)(2)(A)(ii) or (a)(2)(B)—

1 “(1) shall furnish annually, at such time and in
2 such manner as the Secretary may by forms or regu-
3 lations prescribe, information setting forth—

4 “(A) the legal name of the organization,

5 “(B) any name under which such organiza-
6 tion operates or does business,

7 “(C) the organization’s mailing address
8 and Internet web site address (if any),

9 “(D) the organization’s taxpayer identifica-
10 tion number,

11 “(E) the name and address of a principal
12 officer, and

13 “(F) evidence of the continuing basis for
14 the organization’s exemption from the filing re-
15 quirements under subsection (a)(1), and

16 “(2) upon the termination of the existence of
17 the organization, shall furnish notice of such termi-
18 nation.”.

19 (b) LOSS OF EXEMPT STATUS FOR FAILURE TO
20 FILE RETURN OR NOTICE.—Section 6033 (relating to re-
21 turns by exempt organizations), as amended by subsection
22 (a), is amended by redesignating subsection (j) as sub-
23 section (k) and by inserting after subsection (i) the fol-
24 lowing new subsection:

1 “(j) LOSS OF EXEMPT STATUS FOR FAILURE TO
2 FILE RETURN OR NOTICE.—

3 “(1) IN GENERAL.—If an organization de-
4 scribed in subsection (a)(1) or (i) fails to file an an-
5 nual return or notice required under either sub-
6 section for 3 consecutive years, such organization’s
7 status as an organization exempt from tax under
8 section 501(a) shall be considered revoked on and
9 after the date set by the Secretary for the filing of
10 the third annual return or notice. The Secretary
11 shall publish and maintain a list of any organization
12 the status of which is so revoked.

13 “(2) APPLICATION NECESSARY FOR REINSTATE-
14 MENT.—Any organization the tax-exempt status of
15 which is revoked under paragraph (1) must apply in
16 order to obtain reinstatement of such status regard-
17 less of whether such organization was originally re-
18 quired to make such an application.

19 “(3) RETROACTIVE REINSTATEMENT IF REA-
20 SONABLE CAUSE SHOWN FOR FAILURE.—If upon ap-
21 plication for reinstatement of status as an organiza-
22 tion exempt from tax under section 501(a), an orga-
23 nization described in paragraph (1) can show to the
24 satisfaction of the Secretary evidence of reasonable
25 cause for the failure described in such paragraph,

1 the organization’s exempt status may, in the discre-
2 tion of the Secretary, be reinstated effective from
3 the date of the revocation under such paragraph.”.

4 (c) NO DECLARATORY JUDGMENT RELIEF.—Section
5 7428(b) (relating to limitations) is amended by adding at
6 the end the following new paragraph:

7 “(4) NONAPPLICATION FOR CERTAIN REVOCA-
8 TIONS.—No action may be brought under this sec-
9 tion with respect to any revocation of status de-
10 scribed in section 6033(j)(1).”.

11 (d) NO INSPECTION REQUIREMENT.—Section
12 6104(b) (relating to inspection of annual information re-
13 turns) is amended by inserting “(other than subsection (i)
14 thereof)” after “6033”.

15 (e) NO DISCLOSURE REQUIREMENT.—Section
16 6104(d)(3) (relating to exceptions from disclosure require-
17 ments) is amended by redesignating subparagraph (B) as
18 subparagraph (C) and by inserting after subparagraph (A)
19 the following new subparagraph:

20 “(B) NONDISCLOSURE OF ANNUAL NO-
21 TICES.—Paragraph (1) shall not require the
22 disclosure of any notice required under section
23 6033(i).”.

24 (f) NO MONETARY PENALTY FOR FAILURE TO NO-
25 TIFY.—Section 6652(c)(1) (relating to annual returns

1 under section 6033 or 6012(a)(6)) is amended by adding
2 at the end the following new subparagraph:

3 “(E) NO PENALTY FOR CERTAIN ANNUAL
4 NOTICES.—This paragraph shall not apply with
5 respect to any notice required under section
6 6033(i).”.

7 (g) SECRETARIAL OUTREACH REQUIREMENTS.—

8 (1) NOTICE REQUIREMENT.—The Secretary of
9 the Treasury shall notify in a timely manner every
10 organization described in section 6033(i) of the In-
11 ternal Revenue Code of 1986 (as added by this sec-
12 tion) of the requirement under such section 6033(i)
13 and of the penalty established under section
14 6033(j)—

15 (A) by mail, in the case of any organiza-
16 tion the identity and address of which is in-
17 cluded in the list of exempt organizations main-
18 tained by the Secretary, and

19 (B) by Internet or other means of out-
20 reach, in the case of any other organization.

21 (2) LOSS OF STATUS PENALTY FOR FAILURE TO
22 FILE RETURN.—The Secretary of the Treasury shall
23 publicize in a timely manner in appropriate forms
24 and instructions and through other appropriate
25 means, the penalty established under section 6033(j)

1 of such Code for the failure to file a return under
 2 section 6033(a)(1) of such Code.

3 (h) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to notices and returns with respect
 5 to annual periods beginning after 2003.

6 **SEC. 208. SUSPENSION OF TAX-EXEMPT STATUS OF TER-**
 7 **RORIST ORGANIZATIONS.**

8 (a) IN GENERAL.—Section 501 of the Internal Rev-
 9 enue Code of 1986 (relating to exemption from tax on cor-
 10 porations, certain trusts, etc.) is amended by redesignig-
 11 nating subsection (p) as subsection (q) and by inserting
 12 after subsection (o) the following new subsection:

13 “(p) SUSPENSION OF TAX-EXEMPT STATUS OF TER-
 14 RORIST ORGANIZATIONS.—

15 “(1) IN GENERAL.—The exemption from tax
 16 under subsection (a) with respect to any organiza-
 17 tion described in paragraph (2), and the eligibility of
 18 any organization described in paragraph (2) to apply
 19 for recognition of exemption under subsection (a),
 20 shall be suspended during the period described in
 21 paragraph (3).

22 “(2) TERRORIST ORGANIZATIONS.—An organi-
 23 zation is described in this paragraph if such organi-
 24 zation is designated or otherwise individually identi-
 25 fied—

1 “(A) under section 212(a)(3)(B)(vi)(II) or
2 219 of the Immigration and Nationality Act as
3 a terrorist organization or foreign terrorist or-
4 ganization,

5 “(B) in or pursuant to an Executive order
6 which is related to terrorism and issued under
7 the authority of the International Emergency
8 Economic Powers Act or section 5 of the
9 United Nations Participation Act of 1945 for
10 the purpose of imposing on such organization
11 an economic or other sanction, or

12 “(C) in or pursuant to an Executive order
13 issued under the authority of any Federal law
14 if—

15 “(i) the organization is designated or
16 otherwise individually identified in or pur-
17 suant to such Executive order as sup-
18 porting or engaging in terrorist activity (as
19 defined in section 212(a)(3)(B) of the Im-
20 migration and Nationality Act) or sup-
21 porting terrorism (as defined in section
22 140(d)(2) of the Foreign Relations Author-
23 ization Act, Fiscal Years 1988 and 1989);
24 and

1 “(ii) such Executive order refers to
2 this subsection.

3 “(3) PERIOD OF SUSPENSION.—With respect to
4 any organization described in paragraph (2), the pe-
5 riod of suspension—

6 “(A) begins on the later of—

7 “(i) the date of the first publication of
8 a designation or identification described in
9 paragraph (2) with respect to such organi-
10 zation, or

11 “(ii) the date of the enactment of this
12 subsection, and

13 “(B) ends on the first date that all des-
14 ignations and identifications described in para-
15 graph (2) with respect to such organization are
16 rescinded pursuant to the law or Executive
17 order under which such designation or identi-
18 fication was made.

19 “(4) DENIAL OF DEDUCTION.—No deduction
20 shall be allowed under any provision of this title, in-
21 cluding sections 170, 545(b)(2), 556(b)(2), 642(c),
22 2055, 2106(a)(2), and 2522, with respect to any
23 contribution to an organization described in para-
24 graph (2) during the period described in paragraph
25 (3).

1 “(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL
2 CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-
3 TION.—Notwithstanding section 7428 or any other
4 provision of law, no organization or other person
5 may challenge a suspension under paragraph (1), a
6 designation or identification described in paragraph
7 (2), the period of suspension described in paragraph
8 (3), or a denial of a deduction under paragraph (4)
9 in any administrative or judicial proceeding relating
10 to the Federal tax liability of such organization or
11 other person.

12 “(6) ERRONEOUS DESIGNATION.—

13 “(A) IN GENERAL.—If—

14 “(i) the tax exemption of any organi-
15 zation described in paragraph (2) is sus-
16 pended under paragraph (1),

17 “(ii) each designation and identifica-
18 tion described in paragraph (2) which has
19 been made with respect to such organiza-
20 tion is determined to be erroneous pursu-
21 ant to the law or Executive order under
22 which such designation or identification
23 was made, and

24 “(iii) the erroneous designations and
25 identifications result in an overpayment of

1 income tax for any taxable year by such
2 organization,
3 credit or refund (with interest) with respect to
4 such overpayment shall be made.

5 “(B) WAIVER OF LIMITATIONS.—If the
6 credit or refund of any overpayment of tax de-
7 scribed in subparagraph (A)(iii) is prevented at
8 any time by the operation of any law or rule of
9 law (including res judicata), such credit or re-
10 fund may nevertheless be allowed or made if the
11 claim therefor is filed before the close of the 1-
12 year period beginning on the date of the last
13 determination described in subparagraph
14 (A)(ii).

15 “(7) NOTICE OF SUSPENSIONS.—If the tax ex-
16 emption of any organization is suspended under this
17 subsection, the Internal Revenue Service shall up-
18 date the listings of tax-exempt organizations and
19 shall publish appropriate notice to taxpayers of such
20 suspension and of the fact that contributions to such
21 organization are not deductible during the period of
22 such suspension.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to designations made before, on,
25 or after the date of the enactment of this Act.

1 **TITLE III—OTHER CHARITABLE**
2 **AND EXEMPT ORGANIZATION**
3 **PROVISIONS**

4 **SEC. 301. MODIFICATION OF EXCISE TAX ON UNRELATED**
5 **BUSINESS TAXABLE INCOME OF CHARITABLE**
6 **REMAINDER TRUSTS.**

7 (a) IN GENERAL.—Subsection (c) of section 664 (re-
8 lating to exemption from income taxes) is amended to read
9 as follows:

10 “(c) TAXATION OF TRUSTS.—

11 “(1) INCOME TAX.—A charitable remainder an-
12 nuity trust and a charitable remainder unitrust
13 shall, for any taxable year, not be subject to any tax
14 imposed by this subtitle.

15 “(2) EXCISE TAX.—

16 “(A) IN GENERAL.—In the case of a chari-
17 table remainder annuity trust or a charitable
18 remainder unitrust which has unrelated busi-
19 ness taxable income (within the meaning of sec-
20 tion 512, determined as if part III of sub-
21 chapter F applied to such trust) for a taxable
22 year, there is hereby imposed on such trust or
23 unitrust an excise tax equal to the amount of
24 such unrelated business taxable income.

1 “(B) CERTAIN RULES TO APPLY.—The tax
2 imposed by subparagraph (A) shall be treated
3 as imposed by chapter 42 for purposes of this
4 title other than subchapter E of chapter 42.

5 “(C) TAX COURT PROCEEDINGS.—For pur-
6 poses of this paragraph, the references in sec-
7 tion 6212(c)(1) to section 4940 shall be deemed
8 to include references to this paragraph.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to taxable years beginning after
11 December 31, 2002.

12 **SEC. 302. MODIFICATIONS TO SECTION 512(b)(13).**

13 (a) IN GENERAL.—Paragraph (13) of section 512(b)
14 (relating to special rules for certain amounts received from
15 controlled entities) is amended by redesignating subpara-
16 graph (E) as subparagraph (F) and by inserting after sub-
17 paragraph (D) the following new subparagraph:

18 “(E) PARAGRAPH TO APPLY ONLY TO EX-
19 CESS PAYMENTS.—

20 “(i) IN GENERAL.—Subparagraph (A)
21 shall apply only to the portion of a speci-
22 fied payment received or accrued by the
23 controlling organization that exceeds the
24 amount which would have been paid or ac-

1 crued if such payment met the require-
2 ments prescribed under section 482.

3 “(ii) ADDITION TO TAX FOR VALU-
4 ATION MISSTATEMENTS.—The tax imposed
5 by this chapter on the controlling organiza-
6 tion shall be increased by an amount equal
7 to 20 percent of the larger of—

8 “(I) such excess determined with-
9 out regard to any amendment or sup-
10 plement to a return of tax, or

11 “(II) such excess determined
12 with regard to all such amendments
13 and supplements.”.

14 (b) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendment made by
16 this section shall apply to payments received or ac-
17 crued after December 31, 2000.

18 (2) PAYMENTS SUBJECT TO BINDING CONTRACT
19 TRANSITION RULE.—If the amendments made by
20 section 1041 of the Taxpayer Relief Act of 1997 did
21 not apply to any amount received or accrued in the
22 first 2 taxable years beginning on or after the date
23 of the enactment of the Taxpayer Relief Act of 1997
24 under any contract described in subsection (b)(2) of
25 such section, such amendments also shall not apply

1 to amounts received or accrued under such contract
 2 before January 1, 2001.

3 **SEC. 303. SIMPLIFICATION OF LOBBYING EXPENDITURE**
 4 **LIMITATION.**

5 (a) REPEAL OF GRASSROOTS EXPENDITURE
 6 LIMIT.—Paragraph (1) of section 501(h) (relating to ex-
 7 penditures by public charities to influence legislation) is
 8 amended to read as follows:

9 “(1) GENERAL RULE.—In the case of an orga-
 10 nization to which this subsection applies, exemption
 11 from taxation under subsection (a) shall be denied
 12 because a substantial part of the activities of such
 13 organization consists of carrying on propaganda, or
 14 otherwise attempting, to influence legislation, but
 15 only if such organization normally makes lobbying
 16 expenditures in excess of the lobbying ceiling amount
 17 for such organization for each taxable year.”.

18 (b) EXCESS LOBBYING EXPENDITURES.—Section
 19 4911(b) is amended to read as follows:

20 “(b) EXCESS LOBBYING EXPENDITURES.—For pur-
 21 poses of this section, the term ‘excess lobbying expendi-
 22 tures’ means, for a taxable year, the amount by which the
 23 lobbying expenditures made by the organization during the
 24 taxable year exceed the lobbying nontaxable amount for
 25 such organization for such taxable year.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 501(h)(2) is amended by striking
3 subparagraphs (C) and (D).

4 (2) Section 4911(c) is amended by striking
5 paragraphs (3) and (4).

6 (3) Paragraph (1)(A) of section 4911(f) is
7 amended by striking “limits of section 501(h)(1)
8 have” and inserting “limit of section 501(h)(1)
9 has”.

10 (4) Paragraph (1)(C) of section 4911(f) is
11 amended by striking “limits of section 501(h)(1)
12 are” and inserting “limit of section 501(h)(1) is”.

13 (5) Paragraphs (4)(A) and (4)(B) of section
14 4911(f) are each amended by striking “limits of sec-
15 tion 501(h)(1)” and inserting “limit of section
16 501(h)(1)”.

17 (6) Paragraph (8) of section 6033(b) (relating
18 to certain organizations described in section
19 501(c)(3)) is amended by inserting “and” at the end
20 of subparagraph (A) and by striking subparagraphs
21 (C) and (D).

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

1 **SEC. 304. EXPEDITED REVIEW PROCESS FOR CERTAIN TAX-**
2 **EXEMPTION APPLICATIONS.**

3 (a) IN GENERAL.—The Secretary of the Treasury or
4 the Secretary’s delegate (in this section, referred to as the
5 “Secretary”) shall adopt procedures to expedite the con-
6 sideration of applications for exempt status under section
7 501(c)(3) of the Internal Revenue Code of 1986 filed after
8 December 31, 2003, by any organization that—

9 (1) is organized and operated for the primary
10 purpose of providing social services;

11 (2) is seeking a contract or grant under a Fed-
12 eral, State, or local program that provides funding
13 for social services programs;

14 (3) establishes that, under the terms and condi-
15 tions of the contract or grant program, an organiza-
16 tion is required to obtain such exempt status before
17 the organization is eligible to apply for a contract or
18 grant;

19 (4) includes with its exemption application a
20 copy of its completed Federal, State, or local con-
21 tract or grant application; and

22 (5) meets such other criteria as the Secretary
23 deems appropriate for expedited consideration.

24 The Secretary may prescribe other similar circumstances
25 in which such organizations may be entitled to expedited
26 consideration.

1 (b) WAIVER OF APPLICATION FEE FOR EXEMPT
2 STATUS.—Any organization that meets the conditions de-
3 scribed in subsection (a) (without regard to paragraph (3)
4 of that subsection) is entitled to a waiver of any fee for
5 an application for exempt status under section 501(c)(3)
6 of the Internal Revenue Code of 1986 if the organization
7 certifies that the organization has had (or expects to have)
8 average annual gross receipts of not more than \$50,000
9 during the preceding 4 years (or, in the case of an organi-
10 zation not in existence throughout the preceding 4 years,
11 during such organization’s first 4 years).

12 (c) SOCIAL SERVICES DEFINED.—For purposes of
13 this section—

14 (1) IN GENERAL.—The term “social services”
15 means services directed at helping people in need,
16 reducing poverty, improving outcomes of low-income
17 children, revitalizing low-income communities, and
18 empowering low-income families and low-income in-
19 dividuals to become self-sufficient, including—

20 (A) child care services, protective services
21 for children and adults, services for children
22 and adults in foster care, adoption services,
23 services related to the management and mainte-
24 nance of the home, day care services for adults,
25 and services to meet the special needs of chil-

1 dren, older individuals, and individuals with dis-
2 abilities (including physical, mental, or emo-
3 tional disabilities);

4 (B) transportation services;

5 (C) job training and related services, and
6 employment services;

7 (D) information, referral, and counseling
8 services;

9 (E) the preparation and delivery of meals,
10 and services related to soup kitchens or food
11 banks;

12 (F) health support services;

13 (G) literacy and mentoring programs;

14 (H) services for the prevention and treat-
15 ment of juvenile delinquency and substance
16 abuse, services for the prevention of crime and
17 the provision of assistance to the victims and
18 the families of criminal offenders, and services
19 related to the intervention in, and prevention of,
20 domestic violence; and

21 (I) services related to the provision of as-
22 sistance for housing under Federal law.

23 (2) EXCLUSIONS.—The term does not include a
24 program having the purpose of delivering edu-
25 cational assistance under the Elementary and Sec-

1 ondary Education Act of 1965 (20 U.S.C. 6301 et
2 seq.) or under the Higher Education Act of 1965
3 (20 U.S.C. 1001 et seq.).

4 **SEC. 305. CLARIFICATION OF DEFINITION OF CHURCH TAX**
5 **INQUIRY.**

6 Subsection (i) of section 7611 (relating to section not
7 to apply to criminal investigations, etc.) is amended by
8 striking “or” at the end of paragraph (4), by striking the
9 period at the end of paragraph (5) and inserting “, or”,
10 and by inserting after paragraph (5) the following:

11 “(6) information provided by the Secretary re-
12 lated to the standards for exemption from tax under
13 this title and the requirements under this title relat-
14 ing to unrelated business taxable income.”.

15 **SEC. 306. EXPANSION OF DECLARATORY JUDGMENT REM-**
16 **EDY TO TAX-EXEMPT ORGANIZATIONS.**

17 (a) IN GENERAL.—Paragraph (1) of section 7428(a)
18 (relating to creation of remedy) is amended—

19 (1) in subparagraph (B) by inserting after
20 “509(a)” the following: “or as a private operating
21 foundation (as defined in section 4942(j)(3))”; and

22 (2) by amending subparagraph (C) to read as
23 follows:

24 “(C) with respect to the initial qualifica-
25 tion or continuing qualification of an organiza-

1 tion as an organization described in section
2 501(c) (other than paragraph (3)) or 501(d)
3 which is exempt from tax under section 501(a),
4 or”.

5 (b) COURT JURISDICTION.—Subsection (a) of section
6 7428 is amended in the material following paragraph (2)
7 by striking “United States Tax Court, the United States
8 Claims Court, or the district court of the United States
9 for the District of Columbia” and inserting the following:
10 “United States Tax Court (in the case of any such deter-
11 mination or failure) or the United States Claims Court
12 or the district court of the United States for the District
13 of Columbia (in the case of a determination or failure with
14 respect to an issue referred to in subparagraph (A) or (B)
15 of paragraph (1)),”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to pleadings filed with respect to
18 determinations (or requests for determinations) made
19 after December 31, 2002.

20 **SEC. 307. DEFINITION OF CONVENTION OR ASSOCIATION**
21 **OF CHURCHES.**

22 Section 7701 (relating to definitions) is amended by
23 redesignating subsection (n) as subsection (o) and by in-
24 serting after subsection (m) the following new subsection:

1 “(n) CONVENTION OR ASSOCIATION OF CHURCHES.—
 2 For purposes of this title, any organization which is other-
 3 wise a convention or association of churches shall not fail
 4 to so qualify merely because the membership of such orga-
 5 nization includes individuals as well as churches or be-
 6 cause individuals have voting rights in such organiza-
 7 tion.”.

8 **SEC. 308. PAYMENTS BY CHARITABLE ORGANIZATIONS TO**
 9 **VICTIMS OF WAR ON TERRORISM AND FAMI-**
 10 **LIES OF ASTRONAUTS KILLED IN THE LINE**
 11 **OF DUTY.**

12 (a) IN GENERAL.—For purposes of the Internal Rev-
 13 enue Code of 1986—

14 (1) any payment made by an organization de-
 15 scribed in section 501(c)(3) of such Code to—

16 (A) a member of the Armed Forces of the
 17 United States, or to an individual of such mem-
 18 ber’s immediate family, by reason of the death,
 19 injury, wounding, or illness of such member in-
 20 curred as the result of the military response of
 21 the United States to the terrorist attacks
 22 against the United States on September 11,
 23 2001, or

24 (B) an individual of an astronaut’s imme-
 25 diate family by reason of the death of such as-

1 tronaut occurring in the line of duty after De-
2 cember 31, 2002,
3 shall be treated as related to the purpose or function
4 constituting the basis for such organization's exemp-
5 tion under section 501 of such Code if such payment
6 is made using an objective formula which is consist-
7 ently applied, and

8 (2) in the case of a private foundation (as de-
9 fined in section 509 of such Code), any payment de-
10 scribed in paragraph (1) shall not be treated as
11 made to a disqualified person for purposes of section
12 4941 of such Code.

13 (b) EFFECTIVE DATES.—This section shall apply
14 to—

15 (1) payments described in subsection (a)(1)(A)
16 made after the date of the enactment of this Act and
17 before September 11, 2004, and

18 (2) payments described in subsection (a)(1)(B)
19 made after December 31, 2002.

20 **SEC. 309. MODIFICATION OF SCHOLARSHIP FOUNDATION**
21 **RULES.**

22 In applying the limitations on the percentage of
23 scholarship grants which may be awarded after the date
24 of the enactment of this Act, to children of current or
25 former employees under Revenue Procedure 76-47, such

1 percentage shall be increased to 35 percent of the eligible
2 applicants to be considered by the selection committee and
3 to 20 percent of individuals eligible for the grants, but
4 only if the foundation awarding the grants demonstrates
5 that, in addition to meeting the other requirements of Rev-
6 enue Procedure 76-47, it provides a comparable number
7 and aggregate amount of grants during the same program
8 year to individuals who are not such employees, children
9 or dependents of such employees, or affiliated with the em-
10 ployer of such employees.

11 **SEC. 310. TREATMENT OF CERTAIN HOSPITAL SUPPORT**
12 **ORGANIZATIONS AS QUALIFIED ORGANIZA-**
13 **TIONS FOR PURPOSES OF DETERMINING AC-**
14 **QUISITION INDEBTEDNESS.**

15 (a) IN GENERAL.—Subparagraph (C) of section
16 514(c)(9) (relating to real property acquired by a qualified
17 organization) is amended by striking “or” at the end of
18 clause (ii), by striking the period at the end of clause (iii)
19 and inserting “; or”, and by adding at the end the fol-
20 lowing new clause:

21 “(iv) a qualified hospital support
22 organization (as defined in subpara-
23 graph (I)).”.

1 (b) QUALIFIED HOSPITAL SUPPORT ORGANIZA-
 2 TIONS.—Paragraph (9) of section 514(c) is amended by
 3 adding at the end the following new subparagraph:

4 “(I) QUALIFIED HOSPITAL SUPPORT ORGA-
 5 NIZATIONS.—For purposes of subparagraph
 6 (C)(iv), the term ‘qualified hospital support or-
 7 ganization’ means, with respect to any eligible
 8 indebtedness (including any qualified refi-
 9 nancing of such eligible indebtedness), a sup-
 10 port organization (as defined in section
 11 509(a)(3)) which supports a hospital described
 12 in section 119(d)(4)(B) and with respect to
 13 which—

14 “(i) more than half of the organi-
 15 zation’s assets (by value) at any time
 16 since its organization—

17 “(I) were acquired, directly
 18 or indirectly, by testamentary gift
 19 or devise, and

20 “(II) consisted of real prop-
 21 erty, and

22 “(ii) the fair market value of the
 23 organization’s real estate acquired, di-
 24 rectly or indirectly, by gift or devise,
 25 exceeded 25 percent of the fair mar-

1 ket value of all investment assets held
2 by the organization immediately prior
3 to the time that the eligible indebted-
4 ness was incurred.

5 For purposes of this subparagraph, the term
6 ‘eligible indebtedness’ means indebtedness se-
7 cured by real property acquired by the organi-
8 zation, directly or indirectly, by gift or devise,
9 the proceeds of which are used exclusively to ac-
10 quire any leasehold interest in such real prop-
11 erty or for improvements on, or repairs to, such
12 real property. A determination under clauses (i)
13 and (ii) of this subparagraph shall be made
14 each time such an eligible indebtedness (or the
15 qualified refinancing of such an eligible indebt-
16 edness) is incurred. For purposes of this sub-
17 paragraph, a refinancing of such an eligible in-
18 debtedness shall be considered qualified if such
19 refinancing does not exceed the amount of the
20 refinanced eligible indebtedness immediately be-
21 fore the refinancing.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to indebtedness incurred after De-
24 cember 31, 2003.

1 **SEC. 311. CHARITABLE CONTRIBUTION DEDUCTION FOR**
 2 **CERTAIN EXPENSES INCURRED IN SUPPORT**
 3 **OF NATIVE ALASKAN SUBSISTENCE WHAL-**
 4 **ING.**

5 (a) IN GENERAL.—Section 170 (relating to chari-
 6 table, etc., contributions and gifts), as amended by this
 7 Act, is amended by redesignating subsection (n) as sub-
 8 section (o) and by inserting after subsection (m) the fol-
 9 lowing new subsection:

10 “(n) EXPENSES PAID BY CERTAIN WHALING CAP-
 11 TAINS IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE
 12 WHALING.—

13 “(1) IN GENERAL.—In the case of an individual
 14 who is recognized by the Alaska Eskimo Whaling
 15 Commission as a whaling captain charged with the
 16 responsibility of maintaining and carrying out sanc-
 17 tioned whaling activities and who engages in such
 18 activities during the taxable year, the amount de-
 19 scribed in paragraph (2) (to the extent such amount
 20 does not exceed \$10,000 for the taxable year) shall
 21 be treated for purposes of this section as a chari-
 22 table contribution.

23 “(2) AMOUNT DESCRIBED.—

24 “(A) IN GENERAL.—The amount described
 25 in this paragraph is the aggregate of the rea-
 26 sonable and necessary whaling expenses paid by

1 the taxpayer during the taxable year in carrying
2 out sanctioned whaling activities.

3 “(B) WHALING EXPENSES.—For purposes
4 of subparagraph (A), the term ‘whaling ex-
5 penses’ includes expenses for—

6 “(i) the acquisition and maintenance
7 of whaling boats, weapons, and gear used
8 in sanctioned whaling activities,

9 “(ii) the supplying of food for the
10 crew and other provisions for carrying out
11 such activities, and

12 “(iii) storage and distribution of the
13 catch from such activities.

14 “(3) SANCTIONED WHALING ACTIVITIES.—For
15 purposes of this subsection, the term ‘sanctioned
16 whaling activities’ means subsistence bowhead whale
17 hunting activities conducted pursuant to the man-
18 agement plan of the Alaska Eskimo Whaling Com-
19 mission.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall apply to contributions made after De-
22 cember 31, 2003.

1 **SEC. 312. MATCHING GRANTS TO LOW-INCOME TAXPAYER**
 2 **CLINICS FOR RETURN PREPARATION.**

3 (a) IN GENERAL.—Chapter 77 (relating to miscella-
 4 neous provisions) is amended by inserting after section
 5 7526 the following new section:

6 **“SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-IN-**
 7 **COME TAXPAYERS.**

8 “(a) IN GENERAL.—The Secretary may, subject to
 9 the availability of appropriated funds, make grants to pro-
 10 vide matching funds for the development, expansion, or
 11 continuation of qualified return preparation clinics.

12 “(b) DEFINITIONS.—For purposes of this section—

13 “(1) QUALIFIED RETURN PREPARATION CLIN-
 14 IC.—

15 “(A) IN GENERAL.—The term ‘qualified
 16 return preparation clinic’ means a clinic
 17 which—

18 “(i) does not charge more than a
 19 nominal fee for its services (except for re-
 20 imbursement of actual costs incurred), and

21 “(ii) operates programs which assist
 22 low-income taxpayers in preparing and fil-
 23 ing their Federal income tax returns, in-
 24 cluding schedules reporting sole proprietor-
 25 ship or farm income.

1 “(B) ASSISTANCE TO LOW-INCOME TAX-
2 PAYERS.—A clinic is treated as assisting low-in-
3 come taxpayers under subparagraph (A)(ii) if
4 at least 90 percent of the taxpayers assisted by
5 the clinic have incomes which do not exceed 250
6 percent of the poverty level, as determined in
7 accordance with criteria established by the Di-
8 rector of the Office of Management and Budg-
9 et.

10 “(2) CLINIC.—The term ‘clinic’ includes—

11 “(A) a clinical program at an eligible edu-
12 cational institution (as defined in section
13 529(e)(5)) which satisfies the requirements of
14 paragraph (1) through student assistance of
15 taxpayers in return preparation and filing, and

16 “(B) an organization described in section
17 501(c) and exempt from tax under section
18 501(a) which satisfies the requirements of para-
19 graph (1).

20 “(c) SPECIAL RULES AND LIMITATIONS.—

21 “(1) AGGREGATE LIMITATION.—Unless other-
22 wise provided by specific appropriation, the Sec-
23 retary shall not allocate more than \$10,000,000 per
24 year (exclusive of costs of administering the pro-
25 gram) to grants under this section.

1 “(2) OTHER APPLICABLE RULES.—Rules simi-
 2 lar to the rules under paragraphs (2) through (5) of
 3 section 7526(c) shall apply with respect to the
 4 awarding of grants to qualified return preparation
 5 clinics.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
 7 for chapter 77 is amended by inserting after the item re-
 8 lating to section 7526 the following new item:

“Sec. 7526A. Return preparation clinics for low-income tax-
 payers.”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to grants made after the date of
 11 the enactment of this Act.

12 **TITLE IV—SOCIAL SERVICES**

13 **BLOCK GRANT**

14 **SEC. 401. RESTORATION OF FUNDS FOR THE SOCIAL SERV-**

15 **ICES BLOCK GRANT.**

16 (a) FINDINGS.—Congress makes the following find-
 17 ings:

18 (1) On August 22, 1996, the Personal Respon-
 19 sibility and Work Opportunity Reconciliation Act of
 20 1996 (Public Law 104–193; 110 Stat. 2105) was
 21 signed into law.

22 (2) In enacting that law, Congress authorized
 23 \$2,800,000,000 for fiscal year 2003 and each fiscal
 24 year thereafter to carry out the Social Services

1 Block Grant program established under title XX of
2 the Social Security Act (42 U.S.C. 1397 et seq.).

3 (b) RESTORATION OF FUNDS.—Section 2003(c)(11)
4 of the Social Security Act (42 U.S.C. 1397b(c)(11)) is
5 amended by inserting “, except that, with respect to fiscal
6 year 2003, the amount shall be \$1,975,000,000, and with
7 respect to fiscal year 2004, the amount shall be
8 \$2,800,000,000” after “thereafter.”.

9 **SEC. 402. RESTORATION OF AUTHORITY TO TRANSFER UP**
10 **TO 10 PERCENT OF TANF FUNDS TO THE SO-**
11 **CIAL SERVICES BLOCK GRANT.**

12 (a) IN GENERAL.—Section 404(d)(2) of the Social
13 Security Act (42 U.S.C. 604(d)(2)) is amended to read
14 as follows:

15 “(2) LIMITATION ON AMOUNT TRANSFERABLE
16 TO TITLE XX PROGRAMS.—A State may use not
17 more than 10 percent of the amount of any grant
18 made to the State under section 403(a) for a fiscal
19 year to carry out State programs pursuant to title
20 XX.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) applies to amounts made available for fiscal
23 year 2003 and each fiscal year thereafter.

1 **SEC. 403. REQUIREMENT TO SUBMIT ANNUAL REPORT ON**
2 **STATE ACTIVITIES.**

3 (a) **IN GENERAL.**—Section 2006(c) of the Social Se-
4 curity Act (42 U.S.C. 1397e(c)) is amended by adding at
5 the end the following: “The Secretary shall compile the
6 information submitted by the States and submit that in-
7 formation to Congress on an annual basis.”.

8 (b) **EFFECTIVE DATE.**—The amendment made by
9 subsection (a) applies to information submitted by States
10 under section 2006 of the Social Security Act (42 U.S.C.
11 1397e) with respect to fiscal year 2002 and each fiscal
12 year thereafter.

13 **TITLE V—INDIVIDUAL**
14 **DEVELOPMENT ACCOUNTS**

15 **SEC. 501. SHORT TITLE.**

16 This title may be cited as the “Savings for Working
17 Families Act of 2003”.

18 **SEC. 502. PURPOSES.**

19 The purposes of this title are to provide for the estab-
20 lishment of individual development account programs that
21 will—

22 (1) provide individuals and families with limited
23 means an opportunity to accumulate assets and to
24 enter the financial mainstream,

25 (2) promote education, homeownership, and the
26 development of small businesses,

- 1 (3) stabilize families and build communities,
2 and
3 (4) support continued United States economic
4 expansion.

5 **SEC. 503. DEFINITIONS.**

6 As used in this title:

7 (1) ELIGIBLE INDIVIDUAL.—

8 (A) IN GENERAL.—The term “eligible indi-
9 vidual” means, with respect to any taxable year,
10 an individual who—

11 (i) has attained the age of 18 but not
12 the age of 61 as of the last day of such
13 taxable year,

14 (ii) is a citizen or lawful permanent
15 resident (within the meaning of section
16 7701(b)(6) of the Internal Revenue Code
17 of 1986) of the United States as of the
18 last day of such taxable year,

19 (iii) was not a student (as defined in
20 section 151(c)(4) of such Code) for the im-
21 mediately preceding taxable year,

22 (iv) is not an individual with respect
23 to whom a deduction under section 151 of
24 such Code is allowable to another taxpayer
25 for a taxable year of the other taxpayer

1 ending during the immediately preceding
2 taxable year of the individual,

3 (v) is not a taxpayer described in sub-
4 section (c), (d), or (e) of section 6402 of
5 such Code for the immediately preceding
6 taxable year,

7 (vi) is not a taxpayer described in sec-
8 tion 1(d) of such Code for the immediately
9 preceding taxable year, and

10 (vii) is a taxpayer the modified ad-
11 justed gross income of whom for the imme-
12 diately preceding taxable year does not ex-
13 ceed—

14 (I) \$18,000, in the case of a tax-
15 payer described in section 1(c) of such
16 Code,

17 (II) \$30,000, in the case of a
18 taxpayer described in section 1(b) of
19 such Code, and

20 (III) \$38,000, in the case of a
21 taxpayer described in section 1(a) of
22 such Code.

23 (B) INFLATION ADJUSTMENT.—

24 (i) IN GENERAL.—In the case of any
25 taxable year beginning after 2004, each

1 dollar amount referred to in subparagraph
2 (A)(vii) shall be increased by an amount
3 equal to—

4 (I) such dollar amount, multi-
5 plied by

6 (II) the cost-of-living adjustment
7 determined under section (1)(f)(3) of
8 the Internal Revenue Code of 1986
9 for the calendar year in which the tax-
10 able year begins, by substituting
11 “2003” for “1992”.

12 (ii) ROUNDING.—If any amount as
13 adjusted under clause (i) is not a multiple
14 of \$50, such amount shall be rounded to
15 the nearest multiple of \$50.

16 (C) MODIFIED ADJUSTED GROSS IN-
17 COME.—For purposes of subparagraph (A)(v),
18 the term “modified adjusted gross income”
19 means adjusted gross income—

20 (i) determined without regard to sec-
21 tions 86, 893, 911, 931, and 933 of the
22 Internal Revenue Code of 1986, and

23 (ii) increased by the amount of inter-
24 est received or accrued by the taxpayer

1 during the taxable year which is exempt
2 from tax.

3 (2) INDIVIDUAL DEVELOPMENT ACCOUNT.—

4 The term “Individual Development Account” means
5 an account established for an eligible individual as
6 part of a qualified individual development account
7 program, but only if the written governing instru-
8 ment creating the account meets the following re-
9 quirements:

10 (A) The owner of the account is the indi-
11 vidual for whom the account was established.

12 (B) No contribution will be accepted unless
13 it is in cash, and, except in the case of any
14 qualified rollover, contributions will not be ac-
15 cepted for the taxable year in excess of \$1,500
16 on behalf of any individual.

17 (C) The trustee of the account is a quali-
18 fied financial institution.

19 (D) The assets of the account will not be
20 commingled with other property except in a
21 common trust fund or common investment
22 fund.

23 (E) Except as provided in section 507(b),
24 any amount in the account may be paid out

1 only for the purpose of paying the qualified ex-
2 penses of the account owner.

3 (3) PARALLEL ACCOUNT.—The term “parallel
4 account” means a separate, parallel individual or
5 pooled account for all matching funds and earnings
6 dedicated to an Individual Development Account
7 owner as part of a qualified individual development
8 account program, the trustee of which is a qualified
9 financial institution.

10 (4) QUALIFIED FINANCIAL INSTITUTION.—The
11 term “qualified financial institution” means any per-
12 son authorized to be a trustee of any individual re-
13 tirement account under section 408(a)(2) of the In-
14 ternal Revenue Code of 1986.

15 (5) QUALIFIED INDIVIDUAL DEVELOPMENT AC-
16 COUNT PROGRAM.—The term “qualified individual
17 development account program” means a program es-
18 tablished upon approval of the Secretary under sec-
19 tion 504 after December 31, 2002, under which—

20 (A) Individual Development Accounts and
21 parallel accounts are held in trust by a qualified
22 financial institution, and

23 (B) additional activities determined by the
24 Secretary, in consultation with the Secretary of
25 Health and Human Services, as necessary to re-

1 sponsibly develop and administer accounts, in-
2 cluding recruiting, providing financial education
3 and other training to Account owners, and reg-
4 ular program monitoring, are carried out by the
5 qualified financial institution.

6 (6) QUALIFIED EXPENSE DISTRIBUTION.—

7 (A) IN GENERAL.—The term “qualified ex-
8 pense distribution” means any amount paid (in-
9 cluding through electronic payments) or distrib-
10 uted out of an Individual Development Account
11 or a parallel account established for an eligible
12 individual if such amount—

13 (i) is used exclusively to pay the quali-
14 fied expenses of the Individual Develop-
15 ment Account owner or such owner’s
16 spouse or dependents,

17 (ii) is paid by the qualified financial
18 institution—

19 (I) except as otherwise provided
20 in this clause, directly to the unre-
21 lated third party to whom the amount
22 is due,

23 (II) in the case of any qualified
24 rollover, directly to another Individual

1 Development Account and parallel ac-
2 count, or

3 (III) in the case of a qualified
4 final distribution, directly to the
5 spouse, dependent, or other named
6 beneficiary of the deceased Account
7 owner, and

8 (iii) is paid after the Account owner
9 has completed a financial education course
10 if required under section 505(b).

11 (B) QUALIFIED EXPENSES.—

12 (i) IN GENERAL.—The term “qualified
13 expenses” means any of the following ex-
14 penses approved by the qualified financial
15 institution:

16 (I) Qualified higher education ex-
17 penses.

18 (II) Qualified first-time home-
19 buyer costs.

20 (III) Qualified business capital-
21 ization or expansion costs.

22 (IV) Qualified rollovers.

23 (V) Qualified final distribution.

24 (ii) QUALIFIED HIGHER EDUCATION
25 EXPENSES.—

1 (I) IN GENERAL.—The term
2 “qualified higher education expenses”
3 has the meaning given such term by
4 section 529(e)(3) of the Internal Rev-
5 enue Code of 1986, determined by
6 treating the Account owner, the own-
7 er’s spouse, or one or more of the
8 owner’s dependents as a designated
9 beneficiary, and reduced as provided
10 in section 25A(g)(2) of such Code.

11 (II) COORDINATION WITH OTHER
12 BENEFITS.—The amount of expenses
13 which may be taken into account for
14 purposes of section 135, 529, or 530
15 of such Code for any taxable year
16 shall be reduced by the amount of any
17 qualified higher education expenses
18 taken into account as qualified ex-
19 pense distributions during such tax-
20 able year.

21 (iii) QUALIFIED FIRST-TIME HOME-
22 BUYER COSTS.—The term “qualified first-
23 time homebuyer costs” means qualified ac-
24 quisition costs (as defined in section
25 72(t)(8)(C) of the Internal Revenue Code

1 of 1986) with respect to a principal resi-
2 dence (within the meaning of section 121
3 of such Code) for a qualified first-time
4 homebuyer (as defined in section
5 72(t)(8)(D)(i) of such Code).

6 (iv) QUALIFIED BUSINESS CAPITAL-
7 IZATION OR EXPANSION COSTS.—

8 (I) IN GENERAL.—The term
9 “qualified business capitalization or
10 expansion costs” means qualified ex-
11 penditures for the capitalization or ex-
12 pansion of a qualified business pursu-
13 ant to a qualified business plan.

14 (II) QUALIFIED EXPENDI-
15 TURES.—The term “qualified expendi-
16 tures” means expenditures normally
17 associated with starting or expanding
18 a business and included in a qualified
19 business plan, including costs for cap-
20 ital, plant, and equipment, inventory
21 expenses, and attorney and accounting
22 fees.

23 (III) QUALIFIED BUSINESS.—
24 The term “qualified business” means

1 any business that does not contravene
2 any law.

3 (IV) QUALIFIED BUSINESS
4 PLAN.—The term “qualified business
5 plan” means a business plan which
6 has been approved by the qualified fi-
7 nancial institution and which meets
8 such requirements as the Secretary
9 may specify.

10 (v) QUALIFIED ROLLOVERS.—The
11 term “qualified rollover” means the com-
12 plete distribution of the amounts in an In-
13 dividual Development Account and parallel
14 account to another Individual Development
15 Account and parallel account established in
16 another qualified financial institution for
17 the benefit of the Account owner.

18 (vi) QUALIFIED FINAL DISTRIBUTION.—The term “qualified final distribu-
19 tion” means, in the case of a deceased Ac-
20 count owner, the complete distribution of
21 the amounts in the Individual Development
22 Account and parallel account directly to
23 the spouse, any dependent, or other named
24 beneficiary of the deceased.
25

1 (7) SECRETARY.—The term “Secretary” means
2 the Secretary of the Treasury.

3 **SEC. 504. STRUCTURE AND ADMINISTRATION OF QUALI-**
4 **FIED INDIVIDUAL DEVELOPMENT ACCOUNT**
5 **PROGRAMS.**

6 (a) ESTABLISHMENT OF QUALIFIED INDIVIDUAL DE-
7 VELOPMENT ACCOUNT PROGRAMS.—Any qualified finan-
8 cial institution may apply to the Secretary for approval
9 to establish 1 or more qualified individual development ac-
10 count programs which meet the requirements of this title
11 and for an allocation of the Individual Development Ac-
12 count limitation under section 45G(i)(3) of the Internal
13 Revenue Code of 1986 with respect to such programs.

14 (b) BASIC PROGRAM STRUCTURE.—

15 (1) IN GENERAL.—All qualified individual de-
16 velopment account programs shall consist of the fol-
17 lowing 2 components for each participant:

18 (A) An Individual Development Account to
19 which an eligible individual may contribute cash
20 in accordance with section 505.

21 (B) A parallel account to which all match-
22 ing funds shall be deposited in accordance with
23 section 506.

24 (2) TAILORED IDA PROGRAMS.—A qualified fi-
25 nancial institution may tailor its qualified individual

1 development account program to allow matching
 2 funds to be spent on 1 or more of the categories of
 3 qualified expenses.

4 (3) NO FEES MAY BE CHARGED TO IDAS.—A
 5 qualified financial institution may not charge any
 6 fees to any Individual Development Account or par-
 7 allel account under a qualified individual develop-
 8 ment account program.

9 (c) COORDINATION WITH PUBLIC HOUSING AGENCY
 10 INDIVIDUAL SAVINGS ACCOUNTS.—Section 3(e)(2) of the
 11 United States Housing Act of 1937 (42 U.S.C.
 12 1437a(e)(2)) is amended by inserting “or in any Indi-
 13 vidual Development Account established under the Sav-
 14 ings for Working Families Act of 2003” after “sub-
 15 section”.

16 (d) TAX TREATMENT OF PARALLEL ACCOUNTS.—

17 (1) IN GENERAL.—Chapter 77 (relating to mis-
 18 cellaneous provisions) is amended by adding at the
 19 end the following new section:

20 **“SEC. 7525. TAX INCENTIVES FOR INDIVIDUAL DEVELOP-**
 21 **MENT PARALLEL ACCOUNTS.**

22 “For purposes of this title—

23 “(1) any account described in section
 24 504(b)(1)(B) of the Savings for Working Families
 25 Act of 2003 shall be exempt from taxation,

1 “(2) except as provided in section 45G, no item
2 of income, expense, basis, gain, or loss with respect
3 to such an account may be taken into account, and

4 “(3) any amount withdrawn from such an ac-
5 count shall not be includible in gross income.”.

6 (2) CONFORMING AMENDMENT.—The table of
7 sections for chapter 77 is amended by adding at the
8 end the following new item:

“Sec. 7525. Tax incentives for individual development parallel ac-
counts.”.

9 (e) COORDINATION OF CERTAIN EXPENSES.—Section
10 25A(g)(2) is amended by striking “and” at the end of sub-
11 paragraph (C), by striking the period at the end of sub-
12 paragraph (D) and inserting “, and”, and by adding at
13 the end the following new subparagraph:

14 “(D) a qualified expense distribution with
15 respect to qualified higher education expenses
16 from an Individual Development Account or a
17 parallel account under section 507(a) of the
18 Savings for Working Families Act of 2003.”.

19 **SEC. 505. PROCEDURES FOR OPENING AND MAINTAINING**
20 **AN INDIVIDUAL DEVELOPMENT ACCOUNT**
21 **AND QUALIFYING FOR MATCHING FUNDS.**

22 (a) OPENING AN ACCOUNT.—An eligible individual
23 may open an Individual Development Account with a
24 qualified financial institution upon certification that such

1 individual has never maintained any other Individual De-
2 velopment Account (other than an Individual Development
3 Account to be terminated by a qualified rollover).

4 (b) REQUIRED COMPLETION OF FINANCIAL EDU-
5 CATION COURSE.—

6 (1) IN GENERAL.—Before becoming eligible to
7 withdraw funds to pay for qualified expenses, owners
8 of Individual Development Accounts must complete
9 1 or more financial education courses specified in
10 the qualified individual development account pro-
11 gram.

12 (2) STANDARD AND APPLICABILITY OF
13 COURSE.—The Secretary, in consultation with rep-
14 resentatives of qualified individual development ac-
15 count programs and financial educators, shall not
16 later than January 1, 2004, establish minimum
17 quality standards for the contents of financial edu-
18 cation courses and providers of such courses de-
19 scribed in paragraph (1) and a protocol to exempt
20 individuals from the requirement under paragraph
21 (1) in the case of hardship, lack of need, the attain-
22 ment of age 65, or a qualified final distribution.

23 (c) PROOF OF STATUS AS AN ELIGIBLE INDI-
24 VIDUAL.—Federal income tax forms for the immediately
25 preceding taxable year and any other evidence of eligibility

1 which may be required by a qualified financial institution
 2 shall be presented to such institution at the time of the
 3 establishment of the Individual Development Account and
 4 in any taxable year in which contributions are made to
 5 the Account to qualify for matching funds under section
 6 506(b)(1)(A).

7 (d) SPECIAL RULE IN THE CASE OF MARRIED INDI-
 8 VIDUALS.—For purposes of this title, if, with respect to
 9 any taxable year, 2 married individuals file a Federal joint
 10 income tax return, then not more than 1 of such individ-
 11 uals may be treated as an eligible individual with respect
 12 to the succeeding taxable year.

13 **SEC. 506. DEPOSITS BY QUALIFIED INDIVIDUAL DEVELOP-**
 14 **MENT ACCOUNT PROGRAMS.**

15 (a) PARALLEL ACCOUNTS.—The qualified financial
 16 institution shall deposit all matching funds for each Indi-
 17 vidual Development Account into a parallel account at a
 18 qualified financial institution.

19 (b) REGULAR DEPOSITS OF MATCHING FUNDS.—

20 (1) IN GENERAL.—Subject to paragraph (2),
 21 the qualified financial institution shall deposit into
 22 the parallel account with respect to each eligible in-
 23 dividual the following amounts:

24 (A) A dollar-for-dollar match for the first
 25 \$500 contributed by the eligible individual into

1 an Individual Development Account with re-
2 spect to any taxable year of such individual.

3 (B) Any matching funds provided by State,
4 local, or private sources in accordance with the
5 matching ratio set by those sources.

6 (2) TIMING OF DEPOSITS.—A deposit of the
7 amounts described in paragraph (1) shall be made
8 into a parallel account—

9 (A) in the case of amounts described in
10 paragraph (1)(A), not later than 30 days after
11 the end of the calendar quarter during which
12 the contribution described in such paragraph
13 was made, and

14 (B) in the case of amounts described in
15 paragraph (1)(B), not later than 2 business
16 days after such amounts were provided.

17 (3) CROSS REFERENCE.—

For allowance of tax credit for Individual Development Account subsidies, including matching funds, see section 45G of the Internal Revenue Code of 1986.

18 (c) DEPOSIT OF MATCHING FUNDS INTO INDI-
19 VIDUAL DEVELOPMENT ACCOUNT OF INDIVIDUAL WHO
20 HAS ATTAINED AGE 65.—In the case of an Individual De-
21 velopment Account owner who attains the age of 65, the
22 qualified financial institution shall deposit the funds in the
23 parallel account with respect to such individual into the

1 Individual Development Account of such individual on the
2 later of—

3 (1) the day which is the 1-year anniversary of
4 the deposit of such funds in the parallel account, or

5 (2) the first business day of the taxable year of
6 such individual following the taxable year in which
7 such individual attained age 65.

8 (d) UNIFORM ACCOUNTING REGULATIONS.—To en-
9 sure proper recordkeeping and determination of the tax
10 credit under section 45G of the Internal Revenue Code
11 of 1986, the Secretary shall prescribe regulations with re-
12 spect to accounting for matching funds in the parallel ac-
13 counts.

14 (e) REGULAR REPORTING OF ACCOUNTS.—Any
15 qualified financial institution shall report the balances in
16 any Individual Development Account and parallel account
17 of an individual on not less than an annual basis to such
18 individual.

19 **SEC. 507. WITHDRAWAL PROCEDURES.**

20 (a) WITHDRAWALS FOR QUALIFIED EXPENSES.—

21 (1) IN GENERAL.—An Individual Development
22 Account owner may withdraw funds in order to pay
23 qualified expense distributions from such individ-
24 ual's—

1 (A) Individual Development Account, but
2 only from funds which have been on deposit in
3 such Account for at least 1 year, and

4 (B) parallel account, but only—

5 (i) from matching funds which have
6 been on deposit in such parallel account
7 for at least 1 year,

8 (ii) from earnings in such parallel ac-
9 count, after all matching funds described
10 in clause (i) have been withdrawn, and

11 (iii) to the extent such withdrawal
12 does not result in a remaining balance in
13 such parallel account which is less than the
14 remaining balance in the Individual Devel-
15 opment Account after such withdrawal.

16 (2) PROCEDURE.—Upon receipt of a with-
17 drawal request which meets the requirements of
18 paragraph (1), the qualified financial institution
19 shall directly transfer the funds electronically to the
20 distributees described in section 503(6)(A)(ii). If a
21 distributee is not equipped to receive funds electroni-
22 cally, the qualified financial institution may issue
23 such funds by paper check to the distributee.

24 (b) WITHDRAWALS FOR NONQUALIFIED EX-
25 PENSES.—An Individual Development Account owner may

1 withdraw any amount of funds from the Individual Devel-
2 opment Account for purposes other than to pay qualified
3 expense distributions, but if, after such withdrawal, the
4 amount in the parallel account of such owner (excluding
5 earnings on matching funds) exceeds the amount remain-
6 ing in such Individual Development Account, then such
7 owner shall forfeit from the parallel account the lesser of
8 such excess or the amount withdrawn.

9 (c) WITHDRAWALS FROM ACCOUNTS OF NON-
10 ELIGIBLE INDIVIDUALS.—If the individual for whose ben-
11 efit an Individual Development Account is established
12 ceases to be an eligible individual, such account shall re-
13 main an Individual Development Account, but such indi-
14 vidual shall not be eligible for any further matching funds
15 under section 506(b)(1)(A) for contributions which are
16 made to the Account during any taxable year when such
17 individual is not an eligible individual.

18 (d) EFFECT OF PLEDGING ACCOUNT AS SECUR-
19 RITY.—If, during any taxable year of the individual for
20 whose benefit an Individual Development Account is es-
21 tablished, that individual uses the Account, the individ-
22 ual's parallel account, or any portion thereof as security
23 for a loan, the portion so used shall be treated as a with-
24 drawal of such portion from the Individual Development
25 Account for purposes other than to pay qualified expenses.

1 **SEC. 508. CERTIFICATION AND TERMINATION OF QUALI-**
2 **FIED INDIVIDUAL DEVELOPMENT ACCOUNT**
3 **PROGRAMS.**

4 (a) CERTIFICATION PROCEDURES.—Upon estab-
5 lishing a qualified individual development account pro-
6 gram under section 504, a qualified financial institution
7 shall certify to the Secretary at such time and in such
8 manner as may be prescribed by the Secretary and accom-
9 panied by any documentation required by the Secretary,
10 that—

11 (1) the accounts described in subparagraphs
12 (A) and (B) of section 504(b)(1) are operating pur-
13 suant to all the provisions of this title, and

14 (2) the qualified financial institution agrees to
15 implement an information system necessary to mon-
16 itor the cost and outcomes of the qualified individual
17 development account program.

18 (b) AUTHORITY TO TERMINATE QUALIFIED IDA
19 PROGRAM.—If the Secretary determines that a qualified
20 financial institution under this title is not operating a
21 qualified individual development account program in ac-
22 cordance with the requirements of this title (and has not
23 implemented any corrective recommendations directed by
24 the Secretary), the Secretary shall terminate such institu-
25 tion's authority to conduct the program. If the Secretary
26 is unable to identify a qualified financial institution to as-

1 sume the authority to conduct such program, then any
2 funds in a parallel account established for the benefit of
3 any individual under such program shall be deposited into
4 the Individual Development Account of such individual as
5 of the first day of such termination.

6 **SEC. 509. REPORTING, MONITORING, AND EVALUATION.**

7 (a) RESPONSIBILITIES OF QUALIFIED FINANCIAL IN-
8 STITUTIONS.—

9 (1) IN GENERAL.—Each qualified financial in-
10 stitution that operates a qualified individual develop-
11 ment account program under section 504 shall re-
12 port annually to the Secretary within 90 days after
13 the end of each calendar year on—

14 (A) the number of individuals making con-
15 tributions into Individual Development Ac-
16 counts and the amounts contributed,

17 (B) the amounts contributed into Indi-
18 vidual Development Accounts by eligible individ-
19 uals and the amounts deposited into parallel ac-
20 counts for matching funds,

21 (C) the amounts withdrawn from Indi-
22 vidual Development Accounts and parallel ac-
23 counts, and the purposes for which such
24 amounts were withdrawn,

1 (D) the balances remaining in Individual
2 Development Accounts and parallel accounts,
3 and

4 (E) such other information needed to help
5 the Secretary monitor the effectiveness of the
6 qualified individual development account pro-
7 gram (provided in a non-individually-identifiable
8 manner).

9 (2) ADDITIONAL REPORTING REQUIREMENTS.—

10 Each qualified financial institution that operates a
11 qualified individual development account program
12 under section 504 shall report at such time and in
13 such manner as the Secretary may prescribe any ad-
14 ditional information that the Secretary requires to
15 be provided for purposes of administering and super-
16 vising the qualified individual development account
17 program. This additional data may include, without
18 limitation, identifying information about Individual
19 Development Account owners, their Accounts, addi-
20 tions to the Accounts, and withdrawals from the Ac-
21 counts.

22 (b) RESPONSIBILITIES OF THE SECRETARY.—

23 (1) MONITORING PROTOCOL.—Not later than
24 12 months after the date of the enactment of this
25 Act, the Secretary, in consultation with the Sec-

1 retary of Health and Human Services, shall develop
2 and implement a protocol and process to monitor the
3 cost and outcomes of the qualified individual devel-
4 opment account programs established under section
5 504.

6 (2) ANNUAL REPORTS.—For each year after
7 2004, the Secretary shall submit a progress report
8 to Congress on the status of such qualified indi-
9 vidual development account programs. Such report
10 shall, to the extent data are available, include from
11 a representative sample of qualified individual devel-
12 opment account programs information on—

13 (A) the characteristics of participants, in-
14 cluding age, gender, race or ethnicity, marital
15 status, number of children, employment status,
16 and monthly income,

17 (B) deposits, withdrawals, balances, uses
18 of Individual Development Accounts, and par-
19 ticipant characteristics,

20 (C) the characteristics of qualified indi-
21 vidual development account programs, including
22 match rate, economic education requirements,
23 permissible uses of accounts, staffing of pro-
24 grams in full time employees, and the total
25 costs of programs, and

1 (D) process information on program imple-
2 mentation and administration, especially on
3 problems encountered and how problems were
4 solved.

5 (3) REAUTHORIZATION REPORT ON COST AND
6 OUTCOMES OF IDAS.—

7 (A) IN GENERAL.—Not later than July 1,
8 2008, the Secretary of the Treasury shall sub-
9 mit a report to Congress and the chairmen and
10 ranking members of the Committee on Finance,
11 the Committee on Banking, Housing, and
12 Urban Affairs, and the Committee on Health,
13 Education, Labor, and Pensions of the Senate
14 and the Committee on Ways and Means, the
15 Committee on Banking and Financial Services,
16 and the Committee on Education and the
17 Workforce of the House of Representatives, in
18 which the Secretary shall—

19 (i) summarize the previously sub-
20 mitted annual reports required under para-
21 graph (2),

22 (ii) from a representative sample of
23 qualified individual development account
24 programs, include an analysis of—

1 (I) the economic, social, and be-
2 havioral outcomes,

3 (II) the changes in savings rates,
4 asset holdings, and household debt,
5 and overall changes in economic sta-
6 bility,

7 (III) the changes in outlooks, at-
8 titudes, and behavior regarding sav-
9 ings strategies, investment, education,
10 and family,

11 (IV) the integration into the fi-
12 nancial mainstream, including de-
13 creased reliance on alternative finan-
14 cial services, and increase in acquisi-
15 tion of mainstream financial products,
16 and

17 (V) the involvement in civic af-
18 fairs, including neighborhood schools
19 and associations,

20 associated with participation in qualified
21 individual development account programs,

22 (iii) from a representative sample of
23 qualified individual development account
24 programs, include a comparison of out-
25 comes associated with such programs with

1 outcomes associated with other Federal
2 Government social and economic develop-
3 ment programs, including asset building
4 programs, and

5 (iv) make recommendations regarding
6 the reauthorization of the qualified indi-
7 vidual development account programs, in-
8 cluding—

9 (I) recommendations regarding
10 reforms that will improve the cost and
11 outcomes of the such programs, in-
12 cluding the ability to help low income
13 families save and accumulate produc-
14 tive assets,

15 (II) recommendations regarding
16 the appropriate levels of subsidies to
17 provide effective incentives to financial
18 institutions and Account owners under
19 such programs, and

20 (III) recommendations regarding
21 how such programs should be inte-
22 grated into other Federal poverty re-
23 duction, asset building, and commu-
24 nity development policies and pro-
25 grams.

1 (B) AUTHORIZATION.—There is authorized
 2 to be appropriated \$2,500,000, for carrying out
 3 the purposes of this paragraph.

4 (4) USE OF ACCOUNTS IN RURAL AREAS EN-
 5 COURAGED.—The Secretary shall develop methods to
 6 encourage the use of Individual Development Ac-
 7 counts in rural areas.

8 **SEC. 510. AUTHORIZATION OF APPROPRIATIONS.**

9 There is authorized to be appropriated to the Sec-
 10 retary \$1,000,000 for fiscal year 2004 and for each fiscal
 11 year through 2012, for the purposes of implementing this
 12 title, including the reporting, monitoring, and evaluation
 13 required under section 509, to remain available until ex-
 14 pended.

15 **SEC. 511. MATCHING FUNDS FOR INDIVIDUAL DEVELOP-**
 16 **MENT ACCOUNTS PROVIDED THROUGH A TAX**
 17 **CREDIT FOR QUALIFIED FINANCIAL INSTITU-**
 18 **TIONS.**

19 (a) IN GENERAL.—Subpart D of part IV of sub-
 20 chapter A of chapter 1 (relating to business related cred-
 21 its) is amended by adding at the end the following new
 22 section:

1 **“SEC. 45G. INDIVIDUAL DEVELOPMENT ACCOUNT INVEST-**
2 **MENT CREDIT.**

3 “(a) DETERMINATION OF AMOUNT.—For purposes of
4 section 38, the individual development account investment
5 credit determined under this section with respect to any
6 eligible entity for any taxable year is an amount equal to
7 the individual development account investment provided
8 by such eligible entity during the taxable year under an
9 individual development account program established under
10 section 504 of the Savings for Working Families Act of
11 2003.

12 “(b) APPLICABLE TAX.—For the purposes of this
13 section, the term ‘applicable tax’ means the excess (if any)
14 of—

15 “(1) the tax imposed under this chapter (other
16 than the taxes imposed under the provisions de-
17 scribed in subparagraphs (C) through (Q) of section
18 26(b)(2)), over

19 “(2) the credits allowable under subpart B
20 (other than this section) and subpart D of this part.

21 “(c) INDIVIDUAL DEVELOPMENT ACCOUNT INVEST-
22 MENT.—For purposes of this section, the term ‘individual
23 development account investment’ means, with respect to
24 an individual development account program in any taxable
25 year, an amount equal to the sum of—

1 “(1) the aggregate amount of dollar-for-dollar
2 matches under such program under section
3 506(b)(1)(A) of the Savings for Working Families
4 Act of 2003 for such taxable year, plus

5 “(2) \$50 with respect to each Individual Devel-
6 opment Account maintained—

7 “(A) as of the end of such taxable year,
8 but only if such taxable year is within the 7-
9 taxable-year period beginning with the taxable
10 year in which such Account is opened, and

11 “(B) with a balance of not less than \$100
12 (other than the taxable year in which such Ac-
13 count is opened).

14 “(d) ELIGIBLE ENTITY.—For purposes of this sec-
15 tion, except as provided in regulations, the term ‘eligible
16 entity’ means a qualified financial institution.

17 “(e) OTHER DEFINITIONS.—For purposes of this
18 section, any term used in this section and also in the Sav-
19 ings for Working Families Act of 2003 shall have the
20 meaning given such term by such Act.

21 “(f) DENIAL OF DOUBLE BENEFIT.—

22 “(1) IN GENERAL.—No deduction or credit
23 (other than under this section) shall be allowed
24 under this chapter with respect to any expense
25 which—

1 “(A) is taken into account under sub-
2 section (c)(1)(A) in determining the credit
3 under this section, or

4 “(B) is attributable to the maintenance of
5 an Individual Development Account.

6 “(2) DETERMINATION OF AMOUNT.—Solely for
7 purposes of paragraph (1)(B), the amount attrib-
8 utable to the maintenance of an Individual Develop-
9 ment Account shall be deemed to be the dollar
10 amount of the credit allowed under subsection
11 (c)(1)(B) for each taxable year such Individual De-
12 velopment Account is maintained.

13 “(g) CREDIT MAY BE TRANSFERRED.—

14 “(1) IN GENERAL.—An eligible entity may
15 transfer any credit allowable to the eligible entity
16 under subsection (a) to any person other than to an-
17 other eligible entity which is exempt from tax under
18 this title. The determination as to whether a credit
19 is allowable shall be made without regard to the tax-
20 exempt status of the eligible entity.

21 “(2) CONSENT REQUIRED FOR REVOCATION.—
22 Any transfer under paragraph (1) may be revoked
23 only with the consent of the Secretary.

1 “(h) REGULATIONS.—The Secretary may prescribe
2 such regulations as may be necessary or appropriate to
3 carry out this section, including

4 “(1) such regulations as necessary to insure
5 that any credit described in subsection (g)(1) is
6 claimed once and not retransferred by a transferee,
7 and

8 “(2) regulations providing for a recapture of
9 the credit allowed under this section (notwith-
10 standing any termination date described in sub-
11 section (i)) in cases where there is a forfeiture under
12 section 507(b) of the Savings for Working Families
13 Act of 2003 in a subsequent taxable year of any
14 amount which was taken into account in determining
15 the amount of such credit.

16 “(i) APPLICATION OF SECTION.—

17 “(1) IN GENERAL.—This section shall apply to
18 any expenditure made in any taxable year ending
19 after December 31, 2004, and beginning on or be-
20 fore January 1, 2012, with respect to any Individual
21 Development Account which—

22 “(A) is opened before January 1, 2012,
23 and

1 “(B) as determined by the Secretary, when
2 added to all of the previously opened Individual
3 Development Accounts, does not exceed—

4 “(i) 100,000 Accounts if opened after
5 December 31, 2004, and before January 1,
6 2007,

7 “(ii) an additional 100,000 Accounts
8 if opened after December 31, 2006, and
9 before January 1, 2009, but only if, except
10 as provided in paragraph (4), the total
11 number of Accounts described in clause (i)
12 are opened and the Secretary determines
13 that such Accounts are being reasonably
14 and responsibly administered, and

15 “(iii) an additional 100,000 Accounts
16 if opened after December 31, 2008, and
17 before January 1, 2012, but only if the
18 total number of Accounts described in
19 clauses (i) and (ii) are opened and the Sec-
20 retary makes a determination described in
21 paragraph (2).

22 Notwithstanding the preceding sentence, this section
23 shall apply to amounts which are described in sub-
24 section (c)(1)(A) and which are timely deposited into
25 a parallel account during the 30-day period following

1 the end of last taxable year beginning before Janu-
2 ary 1, 2012.

3 “(2) DETERMINATION WITH RESPECT TO
4 THIRD GROUP OF ACCOUNTS.—A determination is
5 described in this paragraph if the Secretary deter-
6 mines that—

7 “(A) substantially all of the previously
8 opened Accounts have been reasonably and re-
9 sponsibly administered prior to the date of the
10 determination,

11 “(B) the individual development account
12 programs have increased net savings of partici-
13 pants in the programs,

14 “(C) participants in the individual develop-
15 ment account programs have increased Federal
16 income tax liability and decreased utilization of
17 Federal assistance programs relative to simi-
18 larly situated individuals that did not partici-
19 pate in the individual development account pro-
20 grams, and

21 “(D) the sum of the estimated increased
22 Federal tax liability and reduction of Federal
23 assistance program benefits to participants in
24 the individual development account programs is
25 greater than the cost of the individual develop-

1 ment account programs to the Federal govern-
2 ment.

3 “(3) DETERMINATION OF LIMITATION.—The
4 limitation on the number of Individual Development
5 Accounts under paragraph (1)(B) shall be allocated
6 by the Secretary among qualified individual develop-
7 ment account programs selected by the Secretary
8 and, in the case of the limitation under clause (iii)
9 of such paragraph, shall be equally divided among
10 the States.

11 “(4) SPECIAL RULE IF SMALLER NUMBER OF
12 ACCOUNTS ARE OPENED.—For purposes of para-
13 graph (1)(B)(ii)—

14 “(i) IN GENERAL.—If less than
15 100,000 Accounts are opened before Janu-
16 ary 1, 2007, such paragraph shall be ap-
17 plied by substituting “applicable number of
18 Accounts’ for ‘100,000 Accounts’.

19 “(ii) APPLICABLE NUMBER.—For pur-
20 poses of clause (i), the applicable number
21 equals the lesser of—

22 “(I) 75,000, or

23 “(II) 3 times the number of Ac-
24 counts opened before January 1,
25 2007.”.

1 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
2 tion 38(b) (relating to current year business credit) is
3 amended by striking “plus” at the end of paragraph (14),
4 by striking the period at the end of paragraph (15) and
5 inserting “, plus”, and by adding at the end the following
6 new paragraph:

7 “(16) the individual development account in-
8 vestment credit determined under section 45G(a).”.

9 (c) NO CARRYBACKS.—Subsection (d) of section 39
10 (relating to carryback and carryforward of unused credits)
11 is amended by adding at the end the following:

12 “(11) NO CARRYBACK OF SECTION 45G CREDIT
13 BEFORE EFFECTIVE DATE.—No portion of the un-
14 used business credit for any taxable year which is
15 attributable to the individual development account
16 investment credit determined under section 45G may
17 be carried back to a taxable year ending before Jan-
18 uary 1, 2004.”.

19 (d) CONFORMING AMENDMENT.—The table of sec-
20 tions for subpart C of part IV of subchapter A of chapter
21 1 is amended by adding at the end the following new item:

“Sec. 45G. Individual development account investment credit.”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years ending after De-
24 cember 31, 2004.

1 **SEC. 512. ACCOUNT FUNDS DISREGARDED FOR PURPOSES**
2 **OF CERTAIN MEANS-TESTED FEDERAL PRO-**
3 **GRAMS.**

4 Notwithstanding any other provision of Federal law
5 (other than the Internal Revenue Code of 1986) that re-
6 quires consideration of 1 or more financial circumstances
7 of an individual, for the purpose of determining eligibility
8 to receive, or the amount of, any assistance or benefit au-
9 thorized by such provision to be provided to or for the
10 benefit of such individual, any amount (including earnings
11 thereon) in any Individual Development Account of such
12 individual and any matching deposit made on behalf of
13 such individual (including earnings thereon) in any par-
14 allel account shall be disregarded for such purpose with
15 respect to any period during which such individual main-
16 tains or makes contributions into such Individual Develop-
17 ment Account.

18 **TITLE VI—MANAGEMENT OF**
19 **EXEMPT ORGANIZATIONS**

20 **SEC. 601. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) IN GENERAL.—There is authorized to be appro-
22 priated to the Secretary of the Treasury \$80,000,000 for
23 each fiscal year to carry out the administration of exempt
24 organizations by the Internal Revenue Service.

25 (b) IMPLEMENTATION OF SECTION 527.—There is
26 authorized to be appropriated to the Secretary of the

1 Treasury \$3,000,000 to carry out the provisions of Public
 2 Laws 106–230 and 107–276 relating to section 527 of the
 3 Internal Revenue Code of 1986.

4 **TITLE VII—REVENUE**
 5 **PROVISIONS**

6 **Subtitle A—Provisions Designed To**
 7 **Curtail Tax Shelters**

8 **SEC. 701. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**
 9 **TRINE.**

10 (a) IN GENERAL.—Section 7701 is amended by re-
 11 designating subsection (m) as subsection (n) and by in-
 12 serting after subsection (l) the following new subsection:

13 “(m) CLARIFICATION OF ECONOMIC SUBSTANCE
 14 DOCTRINE; ETC.—

15 “(1) GENERAL RULES.—

16 “(A) IN GENERAL.—In applying the eco-
 17 nomic substance doctrine, the determination of
 18 whether a transaction has economic substance
 19 shall be made as provided in this paragraph.

20 “(B) DEFINITION OF ECONOMIC SUB-
 21 STANCE.—For purposes of subparagraph (A)—

22 “(i) IN GENERAL.—A transaction has
 23 economic substance only if—

24 “(I) the transaction changes in a
 25 meaningful way (apart from Federal

1 tax effects and, if there is any Federal
2 tax effects, also apart from any for-
3 eign, State, or local tax effects) the
4 taxpayer's economic position, and

5 “(II) the taxpayer has a substan-
6 tial nontax purpose for entering into
7 such transaction and the transaction
8 is a reasonable means of accom-
9 plishing such purpose.

10 “(ii) SPECIAL RULE WHERE TAX-
11 PAYER RELIES ON PROFIT POTENTIAL.—A
12 transaction shall not be treated as having
13 economic substance by reason of having a
14 potential for profit unless—

15 “(I) the present value of the rea-
16 sonably expected pre-tax profit from
17 the transaction is substantial in rela-
18 tion to the present value of the ex-
19 pected net tax benefits that would be
20 allowed if the transaction were re-
21 spected, and

22 “(II) the reasonably expected
23 pre-tax profit from the transaction ex-
24 ceeds a risk-free rate of return.

1 “(C) TREATMENT OF FEES AND FOREIGN
2 TAXES.—Fees and other transaction expenses
3 and foreign taxes shall be taken into account as
4 expenses in determining pre-tax profit under
5 subparagraph (B)(ii).

6 “(2) SPECIAL RULES FOR TRANSACTIONS WITH
7 TAX-INDIFFERENT PARTIES.—

8 “(A) SPECIAL RULES FOR FINANCING
9 TRANSACTIONS.—The form of a transaction
10 which is in substance the borrowing of money
11 or the acquisition of financial capital directly or
12 indirectly from a tax-indifferent party shall not
13 be respected if the present value of the deduc-
14 tions to be claimed with respect to the trans-
15 action is substantially in excess of the present
16 value of the anticipated economic returns of the
17 person lending the money or providing the fi-
18 nancial capital. A public offering shall be treat-
19 ed as a borrowing, or an acquisition of financial
20 capital, from a tax-indifferent party if it is rea-
21 sonably expected that at least 50 percent of the
22 offering will be placed with tax-indifferent par-
23 ties.

24 “(B) ARTIFICIAL INCOME SHIFTING AND
25 BASIS ADJUSTMENTS.—The form of a trans-

1 action with a tax-indifferent party shall not be
2 respected if—

3 “(i) it results in an allocation of in-
4 come or gain to the tax-indifferent party in
5 excess of such party’s economic income or
6 gain, or

7 “(ii) it results in a basis adjustment
8 or shifting of basis on account of over-
9 stating the income or gain of the tax-indif-
10 ferent party.

11 “(3) DEFINITIONS AND SPECIAL RULES.—For
12 purposes of this subsection—

13 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
14 The term ‘economic substance doctrine’ means
15 the common law doctrine under which tax bene-
16 fits under subtitle A with respect to a trans-
17 action are not allowable if the transaction does
18 not have economic substance or lacks a business
19 purpose.

20 “(B) TAX-INDIFFERENT PARTY.—The
21 term ‘tax-indifferent party’ means any person
22 or entity not subject to tax imposed by subtitle
23 A. A person shall be treated as a tax-indifferent
24 party with respect to a transaction if the items
25 taken into account with respect to the trans-

1 action have no substantial impact on such per-
2 son’s liability under subtitle A.

3 “(C) EXCEPTION FOR PERSONAL TRANS-
4 ACTIONS OF INDIVIDUALS.—In the case of an
5 individual, this subsection shall apply only to
6 transactions entered into in connection with a
7 trade or business or an activity engaged in for
8 the production of income.

9 “(D) TREATMENT OF LESSORS.—In apply-
10 ing subclause (I) of paragraph (1)(B)(ii) to the
11 lessor of tangible property subject to a lease,
12 the expected net tax benefits shall not include
13 the benefits of depreciation, or any tax credit,
14 with respect to the leased property and sub-
15 clause (II) of paragraph (1)(B)(ii) shall be dis-
16 regarded in determining whether any of such
17 benefits are allowable.

18 “(4) OTHER COMMON LAW DOCTRINES NOT AF-
19 FECTED.—Except as specifically provided in this
20 subsection, the provisions of this subsection shall not
21 be construed as altering or supplanting any other
22 rule of law, and the requirements of this subsection
23 shall be construed as being in addition to any such
24 other rule of law.

1 “(5) REGULATIONS.—The Secretary shall pre-
 2 scribe such regulations as may be necessary or ap-
 3 propriate to carry out the purposes of this sub-
 4 section. Such regulations may include exemptions
 5 from the application of this subsection.”

6 (b) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to transactions entered into after
 8 February 15, 2004.

9 **SEC. 702. PENALTY FOR FAILING TO DISCLOSE REPORT-**
 10 **ABLE TRANSACTION.**

11 (a) IN GENERAL.—Part I of subchapter B of chapter
 12 68 (relating to assessable penalties) is amended by insert-
 13 ing after section 6707 the following new section:

14 **“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORT-**
 15 **ABLE TRANSACTION INFORMATION WITH RE-**
 16 **TURN OR STATEMENT.**

17 “(a) IMPOSITION OF PENALTY.—Any person who
 18 fails to include on any return or statement any informa-
 19 tion with respect to a reportable transaction which is re-
 20 quired under section 6011 to be included with such return
 21 or statement shall pay a penalty in the amount determined
 22 under subsection (b).

23 “(b) AMOUNT OF PENALTY.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graphs (2) and (3), the amount of the penalty under
3 subsection (a) shall be \$50,000.

4 “(2) LISTED TRANSACTION.—The amount of
5 the penalty under subsection (a) with respect to a
6 listed transaction shall be \$100,000.

7 “(3) INCREASE IN PENALTY FOR LARGE ENTI-
8 TIES AND HIGH NET WORTH INDIVIDUALS.—

9 “(A) IN GENERAL.—In the case of a fail-
10 ure under subsection (a) by—

11 “(i) a large entity, or

12 “(ii) a high net worth individual,

13 the penalty under paragraph (1) or (2) shall be
14 twice the amount determined without regard to
15 this paragraph.

16 “(B) LARGE ENTITY.—For purposes of
17 subparagraph (A), the term ‘large entity’
18 means, with respect to any taxable year, a per-
19 son (other than a natural person) with gross re-
20 ceipts in excess of \$10,000,000 for the taxable
21 year in which the reportable transaction occurs
22 or the preceding taxable year. Rules similar to
23 the rules of paragraph (2) and subparagraphs
24 (B), (C), and (D) of paragraph (3) of section

1 448(c) shall apply for purposes of this subpara-
2 graph.

3 “(C) HIGH NET WORTH INDIVIDUAL.—The
4 term ‘high net worth individual’ means, with re-
5 spect to a transaction, a natural person whose
6 net worth exceeds \$2,000,000 immediately be-
7 fore the transaction.

8 “(c) DEFINITIONS.—For purposes of this section—

9 “(1) REPORTABLE TRANSACTION.—The term
10 ‘reportable transaction’ means any transaction with
11 respect to which information is required to be in-
12 cluded with a return or statement because, as deter-
13 mined under regulations prescribed under section
14 6011, such transaction is of a type which the Sec-
15 retary determines as having a potential for tax
16 avoidance or evasion.

17 “(2) LISTED TRANSACTION.—Except as pro-
18 vided in regulations, the term ‘listed transaction’
19 means a reportable transaction which is the same as,
20 or substantially similar to, a transaction specifically
21 identified by the Secretary as a tax avoidance trans-
22 action for purposes of section 6011.

23 “(d) AUTHORITY TO RESCIND PENALTY.—

24 “(1) IN GENERAL.—The Commissioner of In-
25 ternal Revenue may rescind all or any portion of any

1 penalty imposed by this section with respect to any
2 violation if—

3 “(A) the violation is with respect to a re-
4 portable transaction other than a listed trans-
5 action,

6 “(B) the person on whom the penalty is
7 imposed has a history of complying with the re-
8 quirements of this title,

9 “(C) it is shown that the violation is due
10 to an unintentional mistake of fact;

11 “(D) imposing the penalty would be
12 against equity and good conscience, and

13 “(E) rescinding the penalty would promote
14 compliance with the requirements of this title
15 and effective tax administration.

16 “(2) DISCRETION.—The exercise of authority
17 under paragraph (1) shall be at the sole discretion
18 of the Commissioner and may be delegated only to
19 the head of the Office of Tax Shelter Analysis. The
20 Commissioner, in the Commissioner’s sole discretion,
21 may establish a procedure to determine if a penalty
22 should be referred to the Commissioner or the head
23 of such Office for a determination under paragraph
24 (1).

1 “(3) NO APPEAL.—Notwithstanding any other
2 provision of law, any determination under this sub-
3 section may not be reviewed in any administrative or
4 judicial proceeding.

5 “(4) RECORDS.—If a penalty is rescinded under
6 paragraph (1), the Commissioner shall place in the
7 file in the Office of the Commissioner the opinion of
8 the Commissioner or the head of the Office of Tax
9 Shelter Analysis with respect to the determination,
10 including—

11 “(A) the facts and circumstances of the
12 transaction,

13 “(B) the reasons for the rescission, and

14 “(C) the amount of the penalty rescinded.

15 “(5) REPORT.—The Commissioner shall each
16 year report to the Committee on Ways and Means
17 of the House of Representatives and the Committee
18 on Finance of the Senate—

19 “(A) a summary of the total number and
20 aggregate amount of penalties imposed, and re-
21 scinded, under this section, and

22 “(B) a description of each penalty re-
23 scinded under this subsection and the reasons
24 therefor.

1 “(e) PENALTY REPORTED TO SEC.—In the case of
2 a person—

3 “(1) which is required to file periodic reports
4 under section 13 or 15(d) of the Securities Ex-
5 change Act of 1934 or is required to be consolidated
6 with another person for purposes of such reports,
7 and

8 “(2) which—

9 “(A) is required to pay a penalty under
10 this section with respect to a listed transaction,

11 “(B) is required to pay a penalty under
12 section 6662A with respect to any reportable
13 transaction at a rate prescribed under section
14 6662A(c), or

15 “(C) is required to pay a penalty under
16 section 6662B with respect to any noneconomic
17 substance transaction,

18 the requirement to pay such penalty shall be disclosed in
19 such reports filed by such person for such periods as the
20 Secretary shall specify. Failure to make a disclosure in
21 accordance with the preceding sentence shall be treated
22 as a failure to which the penalty under subsection (b)(2)
23 applies.

1 “(f) COORDINATION WITH OTHER PENALTIES.—The
2 penalty imposed by this section is in addition to any pen-
3 alty imposed under this title.”

4 (b) CONFORMING AMENDMENT.—The table of sec-
5 tions for part I of subchapter B of chapter 68 is amended
6 by inserting after the item relating to section 6707 the
7 following:

“Sec. 6707A. Penalty for failure to include reportable transaction
information with return or statement.”

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to returns and statements the due
10 date for which is after the date of the enactment of this
11 Act.

12 **SEC. 703. ACCURACY-RELATED PENALTY FOR LISTED**
13 **TRANSACTIONS AND OTHER REPORTABLE**
14 **TRANSACTIONS HAVING A SIGNIFICANT TAX**
15 **AVOIDANCE PURPOSE.**

16 (a) IN GENERAL.—Subchapter A of chapter 68 is
17 amended by inserting after section 6662 the following new
18 section:

19 **“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PEN-**
20 **ALTY ON UNDERSTATEMENTS WITH RESPECT**
21 **TO REPORTABLE TRANSACTIONS.**

22 “(a) IMPOSITION OF PENALTY.—If a taxpayer has a
23 reportable transaction understatement for any taxable

1 year, there shall be added to the tax an amount equal to
2 20 percent of the amount of such understatement.

3 “(b) REPORTABLE TRANSACTION UNDERSTATE-
4 MENT.—For purposes of this section—

5 “(1) IN GENERAL.—The term ‘reportable trans-
6 action understatement’ means the sum of—

7 “(A) the product of—

8 “(i) the amount of the increase (if
9 any) in taxable income which results from
10 a difference between the proper tax treat-
11 ment of an item to which this section ap-
12 plies and the taxpayer’s treatment of such
13 item (as shown on the taxpayer’s return of
14 tax), and

15 “(ii) the highest rate of tax imposed
16 by section 1 (section 11 in the case of a
17 taxpayer which is a corporation), and

18 “(B) the amount of the decrease (if any)
19 in the aggregate amount of credits determined
20 under subtitle A which results from a difference
21 between the taxpayer’s treatment of an item to
22 which this section applies (as shown on the tax-
23 payer’s return of tax) and the proper tax treat-
24 ment of such item.

1 For purposes of subparagraph (A), any reduction of
2 the excess of deductions allowed for the taxable year
3 over gross income for such year, and any reduction
4 in the amount of capital losses which would (without
5 regard to section 1211) be allowed for such year,
6 shall be treated as an increase in taxable income.

7 “(2) ITEMS TO WHICH SECTION APPLIES.—This
8 section shall apply to any item which is attributable
9 to—

10 “(A) any listed transaction, and

11 “(B) any reportable transaction (other
12 than a listed transaction) if a significant pur-
13 pose of such transaction is the avoidance or
14 evasion of Federal income tax.

15 “(c) HIGHER PENALTY FOR NONDISCLOSED LISTED
16 AND OTHER AVOIDANCE TRANSACTIONS.—

17 “(1) IN GENERAL.—Subsection (a) shall be ap-
18 plied by substituting ‘30 percent’ for ‘20 percent’
19 with respect to the portion of any reportable trans-
20 action understatement with respect to which the re-
21 quirement of section 6664(d)(2)(A) is not met.

22 “(2) RULES APPLICABLE TO COMPROMISE OF
23 PENALTY.—

24 “(A) IN GENERAL.—If the 1st letter of
25 proposed deficiency which allows the taxpayer

1 an opportunity for administrative review in the
2 Internal Revenue Service Office of Appeals has
3 been sent with respect to a penalty to which
4 paragraph (1) applies, only the Commissioner
5 of Internal Revenue may compromise all or any
6 portion of such penalty.

7 “(B) APPLICABLE RULES.—The rules of
8 paragraphs (2), (3), (4), and (5) of section
9 6707A(d) shall apply for purposes of subpara-
10 graph (A).

11 “(d) DEFINITIONS OF REPORTABLE AND LISTED
12 TRANSACTIONS.—For purposes of this section, the terms
13 ‘reportable transaction’ and ‘listed transaction’ have the
14 respective meanings given to such terms by section
15 6707A(e).

16 “(e) SPECIAL RULES.—

17 “(1) COORDINATION WITH PENALTIES, ETC.,
18 ON OTHER UNDERSTATEMENTS.—In the case of an
19 understatement (as defined in section 6662(d)(2))—

20 “(A) the amount of such understatement
21 (determined without regard to this paragraph)
22 shall be increased by the aggregate amount of
23 reportable transaction understatements and
24 noneconomic substance transaction understate-
25 ments for purposes of determining whether

1 such understatement is a substantial under-
2 statement under section 6662(d)(1), and

3 “(B) the addition to tax under section
4 6662(a) shall apply only to the excess of the
5 amount of the substantial understatement (if
6 any) after the application of subparagraph (A)
7 over the aggregate amount of reportable trans-
8 action understatements and noneconomic sub-
9 stance transaction understatements.

10 “(2) COORDINATION WITH OTHER PEN-
11 ALTIES.—

12 “(A) APPLICATION OF FRAUD PENALTY.—
13 References to an underpayment in section 6663
14 shall be treated as including references to a re-
15 portable transaction understatement and a non-
16 economic substance transaction understatement.

17 “(B) NO DOUBLE PENALTY.—This section
18 shall not apply to any portion of an understate-
19 ment on which a penalty is imposed under sec-
20 tion 6662B or 6663.

21 “(3) SPECIAL RULE FOR AMENDED RE-
22 TURNS.—Except as provided in regulations, in no
23 event shall any tax treatment included with an
24 amendment or supplement to a return of tax be
25 taken into account in determining the amount of any

1 reportable transaction understatement or non-
2 economic substance transaction understatement if
3 the amendment or supplement is filed after the ear-
4 lier of the date the taxpayer is first contacted by
5 the Secretary regarding the examination of the re-
6 turn or such other date as is specified by the Sec-
7 retary.

8 “(4) NONECONOMIC SUBSTANCE TRANS-
9 ACTION UNDERSTATEMENT.—For purposes of
10 this subsection, the term ‘noneconomic sub-
11 stance transaction understatement’ has the
12 meaning given such term by section 6662B(e).

13 “(5) CROSS REFERENCE.—

**“For reporting of section 6662A(c) penalty to the
Securities and Exchange Commission, see section
6707A(e).”**

14 (b) DETERMINATION OF OTHER UNDERSTATE-
15 MENTS.—Subparagraph (A) of section 6662(d)(2) is
16 amended by adding at the end the following flush sen-
17 tence:

18 “The excess under the preceding sentence shall
19 be determined without regard to items to which
20 section 6662A applies and without regard to
21 items with respect to which a penalty is im-
22 posed by section 6662B.”

23 (c) REASONABLE CAUSE EXCEPTION.—

1 (1) IN GENERAL.—Section 6664 is amended by
2 adding at the end the following new subsection:

3 “(d) REASONABLE CAUSE EXCEPTION FOR REPORT-
4 ABLE TRANSACTION UNDERSTATEMENTS.—

5 “(1) IN GENERAL.—No penalty shall be im-
6 posed under section 6662A with respect to any por-
7 tion of a reportable transaction understatement if it
8 is shown that there was a reasonable cause for such
9 portion and that the taxpayer acted in good faith
10 with respect to such portion.

11 “(2) SPECIAL RULES.—Paragraph (1) shall not
12 apply to any reportable transaction understatement
13 unless—

14 “(A) the relevant facts affecting the tax
15 treatment of the item are adequately disclosed
16 in accordance with the regulations prescribed
17 under section 6011,

18 “(B) there is or was substantial authority
19 for such treatment, and

20 “(C) the taxpayer reasonably believed that
21 such treatment was more likely than not the
22 proper treatment.

23 A taxpayer failing to adequately disclose in accord-
24 ance with section 6011 shall be treated as meeting
25 the requirements of subparagraph (A) if the penalty

1 for such failure was rescinded under section
2 6707A(d).

3 “(3) RULES RELATING TO REASONABLE BE-
4 LIEF.—For purposes of paragraph (2)(C)—

5 “(A) IN GENERAL.—A taxpayer shall be
6 treated as having a reasonable belief with re-
7 spect to the tax treatment of an item only if
8 such belief—

9 “(i) is based on the facts and law that
10 exist at the time the return of tax which
11 includes such tax treatment is filed, and

12 “(ii) relates solely to the taxpayer’s
13 chances of success on the merits of such
14 treatment and does not take into account
15 the possibility that a return will not be au-
16 dited, such treatment will not be raised on
17 audit, or such treatment will be resolved
18 through settlement if it is raised.

19 “(B) CERTAIN OPINIONS MAY NOT BE RE-
20 LIED UPON.—

21 “(i) IN GENERAL.—An opinion of a
22 tax advisor may not be relied upon to es-
23 tablish the reasonable belief of a taxpayer
24 if—

1 “(I) the tax advisor is described
2 in clause (ii), or

3 “(II) the opinion is described in
4 clause (iii).

5 “(ii) DISQUALIFIED TAX ADVISORS.—
6 A tax advisor is described in this clause if
7 the tax advisor—

8 “(I) is a material advisor (within
9 the meaning of section 6111(b)(1))
10 who participates in the organization,
11 management, promotion, or sale of
12 the transaction or who is related
13 (within the meaning of section 267(b)
14 or 707(b)(1)) to any person who so
15 participates,

16 “(II) is compensated directly or
17 indirectly by a material advisor with
18 respect to the transaction,

19 “(III) has a fee arrangement
20 with respect to the transaction which
21 is contingent on all or part of the in-
22 tended tax benefits from the trans-
23 action being sustained, or

24 “(IV) as determined under regu-
25 lations prescribed by the Secretary,

1 has a continuing financial interest
2 with respect to the transaction.

3 “(iii) DISQUALIFIED OPINIONS.—For
4 purposes of clause (i), an opinion is dis-
5 qualified if the opinion—

6 “(I) is based on unreasonable
7 factual or legal assumptions (includ-
8 ing assumptions as to future events),

9 “(II) unreasonably relies on rep-
10 resentations, statements, findings, or
11 agreements of the taxpayer or any
12 other person,

13 “(III) does not identify and con-
14 sider all relevant facts, or

15 “(IV) fails to meet any other re-
16 quirement as the Secretary may pre-
17 scribe.”

18 (2) CONFORMING AMENDMENT.—The heading
19 for subsection (c) of section 6664 is amended by in-
20 serting “FOR UNDERPAYMENTS” after “EXCEP-
21 TION”.

22 (d) CONFORMING AMENDMENTS.—

23 (1) Subparagraph (C) of section 461(i)(3) is
24 amended by striking “section 6662(d)(2)(C)(iii)”
25 and inserting “section 1274(b)(3)(C)”.

1 (2) Paragraph (3) of section 1274(b) is amend-
2 ed—

3 (A) by striking “(as defined in section
4 6662(d)(2)(C)(iii))” in subparagraph (B)(i),
5 and

6 (B) by adding at the end the following new
7 subparagraph:

8 “(C) TAX SHELTER.—For purposes of sub-
9 paragraph (B), the term ‘tax shelter’ means—

10 “(i) a partnership or other entity,

11 “(ii) any investment plan or arrange-
12 ment, or

13 “(iii) any other plan or arrangement,
14 if a significant purpose of such partnership, en-
15 tity, plan, or arrangement is the avoidance or
16 evasion of Federal income tax.”

17 (3) Section 6662(d)(2) is amended by striking
18 subparagraphs (C) and (D).

19 (4) Section 6664(c)(1) is amended by striking
20 “this part” and inserting “section 6662 or 6663”.

21 (5) Subsection (b) of section 7525 is amended
22 by striking “section 6662(d)(2)(C)(iii)” and insert-
23 ing “section 1274(b)(3)(C)”.

24 (6)(A) The heading for section 6662 is amend-
25 ed to read as follows:

1 **“SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY**
 2 **ON UNDERPAYMENTS.”**

3 (B) The table of sections for part II of sub-
 4 chapter A of chapter 68 is amended by striking the
 5 item relating to section 6662 and inserting the fol-
 6 lowing new items:

“Sec. 6662. Imposition of accuracy-related penalty on underpay-
 ments.

“Sec. 6662A. Imposition of accuracy-related penalty on under-
 statements with respect to reportable transactions.”

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

10 **SEC. 704. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 11 **UTABLE TO TRANSACTIONS LACKING ECO-**
 12 **NOMIC SUBSTANCE, ETC.**

13 (a) **IN GENERAL.**—Subchapter A of chapter 68 is
 14 amended by inserting after section 6662A the following
 15 new section:

16 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 17 **UTABLE TO TRANSACTIONS LACKING ECO-**
 18 **NOMIC SUBSTANCE, ETC.**

19 “(a) **IMPOSITION OF PENALTY.**—If a taxpayer has an
 20 noneconomic substance transaction understatement for
 21 any taxable year, there shall be added to the tax an
 22 amount equal to 40 percent of the amount of such under-
 23 statement.

1 “(b) REDUCTION OF PENALTY FOR DISCLOSED
2 TRANSACTIONS.—Subsection (a) shall be applied by sub-
3 stituting ‘20 percent’ for ‘40 percent’ with respect to the
4 portion of any noneconomic substance transaction under-
5 statement with respect to which the relevant facts affect-
6 ing the tax treatment of the item are adequately disclosed
7 in the return or a statement attached to the return.

8 “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-
9 DERSTATEMENT.—For purposes of this section—

10 “(1) IN GENERAL.—The term ‘noneconomic
11 substance transaction understatement’ means any
12 amount which would be an understatement under
13 section 6662A(b)(1) if section 6662A were applied
14 by taking into account items attributable to non-
15 economic substance transactions rather than items
16 to which section 6662A applies.

17 “(2) NONECONOMIC SUBSTANCE TRANS-
18 ACTION.—The term ‘noneconomic substance trans-
19 action’ means any transaction if—

20 “(A) there is a lack of economic substance
21 (within the meaning of section 7701(m)(1)) for
22 the transaction giving rise to the claimed ben-
23 efit or the transaction was not respected under
24 section 7701(m)(2), or

1 “(B) the transaction fails to meet the re-
2 quirements of any similar rule of law.

3 “(d) RULES APPLICABLE TO COMPROMISE OF PEN-
4 ALTY.—

5 “(1) IN GENERAL.—If the 1st letter of pro-
6 posed deficiency which allows the taxpayer an oppor-
7 tunity for administrative review in the Internal Rev-
8 enue Service Office of Appeals has been sent with
9 respect to a penalty to which this section applies,
10 only the Commissioner of Internal Revenue may
11 compromise all or any portion of such penalty.

12 “(2) APPLICABLE RULES.—The rules of para-
13 graphs (2), (3), (4), and (5) of section 6707A(d)
14 shall apply for purposes of paragraph (1).

15 “(e) COORDINATION WITH OTHER PENALTIES.—Ex-
16 cept as otherwise provided in this part, the penalty im-
17 posed by this section shall be in addition to any other pen-
18 alty imposed by this title.

19 “(f) CROSS REFERENCES.—

**“(1) For coordination of penalty with understatement-
 ments under section 6662 and other special rules,
 see section 6662A(e).**

**“(2) For reporting of penalty imposed under this
 section to the Securities and Exchange Commission,
 see section 6707A(e).”**

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for part II of subchapter A of chapter 68 is amended by

1 inserting after the item relating to section 6662A the fol-
 2 lowing new item:

“Sec. 6662B. Penalty for understatements attributable to trans-
 actions lacking economic substance, etc.”

3 (c) **EFFECTIVE DATE.**—The amendments made by
 4 this section shall apply to transactions entered into after
 5 February 15, 2004.

6 **SEC. 705. MODIFICATIONS OF SUBSTANTIAL UNDERSTATE-**
 7 **MENT PENALTY FOR NONREPORTABLE**
 8 **TRANSACTIONS.**

9 (a) **SUBSTANTIAL UNDERSTATEMENT OF CORPORA-**
 10 **TIONS.**—Section 6662(d)(1)(B) (relating to special rule
 11 for corporations) is amended to read as follows:

12 “(B) **SPECIAL RULE FOR CORPORA-**
 13 **TIONS.**—In the case of a corporation other than
 14 an S corporation or a personal holding company
 15 (as defined in section 542), there is a substan-
 16 tial understatement of income tax for any tax-
 17 able year if the amount of the understatement
 18 for the taxable year exceeds the lesser of—

19 “(i) 10 percent of the tax required to
 20 be shown on the return for the taxable
 21 year (or, if greater, \$10,000), or

22 “(ii) \$10,000,000.”

1 (b) REDUCTION FOR UNDERSTATEMENT OF TAX-
2 PAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED
3 ITEM.—

4 (1) IN GENERAL.—Section 6662(d)(2)(B)(i)
5 (relating to substantial authority) is amended to
6 read as follows:

7 “(i) the tax treatment of any item by
8 the taxpayer if the taxpayer had reason-
9 able belief that the tax treatment was more
10 likely than not the proper treatment, or”.

11 (2) CONFORMING AMENDMENT.—Section
12 6662(d) is amended by adding at the end the fol-
13 lowing new paragraph:

14 “(3) SECRETARIAL LIST.—For purposes of this
15 subsection, section 6664(d)(2), and section
16 6694(a)(1), the Secretary may prescribe a list of po-
17 sitions for which the Secretary believes there is not
18 substantial authority or there is no reasonable belief
19 that the tax treatment is more likely than not the
20 proper tax treatment. Such list (and any revisions
21 thereof) shall be published in the Federal Register
22 or the Internal Revenue Bulletin.”

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

1 **SEC. 706. TAX SHELTER EXCEPTION TO CONFIDENTIALITY**
2 **PRIVILEGES RELATING TO TAXPAYER COM-**
3 **MUNICATIONS.**

4 (a) IN GENERAL.—Section 7525(b) (relating to sec-
5 tion not to apply to communications regarding corporate
6 tax shelters) is amended to read as follows:

7 “(b) SECTION NOT TO APPLY TO COMMUNICATIONS
8 REGARDING TAX SHELTERS.—The privilege under sub-
9 section (a) shall not apply to any written communication
10 which is—

11 “(1) between a federally authorized tax practi-
12 tioner and—

13 “(A) any person,

14 “(B) any director, officer, employee, agent,
15 or representative of the person, or

16 “(C) any other person holding a capital or
17 profits interest in the person, and

18 “(2) in connection with the promotion of the di-
19 rect or indirect participation of the person in any
20 tax shelter (as defined in section 1274(b)(3)(C)).”

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to communications made on or
23 after the date of the enactment of this Act.

24 **SEC. 707. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

25 (a) IN GENERAL.—Section 6111 (relating to registra-
26 tion of tax shelters) is amended to read as follows:

1 **“SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

2 “(a) IN GENERAL.—Each material advisor with re-
3 spect to any reportable transaction shall make a return
4 (in such form as the Secretary may prescribe) setting
5 forth—

6 “(1) information identifying and describing the
7 transaction,

8 “(2) information describing any potential tax
9 benefits expected to result from the transaction, and

10 “(3) such other information as the Secretary
11 may prescribe.

12 Such return shall be filed not later than the date specified
13 by the Secretary.

14 “(b) DEFINITIONS.—For purposes of this section—

15 “(1) MATERIAL ADVISOR.—

16 “(A) IN GENERAL.—The term ‘material
17 advisor’ means any person—

18 “(i) who provides any material aid,
19 assistance, or advice with respect to orga-
20 nizing, promoting, selling, implementing,
21 or carrying out any reportable transaction,
22 and

23 “(ii) who directly or indirectly derives
24 gross income in excess of the threshold
25 amount for such aid, assistance, or advice.

1 “(B) THRESHOLD AMOUNT.—For purposes
2 of subparagraph (A), the threshold amount is—

3 “(i) \$50,000 in the case of a report-
4 able transaction substantially all of the tax
5 benefits from which are provided to nat-
6 ural persons, and

7 “(ii) \$250,000 in any other case.

8 “(2) REPORTABLE TRANSACTION.—The term
9 ‘reportable transaction’ has the meaning given to
10 such term by section 6707A(c).

11 “(c) REGULATIONS.—The Secretary may prescribe
12 regulations which provide—

13 “(1) that only 1 person shall be required to
14 meet the requirements of subsection (a) in cases in
15 which 2 or more persons would otherwise be re-
16 quired to meet such requirements,

17 “(2) exemptions from the requirements of this
18 section, and

19 “(3) such rules as may be necessary or appro-
20 priate to carry out the purposes of this section.”

21 (b) CONFORMING AMENDMENTS.—

22 (1) The item relating to section 6111 in the
23 table of sections for subchapter B of chapter 61 is
24 amended to read as follows:

“Sec. 6111. Disclosure of reportable transactions.”

1 (2)(A) So much of section 6112 as precedes
2 subsection (c) thereof is amended to read as follows:

3 **“SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANS-**
4 **ACTIONS MUST KEEP LISTS OF ADVISEES.**

5 “(a) IN GENERAL.—Each material advisor (as de-
6 fined in section 6111) with respect to any reportable
7 transaction (as defined in section 6707A(e)) shall main-
8 tain, in such manner as the Secretary may by regulations
9 prescribe, a list—

10 “(1) identifying each person with respect to
11 whom such advisor acted as such a material advisor
12 with respect to such transaction, and

13 “(2) containing such other information as the
14 Secretary may by regulations require.

15 This section shall apply without regard to whether a mate-
16 rial advisor is required to file a return under section 6111
17 with respect to such transaction.”

18 (B) Section 6112 is amended by redesignating
19 subsection (c) as subsection (b).

20 (C) Section 6112(b), as redesignated by sub-
21 paragraph (B), is amended—

22 (i) by inserting “written” before “request”
23 in paragraph (1)(A), and

24 (ii) by striking “shall prescribe” in para-
25 graph (2) and inserting “may prescribe”.

1 (D) The item relating to section 6112 in the
 2 table of sections for subchapter B of chapter 61 is
 3 amended to read as follows:

“Sec. 6112. Material advisors of reportable transactions must
 keep lists of advisees.”

4 (3)(A) The heading for section 6708 is amend-
 5 ed to read as follows:

6 **“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES**
 7 **WITH RESPECT TO REPORTABLE TRANS-**
 8 **ACTIONS.”**

9 (B) The item relating to section 6708 in the
 10 table of sections for part I of subchapter B of chap-
 11 ter 68 is amended to read as follows:

“Sec. 6708. Failure to maintain lists of advisees with respect to
 reportable transactions.”

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to transactions with respect to
 14 which material aid, assistance, or advice referred to in sec-
 15 tion 6111(b)(1)(A)(i) of the Internal Revenue Code of
 16 1986 (as added by this section) is provided after the date
 17 of the enactment of this Act.

18 **SEC. 708. MODIFICATIONS TO PENALTY FOR FAILURE TO**
 19 **REGISTER TAX SHELTERS.**

20 (a) IN GENERAL.—Section 6707 (relating to failure
 21 to furnish information regarding tax shelters) is amended
 22 to read as follows:

1 **“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARD-**
2 **ING REPORTABLE TRANSACTIONS.**

3 “(a) IN GENERAL.—If a person who is required to
4 file a return under section 6111(a) with respect to any
5 reportable transaction—

6 “(1) fails to file such return on or before the
7 date prescribed therefor, or

8 “(2) files false or incomplete information with
9 the Secretary with respect to such transaction,
10 such person shall pay a penalty with respect to such return
11 in the amount determined under subsection (b).

12 “(b) AMOUNT OF PENALTY.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), the penalty imposed under subsection (a)
15 with respect to any failure shall be \$50,000.

16 “(2) LISTED TRANSACTIONS.—The penalty im-
17 posed under subsection (a) with respect to any listed
18 transaction shall be an amount equal to the greater
19 of—

20 “(A) \$200,000, or

21 “(B) 50 percent of the gross income de-
22 rived by such person with respect to aid, assist-
23 ance, or advice which is provided with respect
24 to the reportable transaction before the date the
25 return including the transaction is filed under
26 section 6111.

1 Subparagraph (B) shall be applied by substituting
 2 ‘75 percent’ for ‘50 percent’ in the case of an inten-
 3 tional failure or act described in subsection (a).

4 “(c) RESCISSION AUTHORITY.—The provisions of
 5 section 6707A(d) (relating to authority of Commissioner
 6 to rescind penalty) shall apply to any penalty imposed
 7 under this section.

8 “(d) REPORTABLE AND LISTED TRANSACTIONS.—
 9 The terms ‘reportable transaction’ and ‘listed transaction’
 10 have the respective meanings given to such terms by sec-
 11 tion 6707A(c).”.

12 (b) CLERICAL AMENDMENT.—The item relating to
 13 section 6707 in the table of sections for part I of sub-
 14 chapter B of chapter 68 is amended by striking “tax shel-
 15 ters” and inserting “reportable transactions”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to returns the due date for which
 18 is after the date of the enactment of this Act.

19 **SEC. 709. MODIFICATION OF PENALTY FOR FAILURE TO**
 20 **MAINTAIN LISTS OF INVESTORS.**

21 (a) IN GENERAL.—Subsection (a) of section 6708 is
 22 amended to read as follows:

23 “(a) IMPOSITION OF PENALTY.—

24 “(1) IN GENERAL.—If any person who is re-
 25 quired to maintain a list under section 6112(a) fails

1 to make such list available upon written request to
2 the Secretary in accordance with section
3 6112(b)(1)(A) within 20 business days after the
4 date of the Secretary's request, such person shall
5 pay a penalty of \$10,000 for each day of such fail-
6 ure after such 20th day.

7 “(2) REASONABLE CAUSE EXCEPTION.—No
8 penalty shall be imposed by paragraph (1) with re-
9 spect to the failure on any day if such failure is due
10 to reasonable cause.”

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to requests made after the date
13 of the enactment of this Act.

14 **SEC. 710. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN**
15 **CONDUCT RELATED TO TAX SHELTERS AND**
16 **REPORTABLE TRANSACTIONS.**

17 (a) IN GENERAL.—Section 7408 (relating to action
18 to enjoin promoters of abusive tax shelters, etc.) is amend-
19 ed by redesignating subsection (c) as subsection (d) and
20 by striking subsections (a) and (b) and inserting the fol-
21 lowing new subsections:

22 “(a) AUTHORITY TO SEEK INJUNCTION.—A civil ac-
23 tion in the name of the United States to enjoin any person
24 from further engaging in specified conduct may be com-
25 menced at the request of the Secretary. Any action under

1 this section shall be brought in the district court of the
2 United States for the district in which such person resides,
3 has his principal place of business, or has engaged in spec-
4 ified conduct. The court may exercise its jurisdiction over
5 such action (as provided in section 7402(a)) separate and
6 apart from any other action brought by the United States
7 against such person.

8 “(b) ADJUDICATION AND DECREE.—In any action
9 under subsection (a), if the court finds—

10 “(1) that the person has engaged in any speci-
11 fied conduct, and

12 “(2) that injunctive relief is appropriate to pre-
13 vent recurrence of such conduct,

14 the court may enjoin such person from engaging in such
15 conduct or in any other activity subject to penalty under
16 this title.

17 “(c) SPECIFIED CONDUCT.—For purposes of this
18 section, the term ‘specified conduct’ means any action, or
19 failure to take action, subject to penalty under section
20 6700, 6701, 6707, or 6708.”

21 (b) CONFORMING AMENDMENTS.—

22 (1) The heading for section 7408 is amended to
23 read as follows:

1 **“SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RE-**
2 **LATED TO TAX SHELTERS AND REPORTABLE**
3 **TRANSACTIONS.”**

4 (2) The table of sections for subchapter A of
5 chapter 67 is amended by striking the item relating
6 to section 7408 and inserting the following new
7 item:

“Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.”

8 (c) **EFFECTIVE DATE.**—The amendment made by
9 this section shall take effect on the day after the date of
10 the enactment of this Act.

11 **SEC. 711. UNDERSTATEMENT OF TAXPAYER’S LIABILITY BY**
12 **INCOME TAX RETURN PREPARER.**

13 (a) **STANDARDS CONFORMED TO TAXPAYER STAND-**
14 **ARDS.**—Section 6694(a) (relating to understatements due
15 to unrealistic positions) is amended—

16 (1) by striking “realistic possibility of being
17 sustained on its merits” in paragraph (1) and in-
18 serting “reasonable belief that the tax treatment in
19 such position was more likely than not the proper
20 treatment”,

21 (2) by striking “or was frivolous” in paragraph
22 (3) and inserting “or there was no reasonable basis
23 for the tax treatment of such position”, and

1 any civil penalty imposed under subpara-
2 graph (A) shall not exceed \$5,000.

3 “(ii) REASONABLE CAUSE EXCEP-
4 TION.—No penalty shall be imposed under
5 subparagraph (A) with respect to any vio-
6 lation if—

7 “(I) such violation was due to
8 reasonable cause, and

9 “(II) the amount of the trans-
10 action or the balance in the account
11 at the time of the transaction was
12 properly reported.

13 “(C) WILLFUL VIOLATIONS.—In the case
14 of any person willfully violating, or willfully
15 causing any violation of, any provision of sec-
16 tion 5314—

17 “(i) the maximum penalty under sub-
18 paragraph (B)(i) shall be increased to the
19 greater of—

20 “(I) \$25,000, or

21 “(II) the amount (not exceeding
22 \$100,000) determined under subpara-
23 graph (D), and

24 “(ii) subparagraph (B)(ii) shall not
25 apply.

1 “(D) AMOUNT.—The amount determined
2 under this subparagraph is—

3 “(i) in the case of a violation involving
4 a transaction, the amount of the trans-
5 action, or

6 “(ii) in the case of a violation involv-
7 ing a failure to report the existence of an
8 account or any identifying information re-
9 quired to be provided with respect to an
10 account, the balance in the account at the
11 time of the violation.”

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to violations occurring after the
14 date of the enactment of this Act.

15 **SEC. 713. FRIVOLOUS TAX SUBMISSIONS.**

16 (a) CIVIL PENALTIES.—Section 6702 is amended to
17 read as follows:

18 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

19 “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-
20 TURNS.—A person shall pay a penalty of \$5,000 if—

21 “(1) such person files what purports to be a re-
22 turn of a tax imposed by this title but which—

23 “(A) does not contain information on
24 which the substantial correctness of the self-as-
25 sessment may be judged, or

1 “(B) contains information that on its face
2 indicates that the self-assessment is substan-
3 tially incorrect; and

4 “(2) the conduct referred to in paragraph (1)—

5 “(A) is based on a position which the Sec-
6 retary has identified as frivolous under sub-
7 section (c), or

8 “(B) reflects a desire to delay or impede
9 the administration of Federal tax laws.

10 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
11 SUBMISSIONS.—

12 “(1) IMPOSITION OF PENALTY.—Except as pro-
13 vided in paragraph (3), any person who submits a
14 specified frivolous submission shall pay a penalty of
15 \$5,000.

16 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For
17 purposes of this section—

18 “(A) SPECIFIED FRIVOLOUS SUBMIS-
19 SION.—The term ‘specified frivolous submis-
20 sion’ means a specified submission if any por-
21 tion of such submission—

22 “(i) is based on a position which the
23 Secretary has identified as frivolous under
24 subsection (c), or

1 “(ii) reflects a desire to delay or im-
2 pede the administration of Federal tax
3 laws.

4 “(B) SPECIFIED SUBMISSION.—The term
5 ‘specified submission’ means—

6 “(i) a request for a hearing under—

7 “(I) section 6320 (relating to no-
8 tice and opportunity for hearing upon
9 filing of notice of lien), or

10 “(II) section 6330 (relating to
11 notice and opportunity for hearing be-
12 fore levy), and

13 “(ii) an application under—

14 “(I) section 6159 (relating to
15 agreements for payment of tax liabil-
16 ity in installments),

17 “(II) section 7122 (relating to
18 compromises), or

19 “(III) section 7811 (relating to
20 taxpayer assistance orders).

21 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
22 SION.—If the Secretary provides a person with no-
23 tice that a submission is a specified frivolous sub-
24 mission and such person withdraws such submission
25 within 30 days after such notice, the penalty im-

1 posed under paragraph (1) shall not apply with re-
 2 spect to such submission.

3 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
 4 retary shall prescribe (and periodically revise) a list of po-
 5 sitions which the Secretary has identified as being frivo-
 6 lous for purposes of this subsection. The Secretary shall
 7 not include in such list any position that the Secretary
 8 determines meets the requirement of section
 9 6662(d)(2)(B)(ii)(II).

10 “(d) REDUCTION OF PENALTY.—The Secretary may
 11 reduce the amount of any penalty imposed under this sec-
 12 tion if the Secretary determines that such reduction would
 13 promote compliance with and administration of the Fed-
 14 eral tax laws.

15 “(e) PENALTIES IN ADDITION TO OTHER PEN-
 16 ALTIES.—The penalties imposed by this section shall be
 17 in addition to any other penalty provided by law.”

18 (b) TREATMENT OF FRIVOLOUS REQUESTS FOR
 19 HEARINGS BEFORE LEVY.—

20 (1) FRIVOLOUS REQUESTS DISREGARDED.—
 21 Section 6330 (relating to notice and opportunity for
 22 hearing before levy) is amended by adding at the
 23 end the following new subsection:

24 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—
 25 Notwithstanding any other provision of this section, if the

1 Secretary determines that any portion of a request for a
2 hearing under this section or section 6320 meets the re-
3 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
4 then the Secretary may treat such portion as if it were
5 never submitted and such portion shall not be subject to
6 any further administrative or judicial review.”

7 (2) PRECLUSION FROM RAISING FRIVOLOUS
8 ISSUES AT HEARING.—Section 6330(c)(4) is amend-
9 ed—

10 (A) by striking “(A)” and inserting
11 “(A)(i)”;

12 (B) by striking “(B)” and inserting “(ii)”;

13 (C) by striking the period at the end of the
14 first sentence and inserting “; or”; and

15 (D) by inserting after subparagraph (A)(ii)
16 (as so redesignated) the following:

17 “(B) the issue meets the requirement of
18 clause (i) or (ii) of section 6702(b)(2)(A).”

19 (3) STATEMENT OF GROUNDS.—Section
20 6330(b)(1) is amended by striking “under sub-
21 section (a)(3)(B)” and inserting “in writing under
22 subsection (a)(3)(B) and states the grounds for the
23 requested hearing”.

1 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR
2 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section
3 6320 is amended—

4 (1) in subsection (b)(1), by striking “under sub-
5 section (a)(3)(B)” and inserting “in writing under
6 subsection (a)(3)(B) and states the grounds for the
7 requested hearing”, and

8 (2) in subsection (c), by striking “and (e)” and
9 inserting “(e), and (g)”.

10 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
11 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
12 MENTS.—Section 7122 is amended by adding at the end
13 the following new subsection:

14 “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-
15 standing any other provision of this section, if the Sec-
16 retary determines that any portion of an application for
17 an offer-in-compromise or installment agreement sub-
18 mitted under this section or section 6159 meets the re-
19 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
20 then the Secretary may treat such portion as if it were
21 never submitted and such portion shall not be subject to
22 any further administrative or judicial review.”

23 (e) CLERICAL AMENDMENT.—The table of sections
24 for part I of subchapter B of chapter 68 is amended by

1 striking the item relating to section 6702 and inserting
2 the following new item:

“Sec. 6702. Frivolous tax submissions.”

3 (f) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to submissions made and issues
5 raised after the date on which the Secretary first pre-
6 scribes a list under section 6702(c) of the Internal Rev-
7 enue Code of 1986, as amended by subsection (a).

8 **SEC. 714. REGULATION OF INDIVIDUALS PRACTICING BE-**
9 **FORE THE DEPARTMENT OF TREASURY.**

10 (a) **CENSURE; IMPOSITION OF PENALTY.**—

11 (1) **IN GENERAL.**—Section 330(b) of title 31,
12 United States Code, is amended—

13 (A) by inserting “, or censure,” after “De-
14 partment”, and

15 (B) by adding at the end the following new
16 flush sentence:

17 “The Secretary may impose a monetary penalty on any
18 representative described in the preceding sentence. If the
19 representative was acting on behalf of an employer or any
20 firm or other entity in connection with the conduct giving
21 rise to such penalty, the Secretary may impose a monetary
22 penalty on such employer, firm, or entity if it knew, or
23 reasonably should have known, of such conduct. Such pen-
24 alty shall not exceed the gross income derived (or to be
25 derived) from the conduct giving rise to the penalty and

1 may be in addition to, or in lieu of, any suspension, disbar-
2 ment, or censure.”

3 (2) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to actions taken after
5 the date of the enactment of this Act.

6 (b) TAX SHELTER OPINIONS, ETC.—Section 330 of
7 such title 31 is amended by adding at the end the fol-
8 lowing new subsection:

9 “(d) Nothing in this section or in any other provision
10 of law shall be construed to limit the authority of the Sec-
11 retary of the Treasury to impose standards applicable to
12 the rendering of written advice with respect to any entity,
13 transaction plan or arrangement, or other plan or arrange-
14 ment, which is of a type which the Secretary determines
15 as having a potential for tax avoidance or evasion.”

16 **SEC. 715. PENALTY ON PROMOTERS OF TAX SHELTERS.**

17 (a) PENALTY ON PROMOTING ABUSIVE TAX SHEL-
18 TERS.—Section 6700(a) is amended by adding at the end
19 the following new sentence: “Notwithstanding the first
20 sentence, if an activity with respect to which a penalty
21 imposed under this subsection involves a statement de-
22 scribed in paragraph (2)(A), the amount of the penalty
23 shall be equal to 50 percent of the gross income derived
24 (or to be derived) from such activity by the person on
25 which the penalty is imposed.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to activities after the date of the
3 enactment of this Act.

4 **SEC. 716. STATUTE OF LIMITATIONS FOR TAXABLE YEARS**
5 **FOR WHICH LISTED TRANSACTIONS NOT RE-**
6 **PORTED.**

7 (a) IN GENERAL.—Section 6501(e)(1) (relating to
8 substantial omission of items for income taxes) is amended
9 by adding at the end the following new subparagraph:

10 “(C) LISTED TRANSACTIONS.—If a tax-
11 payer fails to include on any return or state-
12 ment for any taxable year any information with
13 respect to a listed transaction (as defined in
14 section 6707A(e)(2)) which is required under
15 section 6011 to be included with such return or
16 statement, the tax for such taxable year may be
17 assessed, or a proceeding in court for collection
18 of such tax may be begun without assessment,
19 at any time within 6 years after the time the
20 return is filed. This subparagraph shall not
21 apply to any taxable year if the time for assess-
22 ment or beginning the proceeding in court has
23 expired before the time a transaction is treated
24 as a listed transaction under section 6011.”

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to transactions in taxable years
 3 beginning after the date of the enactment of this Act.

4 **SEC. 717. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
 5 **DERPAYMENTS ATTRIBUTABLE TO NONDIS-**
 6 **CLOSED REPORTABLE AND NONECONOMIC**
 7 **SUBSTANCE TRANSACTIONS.**

8 (a) IN GENERAL.—Section 163 (relating to deduction
 9 for interest) is amended by redesignating subsection (m)
 10 as subsection (n) and by inserting after subsection (l) the
 11 following new subsection:

12 “(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE
 13 TO NONDISCLOSED REPORTABLE TRANSACTIONS AND
 14 NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduc-
 15 tion shall be allowed under this chapter for any interest
 16 paid or accrued under section 6601 on any underpayment
 17 of tax which is attributable to—

18 “(1) the portion of any reportable transaction
 19 understatement (as defined in section 6662A(b))
 20 with respect to which the requirement of section
 21 6664(d)(2)(A) is not met, or

22 “(2) any noneconomic substance transaction
 23 understatement (as defined in section 6662B(c)).”

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to transactions in taxable years
 3 beginning after the date of the enactment of this Act.

4 **SEC. 718. AUTHORIZATION OF APPROPRIATIONS FOR TAX**
 5 **LAW ENFORCEMENT.**

6 There is authorized to be appropriated \$300,000,000
 7 for each fiscal year beginning after September 30, 2002,
 8 for the purpose of carrying out tax law enforcement to
 9 combat tax avoidance transactions and other tax shelters,
 10 including the use of offshore financial accounts to conceal
 11 taxable income.

12 **Subtitle B—Other Provisions**

13 **SEC. 721. AFFIRMATION OF CONSOLIDATED RETURN REGU-**
 14 **LATION AUTHORITY.**

15 (a) IN GENERAL.—Section 1502 (relating to consoli-
 16 dated return regulations) is amended by adding at the end
 17 the following new sentence: “In prescribing such regula-
 18 tions, the Secretary may prescribe rules applicable to cor-
 19 porations filing consolidated returns under section 1501
 20 that are different from other provisions of this title that
 21 would apply if such corporations filed separate returns.”

22 (b) RESULT NOT OVERTURNED.—Notwithstanding
 23 subsection (a), the Internal Revenue Code of 1986 shall
 24 be construed by treating Treasury regulation § 1.1502-
 25 20(c)(1)(iii) (as in effect on January 1, 2001) as being

1 inapplicable to the type of factual situation in 255 F.3d
2 1357 (Fed. Cir. 2001).

3 (c) EFFECTIVE DATE.—The provisions of this section
4 shall apply to taxable years beginning before, on, or after
5 the date of the enactment of this Act.

6 **SEC. 722. SIGNING OF CORPORATE TAX RETURNS BY CHIEF**
7 **EXECUTIVE OFFICER.**

8 (a) IN GENERAL.—Section 6062 (relating to signing
9 of corporation returns) is amended by striking the first
10 sentence and inserting the following new sentence: “The
11 return of a corporation with respect to income shall be
12 signed by the chief executive officer of such corporation
13 (or other such officer of the corporation as the Secretary
14 may designate if the corporation does not have a chief ex-
15 ecutive officer). The preceding sentence shall not apply to
16 any return of a regulated investment company (within the
17 meaning of section 851).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to returns filed after the date of
20 the enactment of this Act.

Calendar No. 22

108TH CONGRESS
1ST SESSION

S. 476

[Report No. 108-11]

A BILL

To provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

FEBRUARY 27, 2003

Read twice and placed on the calendar