SA 579. Ms. LANDRIEU (for herself, Mr. CORZINE, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 580. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 581. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 582. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 583. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 584. Mr. BINGAMAN (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 585. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 586. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 587. Mr. JEFFORDS proposed an amendment to the bill S. 1054, supra.

SA 588. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 589. Mr. BUNNING (for himself and Mr. MCCONNELL) proposed an amendment to the bill S. 1054, supra.

SA 590. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 591. Mr. KERRY (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 592. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 593. Mr. BURNS (for himself, Mr. ROCKEFELLER, Mr. BAUCUS, Mrs. CLINTON, Mr. JOHNSON, and Mr. KENNEDY) proposed an amendment to the bill S. 1054, supra.

SA 594. Mr. GRASSLEY proposed an amendment to the bill S. 1054, supra.

SA 595. Mr. HARKIN proposed an amendment to the bill S. 1054, supra.

SA 596. Ms. COLLINS (for herself, Mr. ROCKEFELLER, Mr. NELSON of Nebraska, Mr. SMITH, Mr. SCHUMER, Mr. COLEMAN, Mrs. CLINTON, Mrs. MURRAY, and Mr. WYDEN) proposed an amendment to the bill S. 1054, supra.

SA 597. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 598. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 599. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 600. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 601. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 602. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 603. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 604. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 605. Ms. MIKULSKI (for herself, Mr. KENNEDY, Mr. SARBANES, Mr. JOHNSON, Mrs. CLINTON, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 606. Ms. MIKULSKI (for herself, Mr. KENNEDY, Mr. SARBANES, Mr. JOHNSON, Mrs. CLINTON, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 607. Mr. HOLLINGS (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 608. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 609. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 610. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 611. Mr. CONRAD proposed an amendment to the bill S. 1054, supra.

SA 612. Mr. BAUCUS (for Mr. MCCAIN (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 1054, supra.

SA 613. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 614. Ms. STABENOW proposed an amendment to the bill S. 1054, supra.

SA 615. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 616. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 617. Mr. GRAHAM of Florida proposed an amendment to the bill S. 1054, supra.

SA 618. Mr. ROCKEFELLER (for himself, Mr. DASCHLE, Mr. BINGAMAN, Mr. HARKIN, Mr. KENNEDY, Mr. PRYOR, Mrs. MURRAY, Mr. KERRY, Mr. REID, Mr. JOHNSON, Mr. LEVIN, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 619. Ms. LANDRIEU (for herself, Mr. CORZINE, and Mr. SCHUMER) proposed an amendment to the bill S. 1054, supra.

SA 620. Ms. LANDRIEU proposed an amendment to the bill S. 1054, supra.

SA 621. Ms. LANDRIEU proposed an amendment to the bill S. 1054, supra.

SA 622. Mr. ENSIGN proposed an amendment to the bill S. 1054, supra.

TEXT OF AMENDMENTS

SA 544. Mr. KENNEDY (for himself, Mr. DASCHLE, Mr. BINGAMAN, Mr. DURBIN, Mr. REED, Mrs. CLINTON, Ms. CANTWELL, Mr. SARBANES, Mr. LEVIN, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. KERRY, Mr. BAUCUS, Mr. SCHUMER, Mr. DODD, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end, add the following:

TITLE—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

SEC. ___01. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3), is amended—

(1) in subsection (a)(2), by striking ''before June 1'' and inserting ''on or before November 30'';

(2) in subsection (b)(1), by striking ''May 31, 2003'' and inserting ''November 30, 2003'';

(3) in subsection (b)(2)—

(A) in the heading, by striking ''MAY 31, 2003'' and inserting ''NOVEMBER 30, 2003''; and

(B) by striking ''May 31, 2003'' and inserting ''November 30, 2003''; and

(4) in subsection (b)(3), by striking ''August 30, 2003'' and inserting ''February 28, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. ___02. ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) ENTITLEMENT TO ADDITIONAL WEEKS.—

(1) IN GENERAL.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(A) in subparagraph (A), by striking ''50 percent'' and inserting ''100 percent''; and

(B) in subparagraph (B), by striking ''13 times'' and inserting ''26 times''.

(2) REPEAL OF RESTRICTION ON AUGMENTATION DURING TRANSITIONAL PERIOD.—Section 208(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section ___01(a), is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''; and

(ii) by inserting before the period at the end the following: '', including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) EXTENSION OF TRANSITION LIMITATION.—Section 208(b)(2) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section ___01(a)(4) and as redesignated by paragraph (2), is amended by striking ''February 28, 2004'' and inserting ''May 29, 2004''.

(4) CONFORMING AMENDMENT FOR AUGMENTED BENEFITS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by striking ''the amount originally established in such account (as determined under subsection (b)(1))'' and inserting ''7 times the individual's average weekly benefit amount for the benefit year''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to

weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendments made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ''TEUC–X amounts'') prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as ''TEUC amounts'').

(3) APPLICATION TO EXHAUSTEES AND CURRENT BENEFICIARIES.—

(A) EXHAUSTEES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account) before such date,

such individual's eligibility for any additional weeks of temporary extended unemployment compensation by reason of the amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(B) CURRENT BENEFICIARIES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) as to whom the condition described in subparagraph (A)(ii) does not apply,

such individual shall be eligible for temporary extended unemployment compensation (in accordance with the provisions of the Temporary Extended Unemployment Compensation Act of 2002, as amended by subsection (a)) with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(4) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM SUCH A DETERMINATION WAS MADE PRIOR TO THE DATE OF ENACTMENT.—Any determination of whether the individual's State is in an extended benefit period under section 203(c) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) made prior to the date of enactment of this Act shall be disregarded and the determination under such section shall be made as follows:

(A) INDIVIDUALS WHO EXHAUSTED ALL TEUC AND TEUC–X AMOUNTS PRIOR TO THE DATE OF ENACTMENT.—In the case of an individual whose temporary extended unemployment account has, prior to the date of enactment of this Act, been both augmented under such section 203(c) and exhausted of all amounts by which it was so augmented, the determination shall be made as of such date of enactment.

(B) ALL OTHER INDIVIDUALS.—In the case of an individual who is not described in subparagraph (A), the determination shall be made at the time that the individual's account established under such section 203, as amended by subsection (a), is exhausted.

(5) NO EFFECT ON PROVISIONS RELATED TO DISPLACED AIRLINE RELATED WORKERS.—The amendments made by this section and section ____01 shall have no effect on the provisions of section 4002 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11).

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

SEC. ___11. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Subject to paragraph (3), any agreement under subsection (a) shall provide that the State agency of the State, in addition to any amounts of regular compensation to which an individual may be entitled under the State law, shall make payments of temporary enhanced regular unemployment compensation to an individual in an amount and to the extent that the individual would be entitled to regular compensation if the State law were applied with the modifications described in paragraph (2).

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) In the case of an individual who is not eligible for regular compensation under the State law because of the use of a definition of base period that does not count wages earned in the most recently completed calendar quarter, then eligibility for compensation shall be determined by applying a base period ending at the close of the most recently completed calendar quarter.

(B) In the case of an individual who is not eligible for regular compensation under the State law because such individual does not meet requirements relating to availability for work, active search for work, or refusal to accept work, because such individual is seeking, or is available for, less than full-time work, then compensation shall not be denied by such State to an otherwise eligible individual who seeks less than full-time work or fails to accept full-time work.

(3) REDUCTION OF AMOUNTS OF REGULAR COMPENSATION AVAILABLE FOR INDIVIDUALS WHO SOUGHT PART-TIME WORK OR FAILED TO ACCEPT FULL-TIME WORK.—Any agreement under subsection (a) shall provide that the State agency of the State shall reduce the amount of regular compensation available to an individual who has received temporary enhanced regular unemployment compensation as a result of the application of the modification described in paragraph (2)(B) by the amount of such temporary enhanced regular unemployment compensation.

(c) COORDINATION RULE.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

SEC. ___12. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any temporary enhanced regular unemployment compensation; and

(2) 100 percent of any regular compensation which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in subparagraphs (A) and (B) of section ____11(b)(2), but only to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section ____11(b)(1), have been reimbursable under paragraph (1).

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. ___13. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (as so established), or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 502(a)) and certified by the Secretary to the Secretary of the Treasury.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. ___14. DEFINITIONS.

For purposes of this title, the terms ''compensation'', ''base period'', ''regular compensation'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of

the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. ___15. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before July 1, 2004.

(b) PHASE-OUT OF TERUC.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual who has established eligibility for temporary enhanced regular unemployment compensation, but who has not exhausted all rights to such compensation, as of the last day of the week ending before July 1, 2004, such compensation shall continue to be payable to such individual for any week beginning after such date for which the individual meets the eligibility requirements of this title.

(2) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after December 31, 2004.

SEC. ___16. COORDINATION WITH THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—The Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended—

(1) in section 202(b)(1), by inserting ‘‘, and who have exhausted all rights to temporary enhanced regular unemployment compensation’’ before the semicolon at the end;

(2) in section 202(b)(2), by inserting ‘‘, temporary enhanced regular unemployment compensation,’’ after ‘‘regular compensation’’;

(3) in section 202(c), by inserting ‘‘(or, as the case may be, such individual’s rights to temporary enhanced regular unemployment compensation)’’ after ‘‘State law’’ in the matter preceding paragraph (1);

(4) in section 202(c)(1), by inserting ‘‘and no payments of temporary enhanced regular unemployment compensation can be made’’ after ‘‘under such law’’;

(5) in section 202(d)(1), by inserting ‘‘or the amount of any temporary enhanced regular unemployment compensation (including dependents’ allowances) payable to such individual for such a week,’’ after ‘‘total unemployment’’;

(6) in section 202(d)(2)(A), by inserting ‘‘, or, as the case may be, to temporary enhanced regular unemployment compensation,’’ after ‘‘State law’’;

(7) in section 203(b)(1)(A), by inserting ‘‘plus the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,’’ after ‘‘under such law’’; and

(8) in section 203(b)(2), by inserting ‘‘or the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,’’ after ‘‘total unemployment’’.

(b) AMOUNT OF TEUC OFFSET BY AMOUNT OF TERUC.—Section 203(b)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting a comma; and

(2) by adding at the end the following:

‘‘minus the number of weeks in which the individual was entitled to temporary enhanced regular unemployment compensation as a result of the application of the modification described in section ___11(b)(2)(A) of the _____ Act of 2003 (relating to the alternative base period) multiplied by the individual’s average weekly benefit amount for the benefit year.’’.

(c) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION DEFINED.—Section 207 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

‘‘SEC. 207. DEFINITIONS.

‘‘In this title:

‘‘(1) GENERAL DEFINITIONS.—The terms ‘compensation’, ‘regular compensation’, ‘extended compensation’, ‘additional compensation’, ‘benefit year’, ‘base period’, ‘State’, ‘State agency’, ‘State law’, and ‘week’ have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

‘‘(2) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION.—The term ‘temporary enhanced regular unemployment compensation’ means temporary enhanced regular unemployment benefits payable under title II of the _____ Act of 2003.’’.

Subtitle C—Railroad Unemployment Insurance

SEC. ___21. TEMPORARY INCREASE IN EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 2(c)(2) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)(2)) is amended by adding at the end the following:

‘‘(D) TEMPORARY INCREASE IN EXTENDED UNEMPLOYMENT BENEFITS.—

‘‘(i) EMPLOYEES WITH 10 OR MORE YEARS OF SERVICE.—Subject to clause (iii), in the case of an employee who has 10 or more years of service (as so defined), with respect to extended unemployment benefits—

‘‘(I) subparagraph (A) shall be applied by substituting ‘‘130 days of unemployment’’ for ‘‘65 days of unemployment’’; and

‘‘(II) subparagraph (B) shall be applied by inserting ‘‘(or, in the case of unemployment benefits, 13 consecutive 14-day periods’’ after ‘‘7 consecutive 14-day periods’’.

‘‘(ii) EMPLOYEES WITH LESS THAN 10 YEARS OF SERVICE.—Subject to clause (iii), in the case of an employee who has less than 10 years of service (as so defined), with respect to extended unemployment benefits, this paragraph shall apply to such an employee in the same manner as this paragraph would apply to an employee described in clause (i) if such clause had not been enacted.

‘‘(iii) APPLICATION.—The provisions of clauses (i) and (ii) shall apply to—

‘‘(I) an employee who received normal benefits for days of unemployment under this Act during the period beginning on July 1, 2002, and ending on November 30, 2003; and

‘‘(II) days of unemployment beginning on or after the date of enactment of ___ Act of 2003.’’.

Subtitle D—Revenue Provision

SEC. ___31. ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.

(a) IN GENERAL.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004 and 2005, 37.6%.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of enactment of this Act.

SA 545. Mr. KENNEDY (for himself, Mr. GRAHAM of Florida, Mr. ROCKEFELLER, Mr. JOHNSON, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. ___. REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS AND ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.

(a) REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS.—Section 201 of this Act, and the amendments made by such section, are repealed.

(b) ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004 and 2005, 37.6%.

(c) EFFECTIVE DATE.—Subsection (a) and (b) shall take effect on the date of enactment of this Act.

SA 546. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of end of subtitle C of title V add the following:

SEC. ___. REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS AND ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.

(a) REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS.—Section 201 of this Act, and the amendments made by such section, are repealed.

(b) ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004 and 2005, 37.6%.

(c) EFFECTIVE DATE.—Subsection (a) and (b) shall take effect on the date of enactment of this Act.

SA 547. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of end of subtitle C of title V add the following:

SEC. ___. REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS AND ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.

(a) REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS.—Section 201 of this Act, and the amendments made by such section, are repealed.

(b) ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004 and 2005, 37.6%.

(c) EFFECTIVE DATE.—Subsection (a) and (b) shall take effect on the date of enactment of this Act.

SA 548. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of end of subtitle C of title V add the following:

SEC. ___. ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.

(a) IN GENERAL.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004 and 2005, 37.6%.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of enactment of this Act.

SA 549. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1054, to provide reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 2, strike line 13 and insert:

(b) INCREASE IN PENALTIES.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(1) by striking ''$100,000'' and inserting ''$250,000'',

(2) by striking ''$500,000'' and inserting ''$1,000,000'', and

(3) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by

SA 550. Mr. WARNER (for himself, Mr. ALLEN, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows

At the end of subtitle C of title V, insert the following:

SEC. ___. EXPANSION OF ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) (relating to certain trade and business deductions of employees) is amended to read as follows:

''(D) CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.—The deductions allowed by section 162 which consist of expenses, not in excess of $500, paid or incurred by an eligible educator—

''(i) by reason of the participation of the educator in professional development courses related to the curriculum and academic subjects in which the educator provides instruction or to the students for which the educator provides instruction, and

''(ii) in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom.''.

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

SA 551. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, insert the following:

SEC. ___. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.

(a) RENEWAL COMMUNITIES.—

(1) IN GENERAL.—Section 1400E (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

''(g) EXPANSION OF DESIGNATED AREAS.—

''(1) EXPANSION BASED ON 2000 CENSUS.—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

''(A) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

''(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

''(2) EXPANSION TO CERTAIN AREAS WHICH DO NOT MEET POPULATION REQUIREMENTS.—

''(A) IN GENERAL.—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

''(B) AREA.—An area is described in this subparagraph if—

''(i) the area is adjacent to at least 1 other area designated as a renewal community,

''(ii) the area has a population less than the population required under subsection (c)(2)(C), and

''(iii) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3).

''(3) APPLICABILITY.—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

(b) CHANGE OF TOP INCOME RATE.—

(1) IN GENERAL.—The table in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001), as amended by section 102 of this Act, is amended by striking ''35.0%'' in the last column and inserting ''37.6%''.

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

(3) APPLICATION OF EGTRRA.—The amendment made by this subsection shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 552. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, insert the following:

SEC. ___. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.

(a) IN GENERAL.—Section 1400E of the Internal Revenue Code of 1986 (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

''(g) EXPANSION OF DESIGNATED AREAS.—

''(1) EXPANSION BASED ON 2000 CENSUS.—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

''(A) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

''(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

''(2) EXPANSION TO CERTAIN AREAS WHICH DO NOT MEET POPULATION REQUIREMENTS.—

''(A) IN GENERAL.—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

''(B) AREA.—An area is described in this subparagraph if—

''(i) the area is adjacent to at least 1 other area designated as a renewal community,

''(ii) the area has a population less than the population required under subsection (c)(2)(C), and

''(iii) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3).

''(3) APPLICABILITY.—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

SA 553. Mr. SCHUMER (for himself, Mr. CORZINE, Mrs. BOXER, Mrs. FEINSTEIN, Mr. EDWARDS, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Section 371 is amended by striking subsections (c) through (g) and inserting the following:

(c) CERTIFICATIONS.—In order to receive a payment under this section, the State shall provide the Secretary with certifications that—

(1) the State's proposed uses of the funds are consistent with subsection (b); and

(2) the State will allocate 50 percent of the funds directly to units of general local government based on the relative local population proportion for the State (as defined in subsection (d)(5)) and not use the funds to supplant State funding or revenue that the State otherwise provides to units of general local government.

(d) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—The amount of payment made to a State under this section shall be the minimum payment amount described in paragraph (2) plus the relative population proportion amount described in paragraph (3).

(2) MINIMUM PAYMENT AMOUNT.—The minimum payment amount described in this paragraph is—

(A) in the case of any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico, one-quarter of 1 percent of the aggregate amount made available for payments under this section (after the application of section 1903(x)(3) of the Social Security Act); and

(B) in the case of the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa, one-twentieth of 1 percent of such aggregate amount (after the application of section 1903(x)(3) of the Social Security Act).

(3) RELATIVE POPULATION PROPORTION AMOUNT.—The relative population proportion amount described in this paragraph is the product of—

(A) the aggregate amount made available for payments under this section (after the application of section 1903(x)(3) of the Social Security Act) minus the total of all of the minimum payment amounts determined under paragraph (2); and

(B) the relative State population proportion (as defined in paragraph (4)).

(4) RELATIVE STATE POPULATION PROPORTION DEFINED.—In this section, the term ''relative State population proportion'' means, with respect to a State, the amount equal to the quotient of—

(A) the population of the State (as reported in the most recent decennial census); and

(B) the total population of all States (as reported in the most recent decennial census).

(5) RELATIVE LOCAL POPULATION PROPORTION DEFINED.—In this section, the term ''relative local population proportion'' means, with respect to a unit of general local government within a State, the amount equal to the quotient of—

(A) the population of such unit of general local government (as reported in the most recent decennial census); and

(B) the total population of the State (as reported in the most recent decennial census).

(e) APPROPRIATION.—There is authorized to be appropriated and is appropriated for making payments under this section, $40,000,000,000 for fiscal year 2003. Amounts appropriated under this subsection shall remain available for expenditure through December 31, 2004.

(f) INCREASED PAYMENTS TO STATES UNDER THE MEDICAID PROGRAM.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following:

''(x) TEMPORARY INCREASED PAYMENTS TO STATES.—

''(1) IN GENERAL.—From the amounts made available under paragraph (3), the Secretary shall increase payments to States under this section for the third and fourth calendar quarters of fiscal year 2003, each calendar quarter of fiscal year 2004, and the first calendar quarter of fiscal year 2005.

''(2) METHOD OF INCREASE.—The Secretary shall determine the appropriate method for increasing payments to States in accordance with this subsection.

''(3) FUNDING.—Notwithstanding section 371(e) of the Jobs and Growth Tax Relief Reconciliation Act of 2003, from the amounts appropriated in such section for fiscal year 2003, $499,999 of such amount is hereby transferred and made available for the purpose of increasing payments to States under this section in accordance with this subsection. Amounts transferred under this paragraph shall remain available for expenditure through December 31, 2004.''.

(g) REPEAL.—Effective as of January 1, 2005, this section and the amendments made by this section are repealed.

(h) ELIMINATION OF 20 PERCENT PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—

(1) IN GENERAL.—Section 116(a)(2)(B), as added by section 201 of this Act, is amended by striking ''(20 percent in the case of taxable years beginning after 2007)''.

(2) NONAPPLICATION.—Subsection (g) of this section shall not apply to the amendment made by paragraph (1).

SA 554. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Section 371 is amended by striking subsections (c) through (g) inserting the following:

(c) CERTIFICATIONS.—In order to receive a payment under this section, the State shall provide the Secretary with certifications that—

(1) the State's proposed uses of the funds are consistent with subsection (b); and

(2) the State will allocate 50 percent of the funds directly to units of general local government based on the relative local population proportion for the State (as defined in subsection (d)(5)) and not use the funds to supplant State funding or revenue that the State otherwise provides to units of general local government.

(d) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—The amount of payment made to a State under this section shall be the minimum payment amount described in paragraph (2) plus the relative population proportion amount described in paragraph (3).

(2) MINIMUM PAYMENT AMOUNT.—The minimum payment amount described in this paragraph is—

(A) in the case of any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico, one-third of 1 percent of the aggregate amount made available for payments under this section (after the application of section 1903(x)(3) of the Social Security Act); and

(B) in the case of the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa, one-fifteenth of 1 percent of such aggregate amount (after the application of section 1903(x)(3) of the Social Security Act).

(3) RELATIVE POPULATION PROPORTION AMOUNT.—The relative population proportion amount described in this paragraph is the product of—

(A) the aggregate amount made available for payments under this section (after the application of section 1903(x)(3) of the Social Security Act) minus the total of all of the minimum payment amounts determined under paragraph (2); and

(B) the relative State population proportion (as defined in paragraph (4)).

(4) RELATIVE STATE POPULATION PROPORTION DEFINED.—In this section, the term ''relative State population proportion'' means, with respect to a State, the amount equal to the quotient of—

(A) the population of the State (as reported in the most recent decennial census); and

(B) the total population of all States (as reported in the most recent decennial census).

(5) RELATIVE LOCAL POPULATION PROPORTION DEFINED.—In this section, the term ''relative local population proportion'' means, with respect to a unit of general local government within a State, the amount equal to the quotient of—

(A) the population of such unit of general local government (as reported in the most recent decennial census); and

(B) the total population of the State (as reported in the most recent decennial census).

(e) APPROPRIATION.—There is authorized to be appropriated and is appropriated for making payments under this section, $30,000,000,000 for fiscal year 2003. Amounts appropriated under this subsection shall remain available for expenditure through December 31, 2004.

(f) INCREASED PAYMENTS TO STATES UNDER THE MEDICAID PROGRAM.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following:

''(x) TEMPORARY INCREASED PAYMENTS TO STATES.—

''(1) IN GENERAL.—From the amounts made available under paragraph (3), the Secretary shall increase payments to States under this section for the third and fourth calendar quarters of fiscal year 2003, each calendar quarter of fiscal year 2004, and the first calendar quarter of fiscal year 2005.

''(2) METHOD OF INCREASE.—The Secretary shall determine the appropriate method for increasing payments to States in accordance with this subsection.

''(3) FUNDING.—Notwithstanding section 371(e) of the Jobs and Growth Tax Relief Reconciliation Act of 2003, from the amounts appropriated in such section for fiscal year 2003, $499,999 of such amount is hereby transferred and made available for the purpose of increasing payments to States under this section in accordance with this subsection. Amounts transferred under this paragraph shall remain available for expenditure through December 31, 2004.''.

(g) REPEAL.—Effective as of January 1, 2005, this section and the amendments made by this section are repealed.

(h) REVISION OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—

(1) IN GENERAL.—Section 116(a)(2)(B), as added by section 201 of this Act, is amended by striking ''2007'' and inserting ''2010''.

(2) APPLICATION OF SUNSET.—Section 601(a) of this Act shall apply to the amendment made by paragraph (1).

(3) NONAPPLICATION.—Subsection (g) of this section shall not apply to the amendment made by paragraph (1).

SA 555. Mr. GRASSLEY proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end of part I of subtitle C of title III add the following:

SEC. 335. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SA 556. Mr. DORGAN (for himself, Mr. BAUCUS, Mr. CONRAD, and Mr. CORZINE) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Strike section 102.

Strike title II.

At the end of subtitle C of title V, add the following:

SEC. ___. REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) RESTORATION OF PRIOR LAW FORMULA.—Subsection (a) of section 86 is amended to read as follows:

''(a) IN GENERAL.—Gross income for the taxable year of any taxpayer described in subsection (b) (notwithstanding section 207 of the Social Security Act) includes social security benefits in an amount equal to the lesser of—

''(1) one-half of the social security benefits received during the taxable year, or

''(2) one-half of the excess described in subsection (b)(1).''

(b) REPEAL OF ADJUSTED BASE AMOUNT.—Subsection (c) of section 86 is amended to read as follows:

''(c) BASE AMOUNT.—For purposes of this section, the term 'base amount' means—

''(1) except as otherwise provided in this subsection, $25,000,

''(2) $32,000 in the case of a joint return, and

''(3) zero in the case of a taxpayer who—

''(A) is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such year, and

''(B) does not live apart from his spouse at all times during the taxable year.''

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 871(a)(3) is amended by striking ''85 percent'' and inserting ''50 percent''.

(2)(A) Subparagraph (A) of section 121(e)(1) of the Social Security Amendments of 1983 (Public Law 98–21) is amended—

(i) by striking ''(A) There'' and inserting ''There'';

(ii) by striking ''(i)'' immediately following ''amounts equivalent to''; and

(iii) by striking '', less (ii)'' and all that follows and inserting a period.

(B) Paragraph (1) of section 121(e) of such Act is amended by striking subparagraph (B).

(C) Paragraph (3) of section 121(e) of such Act is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(D) Paragraph (2) of section 121(e) of such Act is amended in the first sentence by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)''.

(d) MAINTENANCE OF TRANSFERS TO HOSPITAL INSURANCE TRUST FUND.—There are hereby appropriated to the Hospital Insurance Trust Fund established under section 1817 of the Social Security Act amounts equal to the reduction in revenues to the Treasury by reason of the enactment of this section. Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had this section not been enacted.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) SUBSECTION (c)(1).—The amendment made by subsection (c)(1) shall apply to benefits paid after December 31, 2003.

(3) SUBSECTION (c)(2).—The amendments made by subsection (c)(2) shall apply to tax liabilities for taxable years beginning after December 31, 2003.

SA 557. Mr. SCHUMER (for himself, Mr. BIDEN, Mrs. BOXER, Mr. DURBIN, Ms. CANTWELL, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end of subtitle C of title V, insert the following:

SEC. ___. EXPANSION OF DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—

(1) AMOUNT OF DEDUCTION.—Subsection (b) of section 222 (relating to deduction for qualified tuition and related expenses) is amended to read as follows:

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATIONS.—

''(A) IN GENERAL.—Except as provided in paragraph (2), the amount allowed as a deduction under subsection (a) with respect to the taxpayer for any taxable year shall not exceed the applicable dollar limit.

''(B) APPLICABLE DOLLAR LIMIT.—The applicable dollar limit for any taxable year shall be determined as follows:

''Taxable year:	**Applicable** dollar amount:
2003	$8,000
2004 and thereafter	$12,000.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $65,000 ($130,000 in the case of a joint return), bears to

''(ii) $15,000 ($30,000 in the case of a joint return).

''(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(i) without regard to this section and sections 911, 931, and 933, and

''(ii) after the application of sections 86, 135, 137, 219, 221, and 469.

For purposes of the sections referred to in clause (ii), adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(D) INFLATION ADJUSTMENTS.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003, both of the dollar amounts in subparagraph (B)(i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

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

(2) QUALIFIED TUITION AND RELATED EXPENSES OF ELIGIBLE STUDENTS.—

(A) IN GENERAL.—Section 222(a) (relating to allowance of deduction) is amended by inserting ''of eligible students'' after ''expenses''.

(B) DEFINITION OF ELIGIBLE STUDENT.—Section 222(d) (relating to definitions and special rules) is amended by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) ELIGIBLE STUDENT.—The term 'eligible student' has the meaning given such term by section 25A(b)(3).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made in taxable years beginning after December 31, 2002.

(b) SLOWER ACCELERATION OF TOP INCOME RATE.—

(1) IN GENERAL.—The table in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001), as amended by this Act, is amended to read as follows:

''In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003	25.0%	28.0%	33.0%	38.6%
2004	25.0%	28.0%	33.0%	37.6%
2005	25.0%	28.0%	33.0%	37.6%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2002.

(c) APPLICATION OF EGTRRA.—The amendment made by subsection (b) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 558. Mr. SCHUMER (for himself, Mr. BIDEN, Mrs. BOXER, Mr. DURBIN, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, insert the following:

SEC. ___. EXPANSION OF DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—

(1) AMOUNT OF DEDUCTION.—Subsection (b) of section 222 (relating to deduction for qualified tuition and related expenses) is amended to read as follows:

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATIONS.—

''(A) IN GENERAL.—Except as provided in paragraph (2), the amount allowed as a deduction under subsection (a) with respect to the taxpayer for any taxable year shall not exceed the applicable dollar limit.

''(B) APPLICABLE DOLLAR LIMIT.—The applicable dollar limit for any taxable year shall be determined as follows:

''**Taxable year:**	**Applicable** dollar amount:
2003	$8,000
2004 and thereafter	$12,000.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $65,000 ($130,000 in the case of a joint return), bears to

''(ii) $15,000 ($30,000 in the case of a joint return).

''(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(i) without regard to this section and sections 911, 931, and 933, and

''(ii) after the application of sections 86, 135, 137, 219, 221, and 469.

For purposes of the sections referred to in clause (ii), adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(D) INFLATION ADJUSTMENTS.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003, both of the dollar amounts in subparagraph (B)(i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

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

(2) QUALIFIED TUITION AND RELATED EXPENSES OF ELIGIBLE STUDENTS.—

(A) IN GENERAL.—Section 222(a) (relating to allowance of deduction) is amended by inserting ''of eligible students'' after ''expenses''.

(B) DEFINITION OF ELIGIBLE STUDENT.—Section 222(d) (relating to definitions and special rules) is amended by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) ELIGIBLE STUDENT.—The term 'eligible student' has the meaning given such term by section 25A(b)(3).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made in taxable years beginning after December 31, 2002 and before January 1, 2009.

(b) INTEREST ON HIGHER EDUCATION LOANS.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. INTEREST ON HIGHER EDUCATION LOANS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed by subsection (a) for the taxable year shall not exceed $1,500.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000 ($100,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a credit under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $20,000 ($40,000 in the case of a joint return).

''(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 911, 931, and 933.

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2003, the $50,000 and $100,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '2002' for '1992'.

''(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

''(c) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

''(d) LIMIT ON PERIOD CREDIT ALLOWED.—A credit shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

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

''(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' has the meaning given such term by section 221(e)(1).

''(2) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

''(f) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount taken into account for any deduction under any other provision of this chapter.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Interest on higher education loans.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any qualified education loan (as defined in section 25C(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 2002 and before January 1, 2009.

(c) ELIMINATION OF 20 PERCENT DIVIDEND EXCLUSION.—

(1) IN GENERAL.—Subparagraph (B) of section 116(a)(2) (relating to partial exclusion of received by individuals), as added by section 201 of this Act, is amended by striking ''(20 percent in the case of taxable years beginning after 2007)''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2003.

SA 559. Mr. BURNS (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. ___. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

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

''SEC. 191. BROADBAND EXPENDITURES.

''(a) TREATMENT OF EXPENDITURES.—

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

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

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

''(1) IN GENERAL.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred and properly taken into account with respect to the purchase or installation of qualified equipment (including any upgrades thereto), together with any direct or indirect costs incurred and properly taken into account with respect to the connection of such qualified equipment to any qualified subscriber, but only if such costs are incurred after December 31, 2003, and before January 1, 2005.

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

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

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

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

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

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

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

''(2) LIMITATION.—

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

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

''(ii) which is placed in service,

after December 31, 2003.

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

''(i) is originally placed in service after December 31, 2003, by any person, and

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

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

''(d) SPECIAL ALLOCATION RULES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

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

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

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

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

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

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

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

''(13) QUALIFIED EQUIPMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(ii) any residential subscriber.

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

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

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

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

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

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

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

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

''(B) such services can be utilized—

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

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

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

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

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

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

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

''(23) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

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

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

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

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

''(f) SPECIAL RULES.—

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

''(2) BASIS REDUCTION.—

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

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

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

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following:

''(v) from the sale of property subject to a lease described in section 191(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the qualified broadband expenditures which would be taken into account under section 191 for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(c) CONFORMING AMENDMENTS.—

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

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

(2) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

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

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

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

(d) DESIGNATION OF CENSUS TRACTS.—

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

(2) SATURATED MARKET.—

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

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

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

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

(C) AUTHORITY TO DISREGARD FALSE SUBMISSIONS.—In addition to imposing any other applicable penalties, the Secretary of the Treasury shall have the discretion to disregard any form described in subparagraph (A)(i) on which a provider knowingly submitted false information.

(e) OTHER REGULATORY MATTERS.—

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

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

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

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

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2003.

SA 560. Mr. REID proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the appropriate place, insert the following:

SEC. ___. MECHANISM TO PROTECT SOCIAL SECURITY

(a) CERTIFICATION.—

(1) IN GENERAL.—Each year, beginning in 2003, when the Final Monthly Treasury Statement for the most recently completed fiscal year is issued, the Secretary of the Treasury shall—

(A) certify whether there was a on-budget balance or surplus in that fiscal year; and

(B) estimate whether there would be an on-budget deficit in any of the succeeding 10 fiscal years if section 201 of this Act takes effect January 1 of the following year.

(2) ESTIMATE.—The calculations for the estimate under paragraph (1)(B) shall be consistent with the baseline rules specified in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1995, except for the assumption that these provisions take effect and remain in effect permanently.

(b) DELAY IN DIVIDEND TAX CUT.—Notwithstanding any other provision of law or this Act, section 201 of this Act shall not take effect until January 1 of the year following—

(1) a certification by the Secretary of the Treasury pursuant to paragraph (a)(1)(A) that no on-budget deficit existed in the preceding fiscal year; and

(2) an estimate by the Secretary of the Treasury pursuant to paragraph (a)(1)(B) that no on-budget deficits will occur in any of the 10 succeeding fiscal years even if section 201 takes effect.

SA 561. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Jobs, Opportunity, and Prosperity Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—TAX CREDIT FOR EVERY WORKING AMERICAN

Sec. 101. Tax credit for every working American.

TITLE II—CHILD TAX CREDIT

Sec. 201. Acceleration of increase in, and refundability of, child tax credit.

TITLE III—MARRIAGE PENALTY RELIEF

Sec. 301. Acceleration of marriage penalty relief for earned income credit.
Sec. 302. Acceleration of increase in standard deduction for married taxpayers filing joint returns.

TITLE IV—BUSINESS TAX CUT

Sec. 401. Small business tax credit for 50 percent of health premiums.
Sec. 402. Increased bonus depreciation.
Sec. 403. Modifications to expensing under section 179.
Sec. 404. Broadband Internet access tax credit.

TITLE V—STATE FISCAL RELIEF

Sec. 501. General revenue sharing with States and their local governments.
Sec. 502. Temporary State FMAP relief.

TITLE VI—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

Sec. 601. Extension of the temporary extended unemployment compensation act of 2002.
Sec. 602. Entitlement to additional weeks of temporary extended unemployment compensation.

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

Sec. 611. Federal-state agreements.
Sec. 612. Payments to States having agreements under this title.
Sec. 613. Financing provisions.
Sec. 614. Definitions.
Sec. 615. Applicability.
Sec. 616. Coordination with the Temporary Extended Unemployment Compensation Act of 2002.

TITLE VII—LONG-TERM FISCAL DISCIPLINE

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 Corporate Governance Provisions

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

Subtitle C—Provisions to Discourage Corporate Expatriation

Sec. 731. Tax treatment of inverted corporate entities.
Sec. 732. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 733. Reinsurance of United States risks in foreign jurisdictions.

Subtitle D—Imposition of Customs User Fees

Sec. 741. Customs user fees.

Subtitle E—Budget Points of Order

Sec. 751. Extension of pay-as-you-go enforcement in the Senate.
Sec. 752. Application of EGTRRA sunset to various titles.
Sec. 753. Sunset.

TITLE I—TAX CREDIT FOR EVERY WORKING AMERICAN

SEC. 101. TAX CREDIT FOR EVERY WORKING AMERICAN.

(a) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to each eligible taxpayer an amount equal to 10 percent of the eligible portion of the taxpayer's adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) for a taxable year beginning in 2002.

(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term ''eligible taxpayer'' means any individual other than—

(1) any estate or trust,

(2) any nonresident alien, or

(3) any individual with respect to whom a deduction under section 151 of such Code is allowable to another taxpayer for a taxable year beginning in 2003.

(c) ELIGIBLE PORTION.—For purposes of this section—

(1) IN GENERAL.—With respect to each eligible taxpayer, the eligible portion shall be equal to the sum of—

(A) $3,000 ($6,000 in the case of a taxpayer filing a joint return under section 6013 of such Code), plus

(B) $3,000 for each qualifying child of the taxpayer, not to exceed $6,000.

(2) QUALIFYING CHILD.—The term ''qualifying child'' has the meaning given such term by section 24(c) of such Code.

(d) REMITTANCE OF PAYMENT.—The Secretary of the Treasury shall remit the payment described in subsection (a) to the taxpayer as soon as practicable after the date of the enactment of this section.

TITLE II—CHILD TAX CREDIT

SEC. 201. ACCELERATION OF INCREASE IN, AND REFUNDABILITY OF, CHILD TAX CREDIT.

(a) ACCELERATION OF INCREASE IN CREDIT.—The table contained in section 24(a)(2) (relating to per child amount) is amended to read as follows:

''In the case of any taxable year beginning in—	The per child amount is—
2003	$700
2004, 2005, 2006, 2007, 2008, or 2009	800
2010 or thereafter	1,000.''.

(b) EXPANSION OF CREDIT REFUNDABILITY.—Section 24(d)(1)(B)(i) (relating to portion of credit refundable) is amended by striking ''(10 percent in the case of taxable years beginning before January 1, 2005)''.

(c) ADVANCE PAYMENT OF PORTION OF INCREASED CREDIT IN 2003.—

(1) IN GENERAL.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end the following new section:

''SEC. 6429. ADVANCE PAYMENT OF PORTION OF INCREASED CHILD CREDIT FOR 2003.

''(a) IN GENERAL.—Each taxpayer who claimed a credit under section 24 on the return for the taxpayer's first taxable year beginning in 2002 shall be treated as having made a payment against the tax imposed by chapter 1 for such taxable year in an amount equal to the child tax credit refund amount (if any) for such taxable year.

''(b) CHILD TAX CREDIT REFUND AMOUNT.—For purposes of this section, the child tax credit refund amount is the amount by which the aggregate credits allowed under part IV of subchapter A of chapter 1 for such first taxable year would have been increased if—

''(1) the per child amount under section 24(a)(2) for such year were $700,

''(2) only qualifying children (as defined in section 24(c)) of the taxpayer for such year who had not attained age 17 as of December 31, 2003, were taken into account, and

''(3) section 24(d)(1)(B)(ii) did not apply.

''(c) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this section, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible and, to the extent practicable, before October 1, 2003. No refund or credit shall be made or allowed under this section after December 31, 2003.

''(d) COORDINATION WITH CHILD TAX CREDIT.—

''(1) IN GENERAL.—The amount of credit which would (but for this subsection and section 26) be allowed under section 24 for the taxpayer's first taxable year beginning in 2003 shall be reduced (but not below zero) by the payments made to the taxpayer under this section. Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

''(2) JOINT RETURNS.—In the case of a payment under this section with respect to a joint return, half of such payment shall be treated as having been made to each individual filing such return.

''(e) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

''Sec. 6429. Advance payment of portion of increased child credit for 2003.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

TITLE III—MARRIAGE PENALTY RELIEF

SEC. 301. ACCELERATION OF MARRIAGE PENALTY RELIEF FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(b)(2)(B) (relating to joint returns) is amended by striking '''increased by—'' and all that follows and inserting ''increased by $3,000.''.

(b) INFLATION ADJUSTMENT.—Clause (ii) of section 32(j)(1)(B) (relating to inflation adjustments) is amended to read as follows:

''(ii) in the case of the $3,000 amount in subsection (b)(2)(B), by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) of such section 1.''.

(c) CONFORMING AMENDMENT.—Section 303(i)(2) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2003''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(2) CONFORMING AMENDMENT.—The amendment made by subsection (c) shall take effect on January 1, 2003.

SEC. 302. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:

''(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

''(A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—

''(i) a joint return, or

''(ii) a surviving spouse (as defined in section 2(a)),

''(B) $4,400 in the case of a head of household (as defined in section 2(b)), or

''(C) $3,000 in any other case.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 63(c)(4) is amended by striking ''(2)(D)'' each place it occurs and inserting ''(2)(C)''.

(2) Section 63(c) is amended by striking paragraph (7).

(3) Section 301(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2002''.

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

TITLE IV—BUSINESS TAX CUT

SEC. 401. SMALL BUSINESS TAX CREDIT FOR 50 PERCENT OF HEALTH PREMIUMS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified small employer, the employee health insurance expenses credit determined under this section is an amount equal to the applicable percentage of the amount paid by the taxpayer during the taxable year for qualified employee health insurance expenses.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is equal to—

''(1) 50 percent in the case of an employer with less than 26 qualified employees,

''(2) 40 percent in the case of an employer with more than 25 but less than 36 qualified employees, and

''(3) 30 percent in the case of an employer with more than 35 but less than 51 qualified employees.

''(c) PER EMPLOYEE DOLLAR LIMITATION.—The amount of qualified employee health insurance expenses taken into account under subsection (a) with respect to any qualified employee for any taxable year shall not exceed the maximum employer contribution for self-only coverage or family coverage (as applicable) determined under section 8906(a) of title 5, United States Code, for the calendar year in which such taxable year begins.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'qualified small employer' means any small employer which provides eligibility for health insurance coverage (after any waiting period (as defined in section 9801(b)(4)) to all qualified employees of the employer.

''(B) SMALL EMPLOYER.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of not less than 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under clause (i) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by paragraph (1) of section 9832(b) (determined by disregarding the last sentence of paragraph (2) of such section).

''(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an employee of an employer who, with respect to any period, is not provided health insurance coverage under—

''(A) a health plan of the employee's spouse,

''(B) title XVIII, XIX, or XXI of the Social Security Act,

''(C) chapter 17 of title 38, United States Code,

''(D) chapter 55 of title 10, United States Code,

''(E) chapter 89 of title 5, United States Code, or

''(F) any other provision of law.

''(4) EMPLOYEE—The term 'employee'—

''(A) means any individual, with respect to any calendar year, who is reasonably expected to receive at least $5,000 of compensation from the employer during such year,

''(B) does not include an employee within the meaning of section 401(c)(1), and

''(C) includes a leased employee within the meaning of section 414(n).

''(5) COMPENSATION.—The term 'compensation' means amounts described in section 6051(a)(3).

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employee health insurance expenses taken into account under subsection (a).

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2003.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the employee health insurance expenses credit determined under section 45G.''.

(c) CREDIT ALLOWED AGAINST MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR EMPLOYEE HEALTH INSURANCE CREDIT.—

''(A) IN GENERAL.—In the case of the employee health insurance credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the employee health insurance credit).

''(B) EMPLOYEE HEALTH INSURANCE CREDIT.—For purposes of this subsection, the term 'employee health insurance credit' means the credit allowable under subsection (a) by reason of section 45G(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by striking ''(other'' and all that follows through ''credit)'' and inserting ''(other than the empowerment zone employment credit or the employee health insurance credit)''.

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

''(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45G. Employee health insurance expenses.''.

(f) EMPLOYER OUTREACH.—The Internal Revenue Service shall, in conjunction with the Small Business Administration, develop materials and implement an educational program to ensure that business personnel are aware of—

(1) the eligibility criteria for the tax credit provided under section 45G of the Internal Revenue Code of 1986 (as added by this section),

(2) the methods to be used in calculating such credit,

(3) the documentation needed in order to claim such credit, and

(4) any available health plan purchasing alliances established under title II,

so that the maximum number of eligible businesses may claim the tax credit.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 402. INCREASED BONUS DEPRECIATION.

(a) IN GENERAL.—Subsection (k) of section 168 (relating to accelerated cost recovery system) is amended—

(1) by adding at the end of paragraph (1) the following new flush sentence:

''In the case of any qualified property acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2002, subparagraph (A) shall be applied by substituting '50 percent' for '30 percent'.'',

(2) by striking ''September 11, 2004'' each place it appears and inserting ''January 1, 2004'',

(3) by striking ''SEPTEMBER 11, 2004'' and inserting ''JANUARY 1, 2004'', and

(4) by striking ''PRE-SEPTEMBER 11, 2004'' and inserting ''PRE-JANUARY 1, 2004''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for clause (i) of section 1400L(b)(2)(C) of the Internal Revenue Code of 1986 is amended by striking ''30 PERCENT ADDITIONAL'' and inserting ''ADDITIONAL''.

(2) Section 1400L(b)(2)(D) of such Code is amended by inserting ''(as in effect on the day after the date of the enactment of this section)'' after ''section 168(k)(2)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property acquired after December 31, 2002.

SEC. 403. MODIFICATIONS TO EXPENSING UNDER SECTION 179.

(a) INCREASE OF AMOUNT WHICH MAY BE EXPENSED.—

(1) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $25,000 ($75,000 in the case of any taxable year beginning in 2003).''

(2) INCREASE IN PHASEOUT THRESHOLD.—Paragraph (2) of section 179(b) is amended by striking ''$200,000'' and inserting ''$200,000 ($325,000 in the case of any taxable year beginning in 2003)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 2002.

SEC. 404. BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

''SEC. 48A. BROADBAND INTERNET ACCESS CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

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

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

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

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

''(2) LIMITATION.—

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

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

''(ii) which is placed in service,

after December 31, 2002.

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

''(i) is originally placed in service after December 31, 2002, by a person, and

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

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

''(d) SPECIAL ALLOCATION RULES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

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

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

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

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

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

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

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

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

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to a subscriber if—

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

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

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

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

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

''(13) QUALIFIED EQUIPMENT.—

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

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

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

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

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

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

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

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

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

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

''(14) QUALIFIED EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified expenditure' means any amount—

''(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

''(ii) incurred after December 31, 2002, and before January 1, 2004.

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

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

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

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

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

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

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

''(ii) a residential subscriber.

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

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

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

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

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

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

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

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

''(B) such services can be utilized—

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

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

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

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

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

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

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

''(24) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

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

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

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

''(25) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means a residential subscriber residing in a dwelling located in

an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.''.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) the broadband Internet access credit.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from the sale of property subject to a lease described in section 48A(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48A for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following:

''Sec. 48A. Broadband internet access credit.''.

(e) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (17) and (24) of section 48A(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(20) of such section 48A—

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

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

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

(C) PENALTIES FOR SUBMISSION OF FALSE INFORMATION.—The Secretary of the Treasury shall designate appropriate penalties for knowingly submitting false information on the form described in subparagraph (A)(i).

(f) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48A of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband Internet access credit under section 48A of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48A of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified expenditures satisfies the requirements of section 48A of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48A of such Code.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2002, and before January 1, 2004.

TITLE V—STATE FISCAL RELIEF

SEC. 501. GENERAL REVENUE SHARING WITH STATES AND THEIR LOCAL GOVERNMENTS.

(a) APPROPRIATION.—There is authorized to be appropriated and is appropriated to carry out this section $20,000,000,000 for fiscal year 2003.

(b) ALLOTMENTS.—From the amount appropriated under subsection (a) for fiscal year 2003, the Secretary of the Treasury shall, as soon as practicable after the date of the enactment of this Act, allot to each of the States as follows, except that no State shall receive less than ½ of 1 percent of such amount:

(1) STATE LEVEL.—$16,000,000,000 shall be allotted among such States on the basis of the relative population of each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(2) LOCAL GOVERNMENT LEVEL.—$4,000,000,000 shall be allotted among such States as determined under paragraph (1) for distribution to the various units of general local government within such States on the basis of the relative population of each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

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

(1) STATE.—The term ''State'' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term ''unit of general local government'' means—

(i) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(ii) the District of Columbia, the Commonwealth of Puerto Rico, and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(B) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this section, the rules under section 6720(c) of title 31, United States Code, shall apply.

SEC. 502. TEMPORARY STATE FMAP RELIEF.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR EACH CALENDAR QUARTER OF FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this subsection for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2004, before the application of this section.

(c) GENERAL 4.95 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND EACH CALENDAR QUARTER OF FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), for each State for the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 4.95 percentage points.

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to subsection (f), with respect to the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 9.90 percent of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.); or

(3) the percentage described in the third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (relating to amounts expended as medical assistance for services received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act)).

(f) STATE ELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on July 1, 2003.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after July 1, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (c) or an increase in a cap

amount under subsection (d) in the first calendar quarter (and any subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on July 1, 2003.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) REPEAL.—Effective as of October 1, 2004, this section is repealed.

TITLE VI—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

SEC. 601. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3), is amended—

(1) in subsection (a)(2), by striking ''before June 1'' and inserting ''on or before November 30'';

(2) in subsection (b)(1), by striking ''May 31, 2003'' and inserting ''November 30, 2003'';

(3) in subsection (b)(2)—

(A) in the heading, by striking ''MAY 31, 2003'' and inserting ''NOVEMBER 30, 2003''; and

(B) by striking ''May 31, 2003'' and inserting ''November 30, 2003''; and

(4) in subsection (b)(3), by striking ''August 30, 2003'' and inserting ''February 28, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. 602. ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) ENTITLEMENT TO ADDITIONAL WEEKS.—

(1) IN GENERAL.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(A) in subparagraph (A), by striking ''50 percent'' and inserting ''100 percent''; and

(B) in subparagraph (B), by striking ''13 times'' and inserting ''26 times''.

(2) REPEAL OF RESTRICTION ON AUGMENTATION DURING TRANSITIONAL PERIOD.—Section 208(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 601(a), is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''; and

(ii) by inserting before the period at the end the following: '', including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) EXTENSION OF TRANSITION LIMITATION.—Section 208(b)(2) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 601(a)(4) and as redesignated by paragraph (2), is amended by striking ''February 28, 2004'' and inserting ''May 29, 2004''.

(4) CONFORMING AMENDMENT FOR AUGMENTED BENEFITS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by striking ''the amount originally established in such account (as determined under subsection (b)(1))'' and inserting ''7 times the individual's average weekly benefit amount for the benefit year''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendments made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ''TEUC–X amounts'') prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as ''TEUC amounts'').

(3) APPLICATION TO EXHAUSTEES AND CURRENT BENEFICIARIES.—

(A) EXHAUSTEES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account) before such date,

such individual's eligibility for any additional weeks of temporary extended unemployment compensation by reason of the amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(B) CURRENT BENEFICIARIES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) as to whom the condition described in subparagraph (A)(ii) does not apply,

such individual shall be eligible for temporary extended unemployment compensation (in accordance with the provisions of the Temporary Extended Unemployment Compensation Act of 2002, as amended by subsection (a)) with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(4) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM SUCH A DETERMINATION WAS MADE PRIOR TO THE DATE OF ENACTMENT.—Any determination of whether the individual's State is in an extended benefit period under section 203(c) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) made prior to the date of enactment of this Act shall be disregarded and the determination under such section shall be made as follows:

(A) INDIVIDUALS WHO EXHAUSTED ALL TEUC AND TEUC–X AMOUNTS PRIOR TO THE DATE OF ENACTMENT.—In the case of an individual whose temporary extended unemployment account has, prior to the date of enactment of this Act, been both augmented under such section 203(c) and exhausted of all amounts by which it was so augmented, the determination shall be made as of such date of enactment.

(B) ALL OTHER INDIVIDUALS.—In the case of an individual who is not described in subparagraph (A), the determination shall be made at the time that the individual's account established under such section 203, as amended by subsection (a), is exhausted.

(5) NO EFFECT ON PROVISIONS RELATED TO DISPLACED AIRLINE RELATED WORKERS.—The amendments made by this section and section 601 shall have no effect on the provisions of section 4002 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11).

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

SEC. 611. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Subject to paragraph (3), any agreement under subsection (a) shall provide that the State agency of the State, in addition to any amounts of regular compensation to which an individual may be entitled under the State law, shall make payments of temporary enhanced regular unemployment compensation to an individual in an amount and to the extent that the individual would be entitled to regular compensation if the State law were applied with the modifications described in paragraph (2).

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) In the case of an individual who is not eligible for regular compensation under the State law because of the use of a definition of base period that does not count wages earned in the most recently completed calendar quarter, then eligibility for compensation shall be determined by applying a base period ending at the close of the most recently completed calendar quarter.

(B) In the case of an individual who is not eligible for regular compensation under the State law because such individual does not meet requirements relating to availability for work, active search for work, or refusal to accept work, because such individual is seeking, or is available for, less than full-time work, then compensation shall not be denied by such State to an otherwise eligible individual who seeks less than full-time work or fails to accept full-time work.

(3) REDUCTION OF AMOUNTS OF REGULAR COMPENSATION AVAILABLE FOR INDIVIDUALS WHO SOUGHT PART-TIME WORK OR FAILED TO ACCEPT FULL-TIME WORK.—Any agreement under subsection (a) shall provide that the State agency of the State shall reduce the amount of regular compensation available to an individual who has received temporary enhanced regular unemployment compensation as a result of the application of the modification described in paragraph (2)(B) by the amount of such temporary enhanced regular unemployment compensation.

(c) COORDINATION RULE.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

SEC. 612. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any temporary enhanced regular unemployment compensation; and

(2) 100 percent of any regular compensation which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in subparagraphs (A) and (B) of section 611(b)(2), but only to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 611(b)(1), have been reimbursable under paragraph (1).

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 613. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (as so established), or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 502(a)) and certified by the Secretary to the Secretary of the Treasury.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 614. DEFINITIONS.

For purposes of this title, the terms ''compensation'', ''base period'', ''regular compensation'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. 615. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before July 1, 2004.

(b) PHASE-OUT OF TERUC.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual who has established eligibility for temporary enhanced regular unemployment compensation, but who has not exhausted all rights to such compensation, as of the last day of the week ending before July 1, 2004, such compensation shall continue to be payable to such individual for any week beginning after such date for which the individual meets the eligibility requirements of this title.

(2) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after December 31, 2004.

SEC. 616. COORDINATION WITH THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—The Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended—

(1) in section 202(b)(1), by inserting '', and who have exhausted all rights to temporary enhanced regular unemployment compensation'' before the semicolon at the end;

(2) in section 202(b)(2), by inserting '', temporary enhanced regular unemployment compensation,'' after ''regular compensation'';

(3) in section 202(c), by inserting ''(or, as the case may be, such individual's rights to temporary enhanced regular unemployment compensation)'' after ''State law'' in the matter preceding paragraph (1);

(4) in section 202(c)(1), by inserting ''and no payments of temporary enhanced regular unemployment compensation can be made'' after ''under such law'';

(5) in section 202(d)(1), by inserting ''or the amount of any temporary enhanced regular unemployment compensation (including dependents' allowances) payable to such individual for such a week,'' after ''total unemployment'';

(6) in section 202(d)(2)(A), by inserting '', or, as the case may be, to temporary enhanced regular unemployment compensation,'' after ''State law'';

(7) in section 203(b)(1)(A), by inserting ''plus the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''under such law''; and

(8) in section 203(b)(2), by inserting ''or the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''total unemployment''.

(b) AMOUNT OF TEUC OFFSET BY AMOUNT OF TERUC.—Section 203(b)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting a comma; and

(2) by adding at the end the following:

''minus the number of weeks in which the individual was entitled to temporary enhanced regular unemployment compensation as a result of the application of the modification described in section 611(b)(2)(A) of the Jobs, Opportunity, and Prosperity Act of 2003 (relating to the alternative base period) multiplied by the individual's average weekly benefit amount for the benefit year.''.

(c) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION DEFINED.—Section 207 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

''SEC. 207. DEFINITIONS.

''In this title:

''(1) GENERAL DEFINITIONS.—The terms 'compensation', 'regular compensation', 'extended compensation', 'additional compensation', 'benefit year', 'base period', 'State', 'State agency', 'State law', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(2) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION.—The term 'temporary enhanced regular unemployment compensation' means temporary enhanced regular unemployment benefits payable under title II of the Jobs, Opportunity, and Prosperity Act of 2003.''.

TITLE V—LONG-TERM FISCAL DISCIPLINE

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 701. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

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

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—A lessor of tangible property subject to a lease shall be treated as satisfying the requirements of paragraph (1)(B)(ii) with respect to the leased property if such lease satisfies such requirements as provided by the Secretary.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 702. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

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

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

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

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

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

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

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

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 703. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

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

SEC. 704. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements 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).''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 705. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''.

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

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

SEC. 706. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 707. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

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

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

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

SEC. 708. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 709. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

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

SEC. 710. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''.

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 711. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

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

SEC. 712. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 713. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who

submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 714. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''.

SEC. 715. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

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

SEC. 716. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 717. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''.

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

SEC. 718. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2002, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Corporate Governance Provisions

SEC. 721. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''.

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii)

(as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 722. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''..

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

Subtitle C—Provisions to Discourage Corporate Expatriation

SEC. 731. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

''(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

''(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

''(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

''(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

''(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

''(iii) notify the entity that the Secretary has determined that the application was not

filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

''(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

''(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

''(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

''(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

''(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

''(E) TAX COURT REVIEW.—

''(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

''(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

''(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking ''and'' at the end of subparagraph (C), by inserting ''and'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,''.

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking ''or (D)'' and inserting '', (D), or (E)''.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(e) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 732. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

"SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

''(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

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

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

''(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 733. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle D—Imposition of Customs User Fees

SEC. 741. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2013''.

Subtitle E—Budget Points of Order

SEC. 751. EXTENSION OF PAY-AS-YOU-GO ENFORCEMENT IN THE SENATE.

Section 2 of Senate Resolution 304 (107th Congress) is amended—

(1) in subsection (a)(1), by striking ''April 15, 2003'' and inserting ''the end of the 108th Congress''; and

(2) in subsection (b)(1)(B), by striking ''April 15, 2003'' and inserting ''at the end of the 108th Congress''.

SEC. 752. APPLICATION OF EGTRRA SUNSET TO VARIOUS TITLES.

Each amendment made by titles II and III shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SEC. 753. SUNSET.

(a) IN GENERAL.—Except as otherwise provided, the provisions of, and amendments made, by this Act shall not apply to taxable years beginning after December 31, 2012, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such amendments had never been enacted.

(b) EXCEPTIONS.—Subsection (a) shall not apply to this title and titles II and III.

SA 562. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V add the following:

SEC. ___. SMALL BUSINESS TAX CREDIT FOR 50 PERCENT OF HEALTH PREMIUMS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified small employer, the employee health insurance expenses credit determined under this section

is an amount equal to the applicable percentage of the amount paid by the taxpayer during the taxable year for qualified employee health insurance expenses.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is equal to—

''(1) 50 percent in the case of an employer with less than 26 qualified employees,

''(2) 40 percent in the case of an employer with more than 25 but less than 36 qualified employees, and

''(3) 30 percent in the case of an employer with more than 35 but less than 51 qualified employees.

''(c) PER EMPLOYEE DOLLAR LIMITATION.—The amount of qualified employee health insurance expenses taken into account under subsection (a) with respect to any qualified employee for any taxable year shall not exceed the maximum employer contribution for self-only coverage or family coverage (as applicable) determined under section 8906(a) of title 5, United States Code, for the calendar year in which such taxable year begins.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'qualified small employer' means any small employer which provides eligibility for health insurance coverage (after any waiting period (as defined in section 9801(b)(4)) to all qualified employees of the employer.

''(B) SMALL EMPLOYER.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of not less than 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under clause (i) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by paragraph (1) of section 9832(b) (determined by disregarding the last sentence of paragraph (2) of such section).

''(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an employee of an employer who, with respect to any period, is not provided health insurance coverage under—

''(A) a health plan of the employee's spouse,

''(B) title XVIII, XIX, or XXI of the Social Security Act,

''(C) chapter 17 of title 38, United States Code,

''(D) chapter 55 of title 10, United States Code,

''(E) chapter 89 of title 5, United States Code, or

''(F) any other provision of law.

''(4) EMPLOYEE—The term 'employee'—

''(A) means any individual, with respect to any calendar year, who is reasonably expected to receive at least $5,000 of compensation from the employer during such year,

''(B) does not include an employee within the meaning of section 401(c)(1), and

''(C) includes a leased employee within the meaning of section 414(n).

''(5) COMPENSATION.—The term 'compensation' means amounts described in section 6051(a)(3).

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employee health insurance expenses taken into account under subsection (a).

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2003.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the employee health insurance expenses credit determined under section 45G.''.

(c) CREDIT ALLOWED AGAINST MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR EMPLOYEE HEALTH INSURANCE CREDIT.—

''(A) IN GENERAL.—In the case of the employee health insurance credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the employee health insurance credit).

''(B) EMPLOYEE HEALTH INSURANCE CREDIT.—For purposes of this subsection, the term 'employee health insurance credit' means the credit allowable under subsection (a) by reason of section 45G(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by striking ''(other'' and all that follows through ''credit)'' and inserting ''(other than the empowerment zone employment credit or the employee health insurance credit)''.

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

''(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45G. Employee health insurance expenses.''.

(f) EMPLOYER OUTREACH.—The Internal Revenue Service shall, in conjunction with the Small Business Administration, develop materials and implement an educational program to ensure that business personnel are aware of—

(1) the eligibility criteria for the tax credit provided under section 45G of the Internal Revenue Code of 1986 (as added by this section),

(2) the methods to be used in calculating such credit,

(3) the documentation needed in order to claim such credit, and

(4) any available health plan purchasing alliances established under title II,

so that the maximum number of eligible businesses may claim the tax credit.

(g) REVISION OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—Section 116(a)(2)(B), as added by section 201 of this Act, is amended by striking ''2007'' and inserting ''2009''.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

(2) REVISION.—The amendment made by subsection (d) shall apply to taxable years beginning after the date of the enactment of this Act.

SA 563. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V add the following:

SEC. ___. REFUNDABLE TAX CREDIT FOR INITIAL HIRES OF SMALL BUSINESSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 36 as section 37 and inserting after section 35 the following new section:

''SEC. 36. INITIAL HIRES BY SMALL BUSINESSES.

''(a) DETERMINATION OF AMOUNT.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 10 percent of the qualified first-year wages for such year.

''(b) QUALIFIED WAGES DEFINED.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified wages' means the wages paid or incurred by a qualified small business during the taxable year to an individual who is a qualified small business employee.

''(2) QUALIFIED FIRST-YEAR WAGES.—The term 'qualified first-year wages' means, with respect to a qualified small business employee, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

''(3) ONLY FIRST $20,000 OF WAGES TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages which may be taken into account with respect to any individual shall not exceed $20,000.

''(4) WAGES.—

''(A) IN GENERAL.—The term 'wages' has the meaning given such term by section 51(c).

''(B) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such individual is an employee to whom subparagraph (A) or (B) of section 51(h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(i) such subparagraph (A) shall be applied by substituting '$20,000' for '$6,000', and

''(ii) such subparagraph (B) shall be applied by substituting '$1,666.66' for '$500'.

''(c) QUALIFIED SMALL BUSINESS EMPLOYEE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified small business employee' means the first individual hired by a qualified small business who is not an employee within the meaning of section 401(c)(1).

''(2) QUALIFIED SMALL BUSINESS.—The term 'qualified small business' has the meaning given the term 'small employer' by section 4980D(d)(2), determined without regard to any minimum number of employees.

''(d) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52, and subsections (d)(10), (f), (g), (i) (other than paragraph (3)(A) thereof), (j), and (k) of section 51, shall apply for purposes of this section.

''(e) TERMINATION.—This section shall not apply to individuals who begin work for the employer after the date which is 1 year after the date of the enactment of the Entrepreneurship Promotion Act of 2003.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the last item and inserting the following new items:

''Sec. 36. Initial hires by small businesses.

''Sec. 37. Overpayments of tax.''.

(c) REVISION OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—Section 116(a)(2)(B), as added by section 201 of this Act, is amended by striking ''2007'' and inserting ''2008''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

(2) REVISION.—The amendment made by subsection (c) shall apply to taxable years beginning after the date of the enactment of this Act.

SA 564. Mrs. MURRAY (for herself, Mr. DASCHLE, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. WYDEN, Mr. SCHUMER, and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill S. 1054; to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Strike section 371 and insert the following:

SEC. 371. GENERAL REVENUE SHARING WITH STATES AND THEIR LOCAL GOVERNMENTS.

(a) APPROPRIATION.—There is authorized to be appropriated and is appropriated to carry out this section $20,000,000,000 for fiscal year 2003.

(b) ALLOTMENTS.—From the amount appropriated under subsection (a) for fiscal year 2003, the Secretary of the Treasury shall, as soon as practicable after the date of the enactment of this Act, allot to each of the States as follows, except that no State shall receive less than ½ of 1 percent of such amount:

(1) STATE LEVEL.—$16,000,000,000 shall be allotted among such States on the basis of the relative population of each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(2) LOCAL GOVERNMENT LEVEL.—$4,000,000,000 shall be allotted among such States as determined under paragraph (1) for distribution to the various units of general local government within such States on the basis of the relative population of each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

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

(1) STATE.—The term ''State'' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term ''unit of general local government'' means—

(i) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(ii) the District of Columbia, the Commonwealth of Puerto Rico, and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(B) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this section, the rules under section 6720(c) of title 31, United States Code, shall apply.

SEC. 371A. TEMPORARY STATE FMAP RELIEF.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR EACH CALENDAR QUARTER OF FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this subsection for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2004, before the application of this section.

(c) GENERAL 4.95 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND EACH CALENDAR QUARTER OF FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), for each State for the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 4.95 percentage points.

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to subsection (f), with respect to the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 9.90 percent of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.); or

(3) the percentage described in the third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (relating to amounts expended as medical assistance for services received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act)).

(f) STATE ELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on July 1, 2003.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after July 1, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) in the first calendar quarter (and any subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on July 1, 2003.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) REPEAL.—Effective as of October 1, 2004, this section is repealed.

SEC. 371B. ELIMINATION OF 20 PERCENT PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.

Section 116(a)(2)(B), as added by section 201 of this Act, is amended by striking ''(20 percent in the case of taxable years beginning after 2007)''.

SA 565. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V add the following:

SEC. . FLAT TAX.

(a) FINDINGS.—The Senate finds the following:

(1) The current Internal Revenue Code, with it myriad deductions, credits and schedules, and over 17,000 pages of rules and regulations, is long overdue for an overhaul.

(2) The current Internal Revenue Code has over 6,900,000,000 words compared to the bible at 1,773,000 words the Declaration of Independence at 1,300 words, The Gettysburg Address at 267 words, and the Pledge of Allegiance at only 31 words.

(3) It is an unacceptable waste of our nation's precious resources when Americans spend more than 5,800,000,000 hours every year compiling information and filling out Internal Revenue Code tax forms. In addition, taxpayers spend $194,000,000,000 each year in tax code compliance. America's resources could be dedicated to far more productive pursuits.

(4) The primary goal of any tax reform is to promote growth and remove the inefficiencies of the current tax code. The flat tax will expand the economy by an estimated $2 trillion over seven years.

(5) Another important goal of the flat tax is to achieve fairness, with a single low flat tax rate for all individuals and businesses.

(6) Simplicity is another critically important goal of the flat tax, and it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out.

(7) A comprehensive analysis of our tax structure has concluded that a flat tax of 19 percent could be imposed upon individuals and be revenue neutral.

(8) If the decision is made to include deductibility on items such as interest on home mortgages and charitable contributions, the flat tax would be raised from a 19 percent to a 20 percent rate to accommodate the deductions and remain revenue neutral.

(9) The flat tax would tax business at a 20 percent rate on net profits and be revenue neutral and lead to investment decisions being made on the basis of productivity rather than for tax avoidance.

(10) The flat tax would lead to the elimination of the capital gains tax. This would become a powerful incentive for savings and investment—which translates into economic growth and expansion, more and better jobs, and raising the standard of living for all Americans.

(11) The flat tax would lower the cost of capital by allowing businesses to write off the cost of capital purchase in the same year the purchase was made as opposed to complying with complicated depreciation schedules.

(12) By eliminating the double tax on dividends, the flat tax eliminates the distortions in the tax code favoring debt over equity financing by businesses.

(13) The flat tax would eliminate the estate and gift tax. With the elimination of the estate and gift tax, family-held businesses will be much more stable under the flat tax system.

(14) As tax loopholes are eliminated and the tax code is simplified, there will be far less opportunity for tax avoidance and fraud, which now amounts to over $120 billion in uncollected revenue annually.

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

(1) the Senate Finance Committee and the Joint Economic Committee should undertake a comprehensive analysis of flat tax proposals, including appropriate hearings and consider legislation providing for a flat tax.

SA 566. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to secion 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 19, between lines 12 and 13, strike ''10 percent (20 percent in the case of taxable years beginning after 2007)'' and insert ''5 percent''.

On page 26, strike lines 17 through 22, and insert:

(4) Section 531(a) is amended by inserting ''95 percent of'' after ''equal to''.

(5) Section 541(a) is amended by inserting ''95 percent of'' after ''equal to''.

Strike section 350.

SA 567. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to secion 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of end of subtitle C of title V, add the following:

SEC. ___. CONFORMING THE INTERNAL REVENUE CODE OF 1986 TO REQUIREMENTS IMPOSED BY THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998.

(a) IN GENERAL.—Subchapter B of chapter 100 (relating to other requirements) is amended by inserting after section 9812 the following new section:

''SEC. 9813. REQUIRED COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

''(a) IN GENERAL.—A group health plan that provides medical and surgical benefits with respect to a mastectomy shall provide, in a case of a participant or beneficiary who is receiving benefits in connection with a mastectomy and who elects breast reconstruction in connection with such mastectomy, coverage for—

''(1) all stages of reconstruction of the breast on which the mastectomy has been performed,

''(2) surgery and reconstruction of the other breast to produce a symmetrical appearance, and

''(3) prostheses and physical complications of mastectomy, including lymphedemas,]

in a manner determined in consultation with the attending physician and the patient. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

''(b) PROHIBITIONS.—A group health plan may not—

''(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section, and

''(2) penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.''

(b) CLERICAL AMENDMENT.—The table of sections for chapter 100 of such Code is amended inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Required coverage for reconstructive surgery following mastectomies.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SA 568. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike section 371 and insert the following:

SEC. 371. TEMPORARY STATE FISCAL RELIEF FUND.

(a) AUTHORITY TO MAKE PAYMENTS TO STATES.—

(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary of the Treasury (in this section referred to as the ''Secretary'') shall establish a program under which the Secretary shall make a payment to each State in which the chief executive officer of the State, or the chief executive officer's designee, in consultation and coordination with other State and local officials, notifies the Secretary not later than 6 months after the date of enactment of this Act that the State intends to use the payment in accordance with this section.

(2) REQUIREMENT.—In making payments to States under this section, the Secretary shall ensure that not more than 50 percent of the aggregate amount made available for payments under this section (after the application of subsection (f)) is paid to States in fiscal year 2003.

(b) USE OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall use the funds provided under a payment made under this section to carry out 1 or more of the following activities:

(A) Improving education or job training.

(B) Improving health care services.

(C) Improving transportation or other infrastructure.

(D) Improving law enforcement or public safety.

(E) Maintaining essential government services.

(2) LIMITATION.—A State may only use funds provided under a payment made under this section for types of expenditures permitted under the most recently approved budget for the State.

(c) CERTIFICATIONS.—In order to receive a payment under this section, the State shall provide the Secretary with certifications that—

(1) the State's proposed uses of the funds are consistent with subsection (b); and

(2) the State will allocate 50 percent of the funds directly to units of general local government based on the relative local population proportion for the State (as defined in subsection (d)(5)) and not use the funds to supplant State funding or revenue that the State otherwise provides to units of general local government.

(d) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—The amount of payment made to a State under this section shall be the minimum payment amount described in paragraph (2) plus the relative population proportion amount described in paragraph (3).

(2) MINIMUM PAYMENT AMOUNT.—The minimum payment amount described in this paragraph is—

(A) in the case of any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico, one-half of 1 percent of the aggregate amount made available for payments under this section (after the application of subsection (f)); and

(B) in the case of the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa, one-tenth of 1 percent of such aggregate amount (after the application of subsection (f)).

(3) RELATIVE POPULATION PROPORTION AMOUNT.—The relative population proportion amount described in this paragraph is the product of—

(A) the aggregate amount made available for payments under this section (after the application of subsection (f)) minus the total of all of the minimum payment amounts determined under paragraph (2); and

(B) the relative State population proportion (as defined in paragraph (4)).

(4) RELATIVE STATE POPULATION PROPORTION DEFINED.—In this section, the term ''relative State population proportion'' means, with respect to a State, the amount equal to the quotient of—

(A) the population of the State (as reported in the most recent decennial census); and

(B) the total population of all States (as reported in the most recent decennial census).

(5) RELATIVE LOCAL POPULATION PROPORTION DEFINED.—In this section, the term ''relative local population proportion'' means, with respect to a unit of general local government within a State, the amount equal to the quotient of—

(A) the population of such unit of general local government (as reported in the most recent decennial census); and

(B) the total population of the State (as reported in the most recent decennial census).

(e) APPROPRIATION.—There is authorized to be appropriated and is appropriated for making payments under this section, $30,000,000,000 for fiscal year 2003. Amounts appropriated under this subsection shall remain available for expenditure through December 31, 2004.

(f) TEMPORARY INCREASE OF MEDICAID FMAP.—

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FIRST 3 QUARTERS OF FISCAL YEAR 2004.—Subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for the first, second, and third calendar quarters of fiscal year 2004, before the application of this subsection.

(3) GENERAL 2.95 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FIRST 3 CALENDAR QUARTERS OF FISCAL YEAR 2004.—Subject to paragraphs (5) and (6), for each State for the third and fourth calendar quarters of fiscal year 2003 and for the first, second, and third calendar quarters of fiscal year 2004, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 2.95 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to paragraph (6), with respect to the third and fourth calendar quarters of fiscal year 2003 and the first, second, and third calendar quarters of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 5.90 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) FUNDING.—Notwithstanding subsection (e), from the amounts appropriated in such section for fiscal year 2003, $10,000,000,000 of such amount is hereby transferred and made available for the purpose of increasing the FMAP for States in accordance with this subsection. Amounts transferred under this paragraph shall remain available for expenditure through September 30, 2004.

(8) DEFINITIONS.—In this subsection:

(A) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(9) REPEAL OF FMAP INCREASE.—Effective as of October 1, 2004, this subsection is repealed.

(g) REPEAL OF OTHER PROVISIONS.—Effective as of January 1, 2005, subsections (a) through (e) of this section are repealed.

(h) REVISION OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—

(1) IN GENERAL.—Section 116(a)(2)(B), as added by section 201 of this Act, is amended by striking ''2007'' and inserting ''2010''.

(2) CONFORMING AMENDMENTS.—Sections 531(a) and 541(a), as amended by section 201 of this Act, are each amended by striking ''2007'' and inserting ''2010''.

(3) APPLICATION OF SUNSET.—Section 601(a) of this Act shall apply to the amendments made by paragraphs (1) and (2).

SA 569. Mr. SPECTER (for himself, Mr. GRASSLEY, Mr. BENNETT, and Mr. THOMAS) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end of subtitle C of title V add the following:

SEC. . FLAT TAX.

(a) FINDINGS.—The Senate finds the following:

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 17,000 pages of rules and regulations, is long overdue for an overhaul.

(2) The current Internal Revenue Code has over 6,900,000 words compared to the Bible at 1,773,000 words, the Declaration of Independence at 1,300 words, the Gettysburg Address at 267 words, and the Pledge of Allegiance at only 31 words.

(3) It is an unacceptable waste of our nation's precious resources when Americans spend more than 5,800,000,000 hours every year compiling information and filling out Internal Revenue Code tax forms. In addition, taxpayers spend $194,000,000,000 each year in tax code compliance. America's resources could be dedicated to far more productive pursuits.

(4) The primary goal of any tax reform is to promote growth and remove the inefficiencies of the current tax code. The flat tax will expand the economy by an estimated $2 trillion over seven years.

(5) Another important goal of the flat tax is to achieve fairness, with a single low flat tax rate for all individuals and businesses.

(6) Simplicity is another critically important goal of the flat tax, and it is in the public interest to have a ten-line tax form that fits on a postcard and takes 10 minutes to fill out.

(7) A comprehensive analyses of our tax structure has concluded that a flat tax of 19% could be imposed upon individuals and be revenue neutral.

(8) If the decision is made to include deductibility on items such as interest on home mortgages and charitable contributions, the flat tax would be raised from a 19% to a 20% rate to accommodate the deductions and remain revenue neutral.

(9) The flat tax would tax business at a 20% rate on net profits and be revenue neutral and lead to investment decisions being made on the basis of productivity rather than for tax avoidance.

(10) The flat tax would lead to the elimination of the capital gains tax. This would become a powerful incentive for savings and investment—which translates into economic growth and expansion, more and better jobs, and raising the standard of living for all Americans.

(11) The flat tax would lower the cost of capital by allowing businesses to write off the cost of capital purchase in the same year the purchase was made as opposed to complying with complicated depreciation schedules.

(12) By eliminating the double tax on dividends, the flat tax eliminates the distortions in the tax code favoring debt over equity financing by businesses.

(13) The flat tax would eliminate the estate and gift tax. With the elimination of the estate and gift tax, family-held businesses will be much more stable under the flat tax system.

(14) As tax loopholes are eliminated and the tax code is simplified, there will be far less opportunity for tax avoidance and fraud, which now amounts to over $120 billion in uncollected revenue annually.

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

(1) The Senate Finance Committee and the Joint Economic Committee should undertake a comprehensive analysis of simplification including flat tax proposals, including appropriate hearings and consider legislation providing for a flat tax.

SA 570. Mr. BAUCUS proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

On page 19, lines 12 and 13, strike ''(20 percent in the case of taxable years beginning after 2007)''.

On page 26, lines 18 and 19, strike ''(80 percent in the case of taxable years beginning after 2007)''.

On page 26, lines 21 and 22, strike ''(80 percent in the case of taxable years beginning after 2007)''.

On page 27, line 19, strike ''2003'' and insert ''2002''.

At the end of subtitle C of title V, insert:

SEC. ___. GUARANTY OF ADDITIONAL $400 CHILD CREDIT FOR 2003 AND MODIFICATIONS OF DIVIDEND EXCLUSION.

(a) IN GENERAL.—Section 24(d) (relating to portion of credit refundable) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR 2003.—

''(A) IN GENERAL.—In applying this subsection—

''(i) in the case of any taxable year beginning in 2003, or

''(ii) for purposes of determining the amount of the credit allowed under this section for the taxpayer's first taxable year beginning in 2002 in computing the child tax credit refund amount under section 6429,

the increase under paragraph (1) for such taxable year shall be determined under subparagraph (B).

''(B) ADDITIONAL INCREASE.—For purposes of subparagraph (A), the amount of the increase under paragraph (1) for a taxable year shall be equal to the sum of—

''(i) the amount of such increase determined without regard to this paragraph, plus

''(ii) the lesser of—

''(I) $400, multiplied by the number of qualifying children of the taxpayer for the taxable year, or

''(II) the amount determined under paragraph (1)(A) for the taxable year, reduced by the amount of the credit allowed after the application of section 26 and this subsection (without regard to this paragraph).

For purposes of applying subclause (II) to the taxable year described in subparagraph (A)(ii), the amount determined under paragraph (1)(A) shall be computed by taking into account the adjustments described in section 6429(b).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provisions of section 106 of this Act and section 108 of this Act shall apply to such amendment as if it had been so included.

SA 571. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 281, between lines 2 and 3, insert the following:

SEC. ___. EXPANSION OF INCOME TAX EXCLUSION FOR COMBAT ZONE SERVICE.

(a) COMBAT ZONE SERVICE TO INCLUDE TRANSIT TO ZONE.—Section 112(c)(3) of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new sentence: ''Such service shall include any period (not to exceed 14 days) of direct transit to the combat zone.''.

(b) REMOVAL OF LIMITATION ON EXCLUSION FOR COMMISSIONED OFFICERS.—

(1) IN GENERAL.—Subsection (b) of section 112 of the Internal Revenue Code of 1986 (relating to certain combat zone compensation of members of the Armed Forces) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 112(a) of such Code is amended—

(i) by striking ''below the grade of commissioned officer'', and

(ii) by striking ''ENLISTED PERSONNEL'' in the heading and inserting ''IN GENERAL''.

(B) Section 112(c) of such Code is amended by striking paragraphs (1) and (5) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2002.

SEC. ___. AVAILABILITY OF CERTAIN TAX BENEFITS FOR MEMBERS OF THE ARMED FORCES PERFORMING SERVICES AT GUANTANAMO BAY NAVAL STATION, CUBA, AND ON THE ISLAND OF DIEGO GARCIA.

(a) GENERAL RULE.—In the case of a member of the Armed Forces of the United States who is entitled to special pay under section 305 of title 37, United States Code (relating to special pay: hardship duty pay), for services performed as a member of the Joint Task Force Guantanamo at Guantanamo Bay Naval Station, Cuba, or for services performed on the Island of Diego Garcia as part of Operation Iraqi Freedom, such member shall be treated in the same manner as if such services were in a combat zone (as determined under section 112 of the Internal Revenue Code of 1986) for purposes of the following provisions of such Code:

(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

(3) Section 692 (relating to income taxes of members of Armed Forces on death).

(4) Section 2201 (relating to members of the Armed Forces dying in combat zone or by reason of combat-zone-incurred wounds, etc.).

(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on January 1, 2003.

(2) WITHHOLDING.—Subsection (a)(5) shall apply to remuneration paid after December 31, 2002.

SA 572. Mr. DODD (for himself, Mr. KENNEDY, Mr. BINGAMAN, and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 19, line 9, strike ''the sum of'' and all that follows through line 15 and insert ''$500 ($250 in the case of a married individual filing a separate return).''.

On page 18, after line 17, insert the following:

SEC. 109. ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX.

Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004 and 2005, 37.6%.

SA 573. Mr KYL (for himself, Mr. CORNYN, and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike page 96, line 1, through page 97, line 18, and insert the following:

SEC. 333. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (3) in relation to the violation of any law or the investigation or inquiry into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(4) IMPOSITION OF TAX ON EXCESS FEE TRANSACTIONS.—

''(A) IN GENERAL.—There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee.

''(B) PAYMENT.—The tax imposed by subparagraph (A) shall be paid by any collecting attorney referred to in paragraph (10)(A) with respect to such transaction.

''(5) PENALTY.—

''(A) IN GENERAL.—In any case in which a tax is imposed by paragraph (4) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a penalty equal to 200 percent of the excess fee involved. The penalty imposed by this paragraph shall be paid by any collecting attorney referred to in paragraph (10)(A) with respect to such transaction. The penalty imposed by this subsection shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68.

''(B) PAYMENT.—The penalty imposed under subparagraph (A) shall be paid by any collecting attorney referred to in paragraph (10)(A) with respect to such transaction.

''(6) EXCESS FEE TRANSACTION.—For purposes of this section—

''(A) IN GENERAL.—The term 'excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or paragraph (11)(A) applies.

''(B) DETERMINATION OF VALUE.—For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of—

''(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

''(ii) a reasonable fee based on—

''(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome of the representation of the applicable plaintiff, taking into account the factors described in clauses (ii) and (iv) of paragraph (12)(B),

''(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in clauses (i), (iii), (v), and (vii) of paragraph (12)(B), and

''(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the amount of the applicable plaintiff's recovery.

''(iii) FEES IN CERTAIN SETTLEMENTS.—For purposes of this subparagraph, the value of services for any collecting attorney receiving fees under the Master Settlement Agreement shall be deemed to include a reasonable fee that is based on a reasonable hourly rate (including appropriate adjustment rates) of not less than $____ per hour

''(C) ADJUSTMENT RATE.—

''(i) IN GENERAL.—For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

''(ii) RISK PERCENTAGE.—For purposes of this subparagraph, the term 'risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is—

''(I) in the case of a collecting attorney who assumed a substantial risk of non-payment of fees, not more than 100 percent,

''(II) in the case of a collecting attorney who assumed a substantial risk of non-payment of fees and devoted more than 8,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

''(III) in the case of a collecting attorney who assumed a substantial risk of non-payment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

''(iii) SKILL PERCENTAGE.—For purposes of this subparagraph, the term 'skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

''(iv) LIMITATION.—An appropriate adjustment rate shall not increase the collecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

''(D) COURT APPROVAL OF FEES.—Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee—

''(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

''(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in paragraph (12).

''(7) EXCESS FEE.—For purposes of this section, the term 'excess fee' means the excess referred to in paragraph (6)(A).

''(8) JOINT AND SEVERAL LIABILITY.—For purposes of this section, if more than 1 person is liable for any tax or penalty imposed by paragraph (4), all such persons shall be jointly and severally liable for such tax or penalty.

''(9) APPLICABLE PLAINTIFF.—For purposes of this section, the term 'applicable plaintiff' means any person represented by a collecting attorney with respect to a claim described in paragraph (10)(A).

''(10) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(A) COLLECTING ATTORNEY.—The term 'collecting attorney' means any person engaged in the practice of law who represents—

''(i) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

''(ii) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

''(iii) any natural person seeking to recover damages in a claim based on breaches of duty, whether civil or criminal, causing damage to such natural person, or

''(iv) any assignee or other holder of claims described in clause (i), (ii), or (iii),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

''(B) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of—

''(i) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by paragraph (4), or

''(ii) the date on which the tax imposed by paragraph (4) is assessed.

''(C) MASTER SETTLEMENT AGREEMENT.—The term 'Master Settlement Agreement' means that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas.

''(D) CORRECTION.—

''(i) GENERAL RULE.—Any excess fee transaction is corrected by undoing the excess fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

''(ii) PAYMENT OF EXCESS FEES.—

''(I) IN GENERAL.—Except as provided in subclause (II), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

''(II) CERTAIN SETTLEMENTS.—In the case of excess fees arising from or related to the Master Settlement Agreement, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the Secretary of the Treasury as trustee for the Master Settlement Agreement Attorney Excess Fee Trust Fund. The Secretary shall distribute 60 percent of any money paid into the Master Settlement Agreement Attorney Excess Fee Trust Fund to the 50 States by regulations in proportion to each State's share of the United States population.

''(iii) NO WAIVER OF FEE.—No collecting attorney may avoid imposition of any tax imposed under paragraph (4) by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

''(E) LIMITED REASONABLE CAUSE.—For purposes of section 4962(a), an excess fee transaction shall not be treated as an event which was due to reasonable cause if the amount of the fee provided would exceed the value of the services received in exchange therefor determined with the maximum adjustment rate allowed under paragraph (6)(C).

''(11) DISCLOSURE REQUIREMENTS.—

''(A) TREATMENT AS EXCESS FEE.—Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use

of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in subparagraph (B) are met.

''(B) CONTENTS OF STATEMENT.—The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives any fees with respect to a claim described in paragraph (10)(A), if such collecting attorney—

''(i) includes in the return of tax for such taxable year a statement including the information described in paragraph (6) with respect to such claim, and

''(ii) provides a statement including the information described in paragraph (6) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

''(12) LEGAL AUDITING FIRM.—

''(A) IN GENERAL.—In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

''(B) REVIEW BY LEGAL AUDITING FIRM.—In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including—

''(i) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

''(ii) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

''(iii) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

''(iv) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

''(v) whether particular tasks were staffed appropriately,

''(vi) whether the costs and expenses submitted by the collecting attorney were reasonable,

''(vii) whether the collecting attorney exercised billing judgment, and

''(viii) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

''(C) FILING OF REPORT; RESPONSE; BURDEN OF PROOF.—The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

''(D) FEE FOR LEGAL AUDITING FIRM.—The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

''(13) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.''.

''(14) DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.—

''(A) IN GENERAL.—In a case of actual controversy involving—

''(i) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under paragraph (4), or

''(ii) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(B) DEFERENTIAL REVIEW.—If a collecting attorney's fee has been approved by a court in accordance with paragraph (6)(D) or by the Secretary pursuant to this section, the Tax Court shall review the fee only for an abuse of discretion.

''(C) LEGAL AUDITING FIRM.—In any petition for a declaration referred to in subparagraph (A):

''(i) NO PREVIOUS REPORT.—If a report by a legal auditing firm that meets the requirements of paragraph (10) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in paragraph (10).

''(ii) SECOND REPORT.—

''(I) IN GENERAL.—If a report by a legal auditing firm has been approved by a court in accordance with this section, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

''(II) FEE FOR REPORT.—The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subclause (I).

''(D) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this paragraph by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.''.

(b) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b), and (c) of section 4963 are each amended by inserting '', or paragraph (4) of section 162(f)'' before the period.

(B) Subsection (e) of section 6213 is amended by inserting '', or paragraph (4) of section 162(f) (relating to excess fee transactions),'' before the period.

(C) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting ''162(f)(4),'' before ''4941''.

(c) EFFECTIVE DATE.—

(A) IN GENERAL.— Except as provided in subparagraph (B), the amendments made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

(B) EXCESS FEES.—

(i) IN GENERAL.—The amendments made by this section relating to taxes and penalties on excess attorney fees shall apply to excess fees paid after the date of enactment of this Act.

SA 574. Mr KYL (for himself, Mr. CORNYN, and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike page 96, line 1, through page 97, line 18, and insert the following:

SEC. 333. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (3) in relation to the violation of any law or the investigation or inquiry into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(4) IMPOSITION OF TAX ON EXCESS FEE TRANSACTIONS.—

''(A) IN GENERAL.—There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee.

''(B) PAYMENT.—The tax imposed by subparagraph (A) shall be paid by any collecting attorney referred to in paragraph (10)(A) with respect to such transaction.

''(5) PENALTY.—

''(A) IN GENERAL.—In any case in which a tax is imposed by paragraph (4) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a penalty equal to 200 percent of the excess fee involved. The penalty imposed by this paragraph shall be paid by any collecting attorney referred to in paragraph (10)(A) with respect to such transaction. The penalty imposed by this subsection shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68.

''(B) PAYMENT.—The penalty imposed under subparagraph (A) shall be paid by any collecting attorney referred to in paragraph (10)(A) with respect to such transaction.

''(6) EXCESS FEE TRANSACTION.—For purposes of this section—

''(A) IN GENERAL.—The term 'excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately

negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or paragraph (11)(A) applies.

''(B) DETERMINATION OF VALUE.—For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of—

''(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

''(ii) a reasonable fee based on—

''(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome of the representation of the applicable plaintiff, taking into account the factors described in clauses (ii) and (iv) of paragraph (12)(B),

''(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in clauses (i), (iii), (v), and (vii) of paragraph (12)(B), and

''(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the amount of the applicable plaintiff's recovery.

''(iii) FEES IN CERTAIN SETTLEMENTS.—For purposes of this subparagraph, the value of services for any collecting attorney receiving fees under the Master Settlement Agreement shall be deemed to include a reasonable fee that is based on a reasonable hourly rate (including appropriate adjustment rates) of not less than $2,000 per hour

''(C) ADJUSTMENT RATE.—

''(i) IN GENERAL.—For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

''(ii) RISK PERCENTAGE.—For purposes of this subparagraph, the term 'risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is—

''(I) in the case of a collecting attorney who assumed a substantial risk of non-payment of fees, not more than 100 percent,

''(II) in the case of a collecting attorney who assumed a substantial risk of non-payment of fees and devoted more than 8,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

''(III) in the case of a collecting attorney who assumed a substantial risk of non-payment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

''(iii) SKILL PERCENTAGE.—For purposes of this subparagraph, the term 'skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

''(iv) LIMITATION.—An appropriate adjustment rate shall not increase the collecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

''(D) COURT APPROVAL OF FEES.—Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee—

''(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

''(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in paragraph (12).

''(7) EXCESS FEE.—For purposes of this section, the term 'excess fee' means the excess referred to in paragraph (6)(A).

''(8) JOINT AND SEVERAL LIABILITY.—For purposes of this section, if more than 1 person is liable for any tax or penalty imposed by paragraph (4), all such persons shall be jointly and severally liable for such tax or penalty.

''(9) APPLICABLE PLAINTIFF.—For purposes of this section, the term 'applicable plaintiff' means any person represented by a collecting attorney with respect to a claim described in paragraph (10)(A).

''(10) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(A) COLLECTING ATTORNEY.—The term 'collecting attorney' means any person engaged in the practice of law who represents—

''(i) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

''(ii) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

''(iii) any natural person seeking to recover damages in a claim based on breaches of duty, whether civil or criminal, causing damage to such natural person, or

''(iv) any assignee or other holder of claims described in clause (i), (ii), or (iii),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

''(B) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of—

''(i) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by paragraph (4), or

''(ii) the date on which the tax imposed by paragraph (4) is assessed.

''(C) MASTER SETTLEMENT AGREEMENT.—The term 'Master Settlement Agreement' means that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas.

''(D) CORRECTION.—

''(i) GENERAL RULE.—Any excess fee transaction is corrected by undoing the excess fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

''(ii) PAYMENT OF EXCESS FEES.—

''(I) IN GENERAL.—Except as provided in subclause (II), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

''(II) CERTAIN SETTLEMENTS.—In the case of excess fees arising from or related to the Master Settlement Agreement, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the Secretary of the Treasury as trustee for the Master Settlement Agreement Attorney Excess Fee Trust Fund. The Secretary shall distribute 60 percent of any money paid into the Master Settlement Agreement Attorney Excess Fee Trust Fund to the 50 States by regulations in proportion to each State's share of the United States population.

''(iii) NO WAIVER OF FEE.—No collecting attorney may avoid imposition of any tax imposed under paragraph (4) by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

''(E) LIMITED REASONABLE CAUSE.—For purposes of section 4962(a), an excess fee transaction shall not be treated as an event which was due to reasonable cause if the amount of the fee provided would exceed the value of the services received in exchange therefor determined with the maximum adjustment rate allowed under paragraph (6)(C).

''(11) DISCLOSURE REQUIREMENTS.—

''(A) TREATMENT AS EXCESS FEE.—Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in subparagraph (B) are met.

''(B) CONTENTS OF STATEMENT.—The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives any fees with respect to a claim described in paragraph (10)(A), if such collecting attorney—

''(i) includes in the return of tax for such taxable year a statement including the information described in paragraph (6) with respect to such claim, and

''(ii) provides a statement including the information described in paragraph (6) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

''(12) LEGAL AUDITING FIRM.—

''(A) IN GENERAL.—In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing

records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

''(B) REVIEW BY LEGAL AUDITING FIRM.—In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including—

''(i) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

''(ii) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

''(iii) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

''(iv) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

''(v) whether particular tasks were staffed appropriately,

''(vi) whether the costs and expenses submitted by the collecting attorney were reasonable,

''(vii) whether the collecting attorney exercised billing judgment, and

''(viii) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

''(C) FILING OF REPORT; RESPONSE; BURDEN OF PROOF.—The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

''(D) FEE FOR LEGAL AUDITING FIRM.—The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

''(13) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.''.

''(14) DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.—

''(A) IN GENERAL.—In a case of actual controversy involving—

''(i) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under paragraph (4), or

''(ii) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(B) DEFERENTIAL REVIEW.—If a collecting attorney's fee has been approved by a court in accordance with paragraph (6)(D) or by the Secretary pursuant to this section, the Tax Court shall review the fee only for an abuse of discretion.

''(C) LEGAL AUDITING FIRM.—In any petition for a declaration referred to in subparagraph (A):

''(i) NO PREVIOUS REPORT.—If a report by a legal auditing firm that meets the requirements of paragraph (10) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in paragraph (10).

''(ii) SECOND REPORT.—

''(I) IN GENERAL.—If a report by a legal auditing firm has been approved by a court in accordance with this section, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

''(II) FEE FOR REPORT.—The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subclause (I).

''(D) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this paragraph by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.''.

(b) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b), and (c) of section 4963 are each amended by inserting '', or paragraph (4) of section 162(f)'' before the period.

(B) Subsection (e) of section 6213 is amended by inserting '', or paragraph (4) of section 162(f) (relating to excess fee transactions),'' before the period.

(C) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting ''162(f)(4),'' before ''4941''.

(c) EFFECTIVE DATE.—

(A) IN GENERAL.— Except as provided in subparagraph (B), the amendments made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

(B) EXCESS FEES.—

(i) IN GENERAL.—The amendments made by this section relating to taxes and penalties on excess attorney fees shall apply to excess fees paid after the date of enactment of this Act.

SA 575. Mr KYL (for himself, Mr. CORNYN, Mr. ALEXANDER, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike page 96, line 1, through page 97, line 18, and insert the following:

SEC. 333. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (3) in relation to the violation of any law or the investigation or inquiry into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(4) IMPOSITION OF TAX ON EXCESS FEE TRANSACTIONS.—

''(A) IN GENERAL.—There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee.

''(B) PAYMENT.—The tax imposed by subparagraph (A) shall be paid by any collecting attorney referred to in paragraph (10)(A) with respect to such transaction.

''(5) PENALTY.—

''(A) IN GENERAL.—In any case in which a tax is imposed by paragraph (4) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a penalty equal to 200 percent of the excess fee involved. The penalty imposed by this paragraph shall be paid by any collecting attorney referred to in paragraph (10)(A) with respect to such transaction. The penalty imposed by this subsection shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68.

''(B) PAYMENT.—The penalty imposed under subparagraph (A) shall be paid by any collecting attorney referred to in paragraph (10)(A) with respect to such transaction.

''(6) EXCESS FEE TRANSACTION.—For purposes of this section—

''(A) IN GENERAL.—The term 'excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or paragraph (11)(A) applies.

''(B) DETERMINATION OF VALUE.—For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of—

''(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

''(ii) a reasonable fee based on—

''(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome of the representation of the applicable plaintiff, taking into account the factors described in clauses (ii) and (iv) of paragraph (12)(B),

''(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in clauses (i), (iii), (v), and (vii) of paragraph (12)(B), and

''(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the amount of the applicable plaintiff's recovery.

''(iii) FEES IN CERTAIN SETTLEMENTS.—For purposes of this subparagraph, the value of services for any collecting attorney receiving fees under the Master Settlement Agreement shall be deemed to include a reasonable fee that is based on a reasonable hourly rate (including appropriate adjustment rates) of not less than $20,000 per hour

''(C) ADJUSTMENT RATE.—

''(i) IN GENERAL.—For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

''(ii) RISK PERCENTAGE.—For purposes of this subparagraph, the term 'risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is—

''(I) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees, not more than 100 percent,

''(II) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 8,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

''(III) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

''(iii) SKILL PERCENTAGE.—For purposes of this subparagraph, the term 'skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

''(iv) LIMITATION.—An appropriate adjustment rate shall not increase the collecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

''(D) COURT APPROVAL OF FEES.—Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee—

''(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

''(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in paragraph (12).

''(7) EXCESS FEE.—For purposes of this section, the term 'excess fee' means the excess referred to in paragraph (6)(A).

''(8) JOINT AND SEVERAL LIABILITY.—For purposes of this section, if more than 1 person is liable for any tax or penalty imposed by paragraph (4), all such persons shall be jointly and severally liable for such tax or penalty.

''(9) APPLICABLE PLAINTIFF.—For purposes of this section, the term 'applicable plaintiff' means any person represented by a collecting attorney with respect to a claim described in paragraph (10)(A).

''(10) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(A) COLLECTING ATTORNEY.—The term 'collecting attorney' means any person engaged in the practice of law who represents—

''(i) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

''(ii) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

''(iii) any natural person seeking to recover damages in a claim based on breaches of duty, whether civil or criminal, causing damage to such natural person, or

''(iv) any assignee or other holder of claims described in clause (i), (ii), or (iii),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

''(B) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of—

''(i) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by paragraph (4), or

''(ii) the date on which the tax imposed by paragraph (4) is assessed.

''(C) MASTER SETTLEMENT AGREEMENT.—The term 'Master Settlement Agreement' means that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas.

''(D) CORRECTION.—

''(i) GENERAL RULE.—Any excess fee transaction is corrected by undoing the excess fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

''(ii) PAYMENT OF EXCESS FEES.—

''(I) IN GENERAL.—Except as provided in subclause (II), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

''(II) CERTAIN SETTLEMENTS.—In the case of excess fees arising from or related to the Master Settlement Agreement, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the Secretary of the Treasury as trustee for the Master Settlement Agreement Attorney Excess Fee Trust Fund. The Secretary shall distribute 60 percent of any money paid into the Master Settlement Agreement Attorney Excess Fee Trust Fund to the 50 States by regulations in proportion to each State's share of the United States population.

''(iii) NO WAIVER OF FEE.—No collecting attorney may avoid imposition of any tax imposed under paragraph (4) by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

''(E) LIMITED REASONABLE CAUSE.—For purposes of section 4962(a), an excess fee transaction shall not be treated as an event which was due to reasonable cause if the amount of the fee provided would exceed the value of the services received in exchange therefor determined with the maximum adjustment rate allowed under paragraph (6)(C).

''(11) DISCLOSURE REQUIREMENTS.—

''(A) TREATMENT AS EXCESS FEE.—Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in subparagraph (B) are met.

''(B) CONTENTS OF STATEMENT.—The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives any fees with respect to a claim described in paragraph (10)(A), if such collecting attorney—

''(i) includes in the return of tax for such taxable year a statement including the information described in paragraph (6) with respect to such claim, and

''(ii) provides a statement including the information described in paragraph (6) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

''(12) LEGAL AUDITING FIRM.—

''(A) IN GENERAL.—In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

''(B) REVIEW BY LEGAL AUDITING FIRM.—In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including—

''(i) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

''(ii) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

''(iii) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

''(iv) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

''(v) whether particular tasks were staffed appropriately,

''(vi) whether the costs and expenses submitted by the collecting attorney were reasonable,

''(vii) whether the collecting attorney exercised billing judgment, and

''(viii) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

''(C) FILING OF REPORT; RESPONSE; BURDEN OF PROOF.—The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

''(D) FEE FOR LEGAL AUDITING FIRM.—The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

''(13) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.''.

''(14) DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.—

''(A) IN GENERAL.—In a case of actual controversy involving—

''(i) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under paragraph (4), or

''(ii) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(B) DEFERENTIAL REVIEW.—If a collecting attorney's fee has been approved by a court in accordance with paragraph (6)(D) or by the Secretary pursuant to this section, the Tax Court shall review the fee only for an abuse of discretion.

''(C) LEGAL AUDITING FIRM.—In any petition for a declaration referred to in subparagraph (A):

''(i) NO PREVIOUS REPORT.—If a report by a legal auditing firm that meets the requirements of paragraph (10) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in paragraph (10).

''(ii) SECOND REPORT.—

''(I) IN GENERAL.—If a report by a legal auditing firm has been approved by a court in accordance with this section, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

''(II) FEE FOR REPORT.—The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subclause (I).

''(D) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this paragraph by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.''.

(b) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b), and (c) of section 4963 are each amended by inserting '', or paragraph (4) of section 162(f)'' before the period.

(B) Subsection (e) of section 6213 is amended by inserting '', or paragraph (4) of section 162(f) (relating to excess fee transactions),'' before the period.

(C) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting ''162(f)(4),'' before ''4941''.

(c) EFFECTIVE DATE.—

(A) IN GENERAL.— Except as provided in subparagraph (B), the amendments made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

(B) EXCESS FEES.—

(i) IN GENERAL.—The amendments made by this section relating to taxes and penalties on excess attorney fees shall apply to excess fees paid after the date of enactment of this Act.

SA 576. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V add the following:

SEC. ___. HEALTH CARE RESERVE FUND.

(a) RESERVE FUND.—There is hereby established in the Treasury of the United States a reserve fund to address the high costs of health care and the uninsured to which is appropriated the revenues resulting from the application of subsections (b) and (c).

(b) REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS.—Section 201 of this Act, and the amendments made by such section, are repealed.

(c) ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004 and 2005, 37.6%.

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

SA 577. Ms. CANTWELL (for herself, Mr. NELSON, of Florida, Mr. BAUCUS, and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Strike title II and insert the following:

TITLE II—RESEARCH CREDIT

SEC. 201. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by striking subsection (h).

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

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

SEC. 202. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

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

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

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

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

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

SEC. 203. ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.

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

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

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

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

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

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

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

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

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

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

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

SA 578. Mrs. LINCOLN (for herself, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr.

BREAUX, Mr. DASCHLE, Mr. LEVIN, Ms. CANTWELL, Mr. PRYOR, Mr. KERRY, Mr. KENNEDY, and Mr. DODD) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end of subtitle C of title V, insert the following:

SEC. ___. FURTHER EXPANSION OF CHILD TAX CREDIT REFUNDABILITY.

(a) EXPANSION OF CHILD TAX CREDITS.—

(1) IN GENERAL.—Clause (i) of section 24(d)(1)(B) (relating to portion of credit refundable), as amended by section 106(b) of this Act, is amended to read as follows:

''(i) the sum of—

''(I) 5 percent of so much of the taxpayer's earned income (within the meaning of section 32) as is taken into account in computing taxable income for the taxable year which exceeds $5,000 and is less than $13,250, and

''(II) 15 percent of so much of the taxpayer's earned income (within the meaning of section 32) as is taken into account in computing taxable income for the taxable year which is more than $13,250, or''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2002.

(3) APPLICATION OF EGTRRA.—The amendment made by this subsection shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

(b) DELAY OF DIVIDEND EXCLUSION.—Subparagraph (B) of section 116(a)(2) (relating to partial exclusion of dividends by individuals), as amended by section 201 of this Act, is amended by striking ''2007'' and inserting ''2010''.

SA 579. Ms. LANDRIEU (for herself, Mr. CORZINE, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Jobs and Growth Reconciliation Tax Relief Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; references; table of contents.

TITLE I—WAGE TAX RELIEF

Sec. 101. Refund of employee payroll taxes.
Sec. 102. Refund of employer payroll taxes on first $10,000 of wages per employee.

TITLE II—ASSISTANCE TO STATES

Sec. 201. Temporary increase of medicaid FMAP.
Sec. 202. One-time revenue grant to States and local governments.
Sec. 203. Additional advance refundings of certain governmental bonds.

TITLE III—TAX RELIEF FOR FAMILIES

Sec. 301. Acceleration of increase in standard deduction for married taxpayers filing joint returns.
Sec. 302. Acceleration of 15-percent individual income tax rate bracket expansion for married taxpayers filing joint returns.
Sec. 303. Acceleration of increase in child tax credit
Sec. 304. Application of EGTRRA sunset to this title.

TITLE IV—TAX RELIEF FOR BUSINESS

Sec. 401. Increased expensing for small business.
Sec. 402. Small business tax credit for 50 percent of health premiums.
Sec. 403. Ready Reserve-National Guard employee credit added to general business credit.
Sec. 404. Renewal community employers may qualify for employment credit by employing residents of certain other renewal communities.

TITLE V—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

Sec. 501. Extension of the Temporary Extended Unemployment Compensation Act of 2002.
Sec. 502. Entitlement to additional weeks of temporary extended unemployment compensation.

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

Sec. 511. Federal-State agreements.
Sec. 512. Payments to States having agreements under this title.
Sec. 513. Financing provisions.
Sec. 514. Definitions.
Sec. 515. Applicability.
Sec. 516. Coordination with the Temporary Extended Unemployment Compensation Act of 2002.

Subtitle C—Railroad Unemployment Insurance

Sec. 517. Temporary increase in extended unemployment benefits under the Railroad Unemployment Insurance Act.

TITLE VI—OTHER PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 601. Clarification of economic substance doctrine.
Sec. 602. Penalty for failing to disclose reportable transaction.
Sec. 603. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 604. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 605. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 606. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 607. Disclosure of reportable transactions.
Sec. 608. Modifications to penalty for failure to register tax shelters.
Sec. 609. Modification of penalty for failure to maintain lists of investors.
Sec. 610. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 611. Understatement of taxpayer's liability by income tax return preparer.
Sec. 612. Penalty on failure to report interests in foreign financial accounts.
Sec. 613. Frivolous tax submissions.
Sec. 614. Penalty on promoters of tax shelters.
Sec. 615. Statute of limitations for taxable years for which listed transactions not reported.
Sec. 616. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.

Subtitle B—Enron-Related Tax Shelter Provisions

Sec. 621. Limitation on transfer or importation of built-in losses.
Sec. 622. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 623. Repeal of special rules for FASITS.
Sec. 624. Expanded disallowance of deduction for interest on convertible debt.
Sec. 625. Expanded authority to disallow tax benefits under section 269.
Sec. 626. Modifications of certain rules relating to controlled foreign corporations.

Subtitle C—Provisions to Discourage Corporate Expatriation

Sec. 631. Tax treatment of inverted corporate entities.
Sec. 632. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 633. Reinsurance of United States risks in foreign jurisdictions.

Subtitle D—Imposition of Customs User Fees

Sec. 641. Customs user fees.

TITLE VII—SUNSET

Sec. 701. Sunset.

TITLE I—WAGE TAX RELIEF

SEC. 101. REFUND OF EMPLOYEE PAYROLL TAXES.

(a) PAYMENT OF REFUNDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to each individual an amount equal to the lesser of—

(A) $765, or

(B) the amount of the individual's social security taxes for 2001.

(2) PAYMENT IN INSTALLMENTS.—The Secretary of the Treasury shall make the payment under paragraph (1) in two equal installments—

(A) the first of which shall be paid on the date which is 2 months after the date of the enactment of this Act, and

(B) the second of which shall be paid on December 1, 2003.

The Secretary may, after notice to the Senate and House of Representatives, make adjustments in the timing of each installment to the extent the adjustments are administratively necessary.

(3) NO INTEREST.—No interest shall be allowed on any payment required by this subsection.

(4) CERTAIN INDIVIDUALS NOT ELIGIBLE.—No payment shall be made under this subsection to—

(A) any estate or trust,

(B) any nonresident alien, or

(C) any individual with respect to whom a deduction under section 151 of such Code is allowable to another taxpayer for a taxable year beginning in 2001.

(5) SOCIAL SECURITY TAXES.—For purposes of this subsection—

(A) IN GENERAL.—The term ''social security taxes'' has the meaning given such term by section 24(d)(2) of the Internal Revenue Code of 1986.

(B) STATE AND LOCAL EMPLOYEES NOT COVERED BY SOCIAL SECURITY SYSTEM.—In the case of any individual—

(i) whose service is not treated as employment by reason of section 3121(b)(7) of such Code (relating to exemption for State and local employees), and

(ii) who, without regard to this subparagraph, has no social security taxes for 2001,

the term ''social security taxes'' shall include the individual's employee contributions to a governmental pension plan by reason of the service described in clause (i).

(b) 2002 REFUND FOR INDIVIDUALS NOT RECEIVING FULL 2001 REFUND.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end the following new section:

''SEC. 6429. REFUND OF CERTAIN 2002 PAYROLL TAXES.

''(a) IN GENERAL.—Each eligible individual shall be treated as having made a payment against the tax imposed by chapter 1 for such individual's first taxable year beginning in 2002 in an amount equal to the payroll tax refund amount for such taxable year.

''(b) PAYROLL TAX REFUND AMOUNT.—For purposes of subsection (a), the payroll tax refund amount is the excess (if any) of—

''(1) the lesser of—

''(A) $765, or

''(B) the amount of the individual's social security taxes for 2002, over

''(2) the amount of the payment to the individual under section 101(a) of the Jobs and Growth Reconciliation Tax Relief Act of 2003.

''(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual other than—

''(1) any estate or trust,

''(2) any nonresident alien, or

''(3) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in 2002.

''(d) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this section, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible and, to the extent practicable, before December 31, 2003.

''(e) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.

''(f) SOCIAL SECURITY TAXES.—For purposes of this section, the term 'social security taxes' has the meaning given such term by section 101(a)(5) of the Jobs and Growth Reconciliation Tax Relief Act of 2003.''

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of such Code is amended by adding at the end the following new item:

''Sec. 6429. Refund of certain 2002 payroll taxes.''

SEC. 102. REFUND OF EMPLOYER PAYROLL TAXES ON FIRST $10,000 OF WAGES PER EMPLOYEE.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds), as amended by section 101, is amended by adding at the end the following:

''SEC. 6430. REFUND OF EMPLOYER PAYROLL TAXES ON FIRST $10,000 OF WAGES OF AN EMPLOYEE.

''(a) GENERAL RULE.—Each employer subject to tax under section 3111 or 3221(a) with respect to employment during the payroll tax holiday period shall be treated as having made a payment against the tax imposed by chapter 1 for each taxable year which includes any portion of such period in an amount equal to the sum of the payroll tax refund amounts determined for all employees of the employer for such taxable year.

''(b) PAYROLL TAX REFUND AMOUNT.—For purposes of this section, the term 'payroll tax refund amount' means, with respect to any employee for any taxable year of an employer, the excess (if any) of—

''(1) the lesser of—

''(A) $765, or

''(B) the amount of the employer's social security taxes paid or incurred with respect to employment of the employee during any portion of the payroll tax holiday period within the taxable year, over

''(2) the amount treated as paid by the employer under this section with respect to the employee for any preceding taxable year.

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

''(1) PAYROLL TAX HOLIDAY PERIOD.—The term 'payroll tax holiday period' means the 12-month period beginning with the first month following the date of the enactment of this section. The Secretary may, after notice to the Senate and House of Representatives, delay the beginning of such period if the Secretary determines such delay is administratively necessary to provide adequate notice of the provisions of this section to employers and employees.

''(2) EMPLOYER PAYROLL TAXES.—

''(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by sections 3111 and 3221(a).

''(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

''(3) EMPLOYMENT.—The term 'employment' includes services subject to tax under chapter 22 (relating to railroad retirement taxes).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) COMMON CONTROL.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

''(2) TRADE OR BUSINESS REQUIREMENT.—This section shall not apply to employer payroll taxes paid with respect to an employee unless more than one-half of the employee's remuneration is for services performed in a trade or business of the employer. Any determination under this subparagraph shall be made without regard to subsections (a) and (b) of section 52.''

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

''Sec. 6430. Refund of employer payroll taxes on first $10,000 of wages of an employee.''

TITLE II—ASSISTANCE TO STATES

SEC. 201. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2004, before the application of this section.

(c) GENERAL 2.45 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), for each State for the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 2.45 percentage points.

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to subsection (f), with respect to the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 4.90 percent of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(f) STATE ELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) REPEAL.—Effective as of October 1, 2004, this section is repealed.

SEC. 202. ONE-TIME REVENUE GRANT TO STATES AND LOCAL GOVERNMENTS.

(a) APPROPRIATION.—There is authorized to be appropriated and is appropriated to carry out this section $30,000,000,000 for fiscal year 2003.

(b) PAYMENTS TO STATES.—

(1) IN GENERAL.—From the amount appropriated under subsection (a) for fiscal year 2003, the Secretary of the Treasury shall, as soon as practicable after the date of the enactment of this Act, pay with respect to a State, the sum of the amounts determined for the State under paragraphs (2), (3), and (4).

(2) FUNDING TO MEET THE REQUIREMENTS OF THE NO CHILD LEFT BEHIND ACT.—$7,500,000,000 shall be paid to States in the same manner as allocations are made with respect to States under section 1122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6332).

(3) FUNDING FOR CHILD CARE FOR LOW-INCOME FAMILIES.—$3,000,000,000 shall be paid to States in the same manner as allocations are made with respect to States under section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m).

(4) FUNDING FOR OTHER STATE PRIORITIES.—

(A) 50 PERCENT BASED ON POPULATION.—$4,875,000,000 shall be allotted among such States on the basis of the relative population of each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(B) 50 PERCENT BASED ON CHANGE IN UNEMPLOYMENT RATE.—

(i) TIER 1.—$1,220,000,000 shall be allotted among such States which have experienced a tier 1 unemployment rate on the basis of the relative number of unemployed individuals for calendar year 2002 in each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(ii) TIER 2.—$3,655,000,000 shall be allotted among such States which have experienced a tier 2 unemployment rate on the basis of the relative number of unemployed individuals for calendar year 2002 in each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(C) GUIDELINES FOR USE OF FUNDS.—It is the sense of Congress that States should use funds paid under this paragraph for homeland security, public health, highway construction, and the prevention of additional property and other tax increases.

(c) PAYMENTS TO UNITS OF GENERAL LOCAL GOVERNMENT.—

(1) IN GENERAL.—From the amount appropriated under subsection (a) for fiscal year 2003, the Secretary of the Treasury shall, as soon as practicable after the date of the enactment of this Act, pay with respect to a unit of general local government, the sum of the amounts determined for the unit of general local government under paragraphs (2) and (3).

(2) PERCENT BASED ON POPULATION.—$4,875,000,000 shall be allotted among such States as determined under subsection (b)(4)(A) for distribution to the various units of general local government within such States on the basis of the relative population of each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(3) 50 PERCENT BASED ON CHANGE IN UNEMPLOYMENT RATE.—

(i) TIER 1.—$1,220,000,000 shall be allotted among such States which have experienced a tier 1 unemployment rate as determined under subsection (b)(4)(B)(i) for distribution to the various units of general local government within such States on the basis of the relative number of unemployed individuals for calendar year 2002 in each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(ii) TIER 2.—$3,655,000,000 shall be allotted among such States which have experienced a tier 2 unemployment rate as determined under subsection (b)(4)(B)(ii) for distribution to the various units of general local government within such States on the basis of the relative number of unemployed individuals for calendar year 2002 in each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(4) GUIDELINES FOR USE OF FUNDS.—It is the sense of Congress that units of general local government should use funds paid in accordance with this subsection for homeland security, public health, highway construction, and the prevention of additional property and other tax increases.

(d) DEFINITIONS.—For purposes of this section—

(1) STATE.—The term ''State'' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term ''unit of general local government'' means—

(i) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(ii) the District of Columbia, the Commonwealth of Puerto Rico, and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(B) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this section, the rules under section 6720(c) of title 31, United States Code, shall apply.

(3) UNEMPLOYMENT.—With respect to any State or unit of general local government—

(A) TIER 1 UNEMPLOYMENT RATE.—The term ''tier 1 unemployment rate'' means an unemployment rate for calendar year 2002 which was at least .4 but not more than 1.0 percentage point greater than such rate for calendar year 2000.

(B) TIER 2 UNEMPLOYMENT RATE.—The term ''tier 2 unemployment rate'' means an unemployment rate for calendar year 2002 which was more than 1.0 percentage point greater than such rate for calendar year 2000.

SEC. 203. ADDITIONAL ADVANCE REFUNDINGS OF CERTAIN GOVERNMENTAL BONDS.

(a) IN GENERAL.—Section 149(d)(3)(A)(i) (relating to advance refundings of other bonds) is amended—

(1) by striking ''or'' at the end of subclause (I),

(2) by adding ''or'' at the end of subclause (II), and

(3) by inserting after subclause (II) the following:

''(III) the 2nd advance refunding of the original bond if the original bond was issued after 1985 or the 3rd advance refunding of the original bond if the original bond was issued before 1986, if, in either case, the refunding bond is issued before the date which is 2 years after the date of the enactment of this subclause and the original bond was issued as part of an issue 90 percent or more of the net proceeds of which were used to finance governmental facilities used for 1 or more essential governmental functions (within the meaning of section 141(c)(2)),''.

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

TITLE III—TAX RELIEF FOR FAMILIES

SEC. 301. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:

''(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

''(A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—

''(i) a joint return, or

''(ii) a surviving spouse (as defined in section 2(a)),

''(B) $4,400 in the case of a head of household (as defined in section 2(b)), or

''(C) $3,000 in any other case.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 63(c)(4) is amended by striking ''(2)(D)'' each place it occurs and inserting ''(2)(C)''.

(2) Section 63(c) is amended by striking paragraph (7).

(3) Section 301(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2002''.

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

SEC. 302. ACCELERATION OF 15-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET EXPANSION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (8) of section 1(f) (relating to phaseout of marriage penalty in 15-percent bracket) is amended to read as follows:

''(8) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—With respect to taxable years beginning after December 31, 2002, in prescribing the tables under paragraph (1)—

''(A) the maximum taxable income in the 15 percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and

''(B) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under subparagraph (A).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (f) of section 1 is amended by striking ''PHASEOUT'' and inserting ''ELIMINATION''.

(2) Section 302(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2002''.

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

SEC. 303. ACCELERATION OF INCREASE IN CHILD TAX CREDIT

(a) IN GENERAL.—The table contained in section 24(a)(2) (relating to per child amount) is amended to read as follows:

''In the case of any taxable year beginning in—	The per child amount is—
2003, 2004, or 2005	800
2006 or thereafter	1,000.''.

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

SEC. 304. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE IV—TAX RELIEF FOR BUSINESS

SEC. 401. INCREASED EXPENSING FOR SMALL BUSINESS.

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2008).''.

(b) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) (relating to reduction in limitation) is amended by inserting ''($400,000 in the case of taxable years beginning after 2002 and before 2008)'' after ''$200,000''.

(c) OFF-THE-SHELF COMPUTER SOFTWARE.—Paragraph (1) of section 179(d) (defining section 179 property) is amended to read as follows:

''(1) SECTION 179 PROPERTY.—For purposes of this section, the term 'section 179 property' means property—

''(A) which is—

''(i) tangible property (to which section 168 applies), or

''(ii) computer software (as defined in section 197(e)(3)(B)) which is described in section 197(e)(3)(A)(i), to which section 167 applies, and which is placed in service in a taxable year beginning after 2002 and before 2008,

''(B) which is section 1245 property (as defined in section 1245(a)(3)), and

''(C) which is acquired by purchase for use in the active conduct of a trade or business. Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units.''.

(d) ADJUSTMENT OF DOLLAR LIMIT AND PHASEOUT THRESHOLD FOR INFLATION.—Subsection (b) of section 179 (relating to limitations) is amended by adding at the end the following new paragraph:

''(5) INFLATION ADJUSTMENTS.—

''(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003 and before 2008, the $100,000 and $400,000 amounts in paragraphs (1) and (2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—

''(i) DOLLAR LIMITATION.—If the amount in paragraph (1) as increased under subparagraph (A) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

''(ii) PHASEOUT AMOUNT.—If the amount in paragraph (2) as increased under subparagraph (A) is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(e) REVOCATION OF ELECTION.—Paragraph (2) of section 179(c) (relating to election irrevocable) is amended to read as follows:

''(2) REVOCATION OF ELECTION.—An election under paragraph (1) with respect to any taxable year beginning after 2002 and before 2008, and any specification contained in any such election, may be revoked by the taxpayer with respect to any property. Such revocation, once made, shall be irrevocable.''.

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

SEC. 402. SMALL BUSINESS TAX CREDIT FOR 50 PERCENT OF HEALTH PREMIUMS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified small employer, the employee health insurance expenses credit determined under this section is an amount equal to the applicable percentage of the amount paid by the taxpayer during the taxable year for qualified employee health insurance expenses.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is equal to—

''(1) 50 percent in the case of an employer with less than 26 qualified employees,

''(2) 40 percent in the case of an employer with more than 25 but less than 36 qualified employees, and

''(3) 30 percent in the case of an employer with more than 35 but less than 51 qualified employees.

''(c) PER EMPLOYEE DOLLAR LIMITATION.—The amount of qualified employee health insurance expenses taken into account under subsection (a) with respect to any qualified employee for any taxable year shall not exceed the maximum employer contribution for self-only coverage or family coverage (as applicable) determined under section 8906(a) of title 5, United States Code, for the calendar year in which such taxable year begins.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'qualified small employer' means any small employer which provides eligibility for health insurance coverage (after any waiting period (as defined in section 9801(b)(4)) to all qualified employees of the employer.

''(B) SMALL EMPLOYER.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of not less than 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under clause (i) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by paragraph (1) of section 9832(b) (determined by disregarding the last sentence of paragraph (2) of such section).

''(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an employee of an employer who, with respect to any period, is not provided health insurance coverage under—

''(A) a health plan of the employee's spouse,

''(B) title XVIII, XIX, or XXI of the Social Security Act,

''(C) chapter 17 of title 38, United States Code,

''(D) chapter 55 of title 10, United States Code,

''(E) chapter 89 of title 5, United States Code, or

''(F) any other provision of law.

''(4) EMPLOYEE—The term 'employee'—

''(A) means any individual, with respect to any calendar year, who is reasonably expected to receive at least $5,000 of compensation from the employer during such year,

''(B) does not include an employee within the meaning of section 401(c)(1), and

''(C) includes a leased employee within the meaning of section 414(n).

''(5) COMPENSATION.—The term 'compensation' means amounts described in section 6051(a)(3).

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employee health insurance expenses taken into account under subsection (a).

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2003.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the employee health insurance expenses credit determined under section 45G.''.

(c) CREDIT ALLOWED AGAINST MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR EMPLOYEE HEALTH INSURANCE CREDIT.—

''(A) IN GENERAL.—In the case of the employee health insurance credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the employee health insurance credit).

''(B) EMPLOYEE HEALTH INSURANCE CREDIT.—For purposes of this subsection, the term 'employee health insurance credit' means the credit allowable under subsection (a) by reason of section 45G(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by striking ''(other'' and all that follows through ''credit)'' and inserting ''(other than the empowerment zone employment credit or the employee health insurance credit)''.

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

''(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45G. Employee health insurance expenses.''.

(f) EMPLOYER OUTREACH.—The Internal Revenue Service shall, in conjunction with the Small Business Administration, develop materials and implement an educational program to ensure that business personnel are aware of—

(1) the eligibility criteria for the tax credit provided under section 45G of the Internal Revenue Code of 1986 (as added by this section),

(2) the methods to be used in calculating such credit,

(3) the documentation needed in order to claim such credit, and

(4) any available health plan purchasing alliances established under title II,

so that the maximum number of eligible businesses may claim the tax credit.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 403. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 402, is amended by adding at the end the following:

''SEC. 45H. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—

''(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

''(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

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

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve or of the National Guard.

''(4) NATIONAL GUARD.—The term 'National Guard' has the meaning given such term by section 101(c)(1) of title 10, United States Code.

''(5) READY RESERVE.—The term 'Ready Reserve' has the meaning given such term by section 10142 of title 10, United States Code.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by section 403, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following:

''(17) the Ready Reserve-National Guard employee credit determined under section 45H(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 403, is amended by adding at the end the following:

''Sec. 45H. Ready Reserve-National Guard employee credit.''.

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

SEC. 404. RENEWAL COMMUNITY EMPLOYERS MAY QUALIFY FOR EMPLOYMENT CREDIT BY EMPLOYING RESIDENTS OF CERTAIN OTHER RENEWAL COMMUNITIES.

(a) IN GENERAL.—Section 1400H(b)(2) (relating to modification) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) subsection (d)(1)(B) thereof shall be applied by substituting 'such renewal community, an adjacent renewal community within the same State as such renewal community, or a renewal community within such State which is within 5 miles of any border of such renewal community' for 'such empowerment zone'.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 101(a) of the Community Renewal Tax Relief Act of 2000.

TITLE V—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

SEC. 501. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3), is amended—

(1) in subsection (a)(2), by striking ''before June 1'' and inserting ''on or before November 30'';

(2) in subsection (b)(1), by striking ''May 31, 2003'' and inserting ''November 30, 2003'';

(3) in subsection (b)(2)—

(A) in the heading, by striking ''MAY 31, 2003'' and inserting ''NOVEMBER 30, 2003''; and

(B) by striking ''May 31, 2003'' and inserting ''November 30, 2003''; and

(4) in subsection (b)(3), by striking ''August 30, 2003'' and inserting ''February 28, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. 502. ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) ENTITLEMENT TO ADDITIONAL WEEKS.—

(1) IN GENERAL.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(A) in subparagraph (A), by striking ''50 percent'' and inserting ''100 percent''; and

(B) in subparagraph (B), by striking ''13 times'' and inserting ''26 times''.

(2) REPEAL OF RESTRICTION ON AUGMENTATION DURING TRANSITIONAL PERIOD.—Section 208(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 301(a), is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''; and

(ii) by inserting before the period at the end the following: '', including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) EXTENSION OF TRANSITION LIMITATION.—Section 208(b)(2) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 301(a)(4) and as redesignated by paragraph (2), is amended by striking ''February 28, 2004'' and inserting ''May 29, 2004''.

(4) CONFORMING AMENDMENT FOR AUGMENTED BENEFITS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by striking ''the amount originally established in such account (as determined under subsection (b)(1))'' and inserting ''7 times the individual's average weekly benefit amount for the benefit year''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendments made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ''TEUC–X amounts'') prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as ''TEUC amounts'').

(3) APPLICATION TO EXHAUSTEES AND CURRENT BENEFICIARIES.—

(A) EXHAUSTEES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account) before such date,

such individual's eligibility for any additional weeks of temporary extended unemployment compensation by reason of the amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(B) CURRENT BENEFICIARIES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) as to whom the condition described in subparagraph (A)(ii) does not apply,

such individual shall be eligible for temporary extended unemployment compensation (in accordance with the provisions of the Temporary Extended Unemployment Compensation Act of 2002, as amended by subsection (a)) with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(4) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM SUCH A DETERMINATION WAS MADE PRIOR TO THE DATE OF ENACTMENT.—Any determination of whether the individual's State is in an extended benefit period under section 203(c) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) made prior to the date of enactment of this Act shall be disregarded and the determination under such section shall be made as follows:

(A) INDIVIDUALS WHO EXHAUSTED ALL TEUC AND TEUC–X AMOUNTS PRIOR TO THE DATE OF ENACTMENT.—In the case of an individual whose temporary extended unemployment account has, prior to the date of enactment of this Act, been both augmented under such section 203(c) and exhausted of all amounts by which it was so augmented, the determination shall be made as of such date of enactment.

(B) ALL OTHER INDIVIDUALS.—In the case of an individual who is not described in subparagraph (A), the determination shall be made at the time that the individual's account established under such section 203, as amended by subsection (a), is exhausted.

(5) NO EFFECT ON PROVISIONS RELATED TO DISPLACED AIRLINE RELATED WORKERS.—The amendments made by this section and section 301 shall have no effect on the provisions of section 4002 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11).

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

SEC. 511. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Subject to paragraph (3), any agreement under subsection (a) shall provide that the State agency of the State, in addition to any amounts of regular compensation to which an individual may be entitled under the State law, shall make payments of temporary enhanced regular unemployment compensation to an individual in an amount and to the extent that the individual would be entitled to regular compensation if the State law were applied with the modifications described in paragraph (2).

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) In the case of an individual who is not eligible for regular compensation under the State law because of the use of a definition of base period that does not count wages earned in the most recently completed calendar quarter, then eligibility for compensation shall be determined by applying a base period ending at the close of the most recently completed calendar quarter.

(B) In the case of an individual who is not eligible for regular compensation under the State law because such individual does not meet requirements relating to availability for work, active search for work, or refusal to accept work, because such individual is seeking, or is available for, less than full-time work, then compensation shall not be denied by such State to an otherwise eligible individual who seeks less than full-time work or fails to accept full-time work.

(3) REDUCTION OF AMOUNTS OF REGULAR COMPENSATION AVAILABLE FOR INDIVIDUALS WHO SOUGHT PART-TIME WORK OR FAILED TO ACCEPT FULL-TIME WORK.—Any agreement under subsection (a) shall provide that the State agency of the State shall reduce the amount of regular compensation available to an individual who has received temporary enhanced regular unemployment compensation as a result of the application of the modification described in paragraph (2)(B) by the amount of such temporary enhanced regular unemployment compensation.

(c) COORDINATION RULE.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

SEC. 512. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any temporary enhanced regular unemployment compensation; and

(2) 100 percent of any regular compensation which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in subparagraphs (A) and (B) of section 311(b)(2), but only to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 311(b)(1), have been reimbursable under paragraph (1).

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 513. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (as so established), or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 502(a)) and certified by the Secretary to the Secretary of the Treasury.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 514. DEFINITIONS.

For purposes of this title, the terms ''compensation'', ''base period'', ''regular compensation'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. 515. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before July 1, 2004.

(b) PHASE-OUT OF TERUC.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual who has established eligibility for temporary enhanced regular unemployment compensation, but who has not exhausted all rights to such compensation, as of the last day of the week ending before July 1, 2004, such compensation shall continue to be payable to such individual for any week beginning after such date for which the individual meets the eligibility requirements of this title.

(2) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after December 31, 2004.

SEC. 516. COORDINATION WITH THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—The Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended—

(1) in section 202(b)(1), by inserting ''and who have exhausted all rights to temporary enhanced regular unemployment compensation'' before the semicolon at the end;

(2) in section 202(b)(2), by inserting ''temporary enhanced regular unemployment compensation,'' after ''regular compensation'';

(3) in section 202(c), by inserting ''(or, as the case may be, such individual's rights to temporary enhanced regular unemployment compensation)'' after ''State law'' in the matter preceding paragraph (1);

(4) in section 202(c)(1), by inserting ''and no payments of temporary enhanced regular unemployment compensation can be made'' after ''under such law'';

(5) in section 202(d)(1), by inserting ''or the amount of any temporary enhanced regular unemployment compensation (including dependents' allowances) payable to such individual for such a week,'' after ''total unemployment'';

(6) in section 202(d)(2)(A), by inserting ''or, as the case may be, to temporary enhanced regular unemployment compensation,'' after ''State law'';

(7) in section 203(b)(1)(A), by inserting ''plus the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''under such law''; and

(8) in section 203(b)(2), by inserting ''or the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''total unemployment''.

(b) AMOUNT OF TEUC OFFSET BY AMOUNT OF TERUC.—Section 203(b)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting a comma; and

(2) by adding at the end the following:

''minus the number of weeks in which the individual was entitled to temporary enhanced regular unemployment compensation as a result of the application of the modification described in section 511(b)(2)(A) of the Jobs and Growth Reconciliation Tax Relief Act of 2003 (relating to the alternative base period) multiplied by the individual's average weekly benefit amount for the benefit year.''.

(c) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION DEFINED.—Section 207 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

''SEC. 207. DEFINITIONS.

''In this title:

''(1) GENERAL DEFINITIONS.—The terms 'compensation', 'regular compensation', 'extended compensation', 'additional compensation', 'benefit year', 'base period', 'State', 'State agency', 'State law', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(2) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION.—The term 'temporary enhanced regular unemployment compensation' means temporary enhanced regular unemployment benefits payable under title V of the Jobs and Growth Reconciliation Tax Relief Act of 2003.''.

Subtitle C—Railroad Unemployment Insurance

SEC. 517. TEMPORARY INCREASE IN EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 2(c)(2) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)(2)) is amended by adding at the end the following:

''(D) TEMPORARY INCREASE IN EXTENDED UNEMPLOYMENT BENEFITS.—

''(i) EMPLOYEES WITH 10 OR MORE YEARS OF SERVICE.—Subject to clause (iii), in the case of an employee who has 10 or more years of service (as so defined), with respect to extended unemployment benefits—

''(I) subparagraph (A) shall be applied by substituting ''130 days of unemployment'' for ''65 days of unemployment''; and

''(II) subparagraph (B) shall be applied by inserting ''(or, in the case of unemployment benefits, 13 consecutive 14-day periods'' after ''7 consecutive 14-day periods''.

''(ii) EMPLOYEES WITH LESS THAN 10 YEARS OF SERVICE.—Subject to clause (iii), in the case of an employee who has less than 10 years of service (as so defined), with respect to extended unemployment benefits, this paragraph shall apply to such an employee in the same manner as this paragraph would apply to an employee described in clause (i) if such clause had not been enacted.

''(iii) APPLICATION.—The provisions of clauses (i) and (ii) shall apply to—

''(I) an employee who received normal benefits for days of unemployment under this Act during the period beginning on July 1, 2002, and ending on November 30, 2003; and

''(II) days of unemployment beginning on or after the date of enactment of Jobs and Growth Reconciliation Tax Relief Act of 2003.''.

TITLE VI—OTHER PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 601. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

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

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—A lessor of tangible property subject to a lease shall be treated as satisfying the requirements of paragraph (1)(B)(ii) with respect to the leased property if such lease satisfies such requirements as provided by the Secretary.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into on or after May 8, 2003.

SEC. 602. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

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

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

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

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

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

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

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

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 603. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

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

SEC. 604. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements 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).''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into on or after May 8, 2003.

SEC. 605. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NON-REPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''.

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

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

SEC. 606. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 607. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

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

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

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

SEC. 608. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 609. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

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

SEC. 610. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''.

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 611. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

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

SEC. 612. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 613. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 614. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

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

SEC. 615. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 616. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''.

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

Subtitle B—Enron-Related Tax Shelter Provisions

SEC. 621. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

''(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.''.

''(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

''(A) IN GENERAL.—If—

''(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 622. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 623. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking '', and any regular interest in a FASIT,''.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end

of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding ''and'' at the end of clause (ix), by striking '', and'' at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 624. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking ''or a related party'' and inserting ''or equity held by the issuer (or any related party) in any other person''.

(b) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

''(4) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.''.

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 625. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

''(a) IN GENERAL.—If—

''(1)(A) any person acquires stock in a corporation, or

''(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 626. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

Subtitle C—Provisions to Discourage Corporate Expatriation

SEC. 631. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group. Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

''(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

''(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

''(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

''(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

''(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

''(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

''(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

''(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

''(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

''(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

''(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

''(E) TAX COURT REVIEW.—

''(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

''(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

''(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations

providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking ''and'' at the end of subparagraph (C), by inserting ''and'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,''.

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking ''or (D)'' and inserting '', (D), or (E)''.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(e) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 632. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

''(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

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

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

''(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or

to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 633. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle D—Imposition of Customs User Fees

SEC. 641. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2013''.

TITLE VII—SUNSET

SEC. 701. SUNSET.

(a) IN GENERAL.—Except as otherwise provided, the provisions of, and amendments made, by this Act shall not apply to taxable years beginning after December 31, 2012, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such amendments had never been enacted.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following provisions of, and amendments made, by this Act:

(1) Title III.

(2) Title VI.

SA 580. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of end of subtitle C of title V add the following:

SEC. ___. RENEWAL COMMUNITY EMPLOYERS MAY QUALIFY FOR EMPLOYMENT CREDIT BY EMPLOYING RESIDENTS OF CERTAIN OTHER RENEWAL COMMUNITIES.

(a) IN GENERAL.—Section 1400H(b)(2) (relating to modification) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) subsection (d)(1)(B) thereof shall be applied by substituting 'such renewal community, an adjacent renewal community within the same State as such renewal community, or a renewal community within such State which is within 5 miles of any border of such renewal community' for 'such empowerment zone'.''.

(b) REDUCTION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar year 2003, 35.1% shall be substituted for such year.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall take effect as if included in the amendment made by section 101(a) of the Community Renewal Tax Relief Act of 2000.

(2) Subsection (b) shall take effect on the date of enactment of this Act.

SA 581. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V add the following:

SEC. ___. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45G. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—

''(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

''(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

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

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve or of the National Guard.

''(4) NATIONAL GUARD.—The term 'National Guard' has the meaning given such term by section 101(c)(1) of title 10, United States Code.

''(5) READY RESERVE.—The term 'Ready Reserve' has the meaning given such term by section 10142 of title 10, United States Code.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the Ready Reserve-National Guard employee credit determined under section 45G(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45F the following:

''Sec. 45G. Ready Reserve-National Guard employee credit.''.

(d) REVISION OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—Section 116(a)(2)(B) of the Internal Revenue Code of 1986, as added by section 201, is amended by striking ''2007'' and inserting ''2008''.

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

SA 582. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike section 371 and insert the following:

SEC. 371. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2004, before the application of this section.

(c) GENERAL 2.45 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), for each State for the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 2.45 percentage points.

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to subsection (f), with respect to the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American

Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 4.90 percent of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(f) STATE ELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) REPEAL.—Effective as of October 1, 2004, this section is repealed.

SEC. 371A. ONE-TIME REVENUE GRANT TO STATES AND LOCAL GOVERNMENTS.

(a) APPROPRIATION.—There is authorized to be appropriated and is appropriated to carry out this section $30,000,000,000 for fiscal year 2003.

(b) PAYMENTS TO STATES.—

(1) IN GENERAL.—From the amount appropriated under subsection (a) for fiscal year 2003, the Secretary of the Treasury shall, as soon as practicable after the date of the enactment of this Act, pay with respect to a State, the sum of the amounts determined for the State under paragraphs (2), (3), and (4).

(2) FUNDING TO MEET THE REQUIREMENTS OF THE NO CHILD LEFT BEHIND ACT.—$7,500,000,000 shall be paid to States in the same manner as allocations are made with respect to States under section 1122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6332).

(3) FUNDING FOR CHILD CARE FOR LOW-INCOME FAMILIES.—$3,000,000,000 shall be paid to States in the same manner as allocations are made with respect to States under section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m).

(4) FUNDING FOR OTHER STATE PRIORITIES.—

(A) 50 PERCENT BASED ON POPULATION.—$4,875,000,000 shall be allotted among such States on the basis of the relative population of each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(B) 50 PERCENT BASED ON CHANGE IN UNEMPLOYMENT RATE.—

(i) TIER 1.—$1,220,000,000 shall be allotted among such States which have experienced a tier 1 unemployment rate on the basis of the relative number of unemployed individuals for calendar year 2002 in each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(ii) TIER 2.—$3,655,000,000 shall be allotted among such States which have experienced a tier 2 unemployment rate on the basis of the relative number of unemployed individuals for calendar year 2002 in each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(C) GUIDELINES FOR USE OF FUNDS.—It is the sense of Congress that States should use funds paid under this paragraph for homeland security, public health, highway construction, and the prevention of additional property and other tax increases.

(c) PAYMENTS TO UNITS OF GENERAL LOCAL GOVERNMENT.—

(1) IN GENERAL.—From the amount appropriated under subsection (a) for fiscal year 2003, the Secretary of the Treasury shall, as soon as practicable after the date of the enactment of this Act, pay with respect to a unit of general local government, the sum of the amounts determined for the unit of general local government under paragraphs (2) and (3).

(2) PERCENT BASED ON POPULATION.—$4,875,000,000 shall be allotted among such States as determined under subsection (b)(4)(A) for distribution to the various units of general local government within such States on the basis of the relative population of each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(3) 50 PERCENT BASED ON CHANGE IN UNEMPLOYMENT RATE.—

(A) TIER 1.—$1,220,000,000 shall be allotted among such States which have experienced a tier 1 unemployment rate as determined under subsection (b)(4)(B)(i) for distribution to the various units of general local government within such States on the basis of the relative number of unemployed individuals for calendar year 2002 in each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(B) TIER 2.—$3,655,000,000 shall be allotted among such States which have experienced a tier 2 unemployment rate as determined under subsection (b)(4)(B)(ii) for distribution to the various units of general local government within such States on the basis of the relative number of unemployed individuals for calendar year 2002 in each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(4) GUIDELINES FOR USE OF FUNDS.—It is the sense of Congress that units of general local government should use funds paid in accordance with this subsection for homeland security, public health, highway construction, and the prevention of additional property and other tax increases.

(d) DEFINITIONS.—For purposes of this section—

(1) STATE.—The term ''State'' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term ''unit of general local government'' means—

(i) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(ii) the District of Columbia, the Commonwealth of Puerto Rico, and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(B) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this section, the rules under section 6720(c) of title 31, United States Code, shall apply.

(3) UNEMPLOYMENT.—With respect to any State or unit of general local government—

(A) TIER 1 UNEMPLOYMENT RATE.—The term ''tier 1 unemployment rate'' means an unemployment rate for calendar year 2002 which was at least .4 but not more than 1.0 percentage point greater than such rate for calendar year 2000.

(B) TIER 2 UNEMPLOYMENT RATE.—The term ''tier 2 unemployment rate'' means an unemployment rate for calendar year 2002 which was more than 1.0 percentage point greater than such rate for calendar year 2000.

SEC. 371B. ELIMINATION OF 20 PERCENT PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.

(a) IN GENERAL.—Section 116(a)(2)(B), as added by section 201 of this Act, is amended by striking ''(20 percent in the case of taxable years beginning after 2007)''.

(b) CONFORMING AMENDMENTS.—Sections 531(a) and 541(a), as amended by section 201 of this Act, are each amended by striking ''(80 percent in the case of taxable years beginning after 2007)''.

SA 583. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 281, between lines 2 and 3, insert the following:

SEC. ____. INFLATION ADJUSTMENT FOR ELDERLY AND DISABLED CREDIT DOLLAR AMOUNTS.

(a) IN GENERAL.—Section 22 (relating to credit for the elderly and the permanently disabled) is amended by adding at the end the following new subsection:

''(g) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2002, each of the dollar amounts contained in subsections (c) and (d) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting '1983' for '1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.''.

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

On page 19, line 12, strike ''in the case of taxable years beginning after 2007'' and insert ''in the case of qualified dividend income received after June 30, 2008''.

SA 584. Mr. BINGAMAN (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201

of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page ___, between lines ___ and ___, insert the following:

SEC. ___. MEDICAID DSH ALLOTMENTS.

(a) TEMPORARY INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE UNDER THE MEDICAID PROGRAM.—

(1) IN GENERAL.—Section 1923(f)(5) of the Social Security Act (42 U.S.C. 1396r–4(f)(5)) is amended—

(A) by striking ''In the case of'' and inserting the following:

''(A) IN GENERAL.—In the case of''; and

(B) by adding at the end the following:

''(B) TEMPORARY INCREASE IN FLOOR FOR FISCAL YEAR 2004.—During the period that begins on October 1, 2003, and ends on September 30, 2004, subparagraph (A) shall be applied—

''(i) by substituting 'fiscal year 2002' for 'fiscal year 1999';

''(iii) by substituting 'Centers for Medicare & Medicaid Services' for 'Health Care Financing Administration';

''(ii) by substituting 'August 31, 2003' for 'August 31, 2000';

''(iv) by substituting '3 percent' for '1 percent' each place it appears;

''(v) by substituting 'fiscal year 2004' for 'fiscal year 2001'; and

''(vi) without regard to the second sentence.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2003, and apply to DSH allotments under title XIX of the Social Security Act only with respect to fiscal year 2004.

(b) CONTINUATION OF BIPA RULE FOR DETERMINATION OF ALLOTMENTS FOR FISCAL YEAR 2003.—

(1) IN GENERAL.—Section 1923(f)(4) of the Social Security Act (42 U.S.C. 1396r–4(f)(4)) is amended—

(A) in the paragraph heading, by striking ''AND 2002'' and inserting ''THROUGH 2003'';

(B) in subparagraph (A)—

(i) in clause (i), by striking ''and'' at the end;

(ii) in clause (ii), by striking the period and inserting a semicolon; and

(iii) by adding at the end the following:

''(iii) fiscal year 2003, shall be the DSH allotment determined under clause (ii) increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average) for fiscal year 2002.''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''2002'' and inserting ''2003''; and

(ii) by striking ''2003'' and inserting ''2004''.

(3) CONFORMING AMENDMENTS.—Section 1923(f)(3) of such Act (42 U.S.C. 1396r–4(f)(3)) is amended—

(A) in the paragraph heading, by striking ''2003'' and inserting ''2004''; and

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

''(A) IN GENERAL.—The DSH allotment for any State—

''(i) for fiscal year 2004, is equal to the DSH allotment determined for the State for fiscal year 2002 under the table set forth in paragraph (2), increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average), for each of fiscal years 2002 and 2003; and

''(ii) for fiscal year 2005 and each succeeding fiscal year, is equal to the DSH allotment determined for the State for the preceding fiscal year under this paragraph, increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average), for the previous fiscal year.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 701 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554 (114 Stat. 2763A–569).

(c) ALLOTMENT ADJUSTMENT FOR CERTAIN STATES.—

(1) IN GENERAL.—Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f)) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

''(6) ALLOTMENT ADJUSTMENT FOR CERTAIN STATES.—

''(A) TENNESSEE.—If the State-wide waiver approved under section 1115 for the State of Tennessee with respect to the requirements of this title (as in effect on the date of enactment of this subsection) is revoked or terminated, the Secretary shall—

''(i) permit the State of Tennessee to submit an amendment to its State plan that would describe the methodology to be used by the State (after the effective date of such revocation or termination) to identify and make payments to disproportionate share hospitals, including children's hospitals and institutions for mental diseases or other mental health facilities (other than State-owned institutions or facilities), on the basis of the proportion of patients served by such hospitals that are low-income patients with special needs; and

''(ii) provide for purposes of this subsection for computation of an appropriate DSH allotment for the State that provides for the maximum amount (permitted consistent with paragraph (3)(B)(ii)) that does not result in greater expenditures under this title than would have been made if such waiver had not been revoked or terminated.

''(B) HAWAII.—Effective for DSH allotments beginning with fiscal year 2003, the Secretary shall compute a DSH allotment for the State of Hawaii in the same manner as DSH allotments are determined with respect to those States to which paragraph (5) applies (but without regard to the requirement under such paragraph that total expenditures under the State plan for disproportionate share hospital adjustments for any fiscal year exceeds 0).''.

(2) TREATMENT OF INSTITUTIONS FOR MENTAL DISEASES.—Section 1923(h)(1) of the Social Security Act (42 U.S.C. 1396r–4(h)(1)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''(subject to paragraph (3))'' after ''the lesser of the following''; and

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

''(3) SPECIAL RULE.—The limitation of paragraph (1) shall not apply in the case of Tennessee in the case of a revocation or termination of its statewide waiver described in subsection (f)(6)(A).''.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if enacted on October 1, 2002.

(d) FUNDING.—Of the amount appropriated in section 371(e) for fiscal year 2003 (after the application of section 1903(x) of the Social Security Act), an amount equal to the amount required to carry out the amendments made by this section for each of fiscal years 2003 through 2013 shall be transferred and made available from the amount so appropriated in section 371(e) (after such application) to the Secretary of Health and Human Services to carry out the amendments made by this section.

SA 585. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 19, line 13, strike ''2007'' and insert ''2011''.

On page 26, line 19, strike ''2007'' and insert ''2011''.

On page 26, line 22, strike ''2007'' and insert ''2011''.

On page 281, strike lines 3 and 4 and insert the following:

TITLE VI—MISCELLANEOUS

SEC. 601. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Section 1451(c) of title 10, United States Code, is amended by striking paragraph (2).

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date specified in subsection (c) by reason of the amendment made by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

SEC. 602. COMPUTATION OF BENEFITS UNDER SURVIVOR BENEFIT PLAN FOR SURVIVING SPOUSES OVER AGE 62.

(a) PHASED INCREASE IN BASIC ANNUITY.—

(1) STANDARD ANNUITY.—

(A) INCREASE TO 55 PERCENT.—Clause (i) of subsection (a)(1)(B) of section 1451 of title 10, United States Code, is amended by striking ''35 percent of the base amount.'' and inserting ''the product of the base amount and the percent applicable to the month, as follows:

''(I) For a month before October 2004, the applicable percent is 35 percent.

''(II) For a month during fiscal year 2005, the applicable percent is 40 percent.

''(III) For a month during fiscal year 2006, the applicable percent is 45 percent.

''(IV) For a month during fiscal year 2007, the applicable percent is 50 percent.

''(V) For a month during a fiscal year after fiscal year 2007, the applicable percent is 55 percent.''.

(B) COORDINATION WITH SAVINGS PROVISION UNDER PRIOR LAW.—Clause (ii) of such subsection is amended by striking '', at the time the beneficiary becomes entitled to the annuity,''.

(2) RESERVE-COMPONENT ANNUITY.—Subsection (a)(2)(B)(i)(I) of such section is amended by striking ''35 percent'' and inserting ''the percent specified under subsection (a)(1)(B)(i) as being applicable for the month''.

(3) SURVIVORS OF ELIGIBLE PERSONS DYING ON ACTIVE DUTY, ETC.—

(A) INCREASE TO 55 PERCENT.—Clause (i) of subsection (c)(1)(B) of such section is amended—

(i) by striking ''35 percent'' and inserting ''the applicable percent''; and

(ii) by adding at the end the following: ''The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for that month.''.

(B) COORDINATION WITH SAVINGS PROVISION UNDER PRIOR LAW.—Clause (ii) of such subsection is amended by striking ''. at the time the beneficiary becomes entitled to the annuity,''.

(4) CLERICAL AMENDMENT.—The heading for subsection (d)(2)(A) of such section is amended to read as follows: ''COMPUTATION OF ANNUITY.—''.

(b) CORRESPONDING PHASED ELIMINATION OF SUPPLEMENTAL ANNUITY.—

(1) PHASED REDUCTION OF SUPPLEMENTAL ANNUITY.—Section 1457(b) of title 10, United States Code, is amended—

(A) by striking ''5, 10, 15, or 20 percent'' and inserting ''the applicable percent''; and

(B) by inserting after the first sentence the following: ''The percent used for the computation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months before October 2004, 15 percent for months during fiscal year 2005, 10 percent for months during fiscal year 2006, and 5 percent for months after September 2006.''.

(2) REPEAL UPON IMPLEMENTATION OF 55 PERCENT SBP ANNUITY.—Effective on October 1, 2007, chapter 73 of such title is amended—

(A) by striking subchapter III; and

(B) by striking the item relating to subchapter III in the table of subchapters at the beginning of that chapter.

(c) RECOMPUTATION OF ANNUITIES.—

(1) PERIODIC RECOMPUTATION REQUIRED.—Effective on the first day of each month specified in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) TIME FOR RECOMPUTATION.—The requirement under paragraph (1) for recomputation of certain annuities applies with respect to the following months:

(A) October 2004.

(B) October 2005.

(C) October 2006.

(D) October 2007.

(d) RECOMPUTATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the reductions in retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

SEC. 603. OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING OCTOBER 1, 2004.

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period, elect to—

(1) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

(2) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 1404.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan at the maximum level, or during the open enrollment period the person increases the level of such participation to the maximum level under subsection (b) of this section, and under that Plan is providing annuity coverage for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section. Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on October 1, 2004.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(i) ADDITIONAL PREMIUM.—The Secretary of Defense may require that the premium for a person making an election under subsection (a)(1) or (b) include, in addition to the amount required under section 1452(a) of title 10, United States Code, an amount determined under regulations prescribed by the Secretary of Defense for the purposes of this subsection. Any such amount shall be stated as a percentage of the base amount of the person making the election and shall reflect the number of years that have elapsed since the person retired, but may not exceed 4.5 percent of that person's base amount.

(j) REPORT CONCERNING OPEN SEASON.—Not later than July 1, 2004, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the open season authorized by this section for the Survivor Benefit Plan. The report shall include the following:

(1) A description of the Secretary's plans for implementation of the open season.

(2) The Secretary's estimates of the costs associated with the open season, including any anticipated effect of the open season on the actuarial status of the Department of Defense Military Retirement Fund.

(3) Any recommendation by the Secretary for further legislative action.

TITLE VII—SUNSET

SEC. 701. SUNSET.

On page 281, after line 15, add the following:

(3) Title VI.

SA 586. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike section 107 and insert the following:

SEC. 107. INCREASE AND EXTENSION OF BONUS DEPRECIATION.

(a) IN GENERAL.—Section 168(k) (relating to special allowance for certain property acquired after September 10, 2001, and before September 11, 2004) is amended by adding at the end the following new paragraph:

''(4) 50-PERCENT BONUS DEPRECIATION FOR CERTAIN PROPERTY.—

''(A) IN GENERAL.—In the case of 50-percent bonus depreciation property—

''(i) paragraph (1)(A) shall be applied by substituting '50 percent' for '30 percent', and

''(ii) except as provided in paragraph (2)(C), such property shall be treated as qualified property for purposes of this subsection.

''(B) 50-PERCENT BONUS DEPRECIATION PROPERTY.—For purposes of this subsection, the term '50-percent bonus depreciation property' means property described in paragraph (2)(A)(i)—

''(i) the original use of which commences with the taxpayer after May 5, 2003,

''(ii) which is acquired by the taxpayer after May 5, 2003, and before January 1, 2006, but only if no written binding contract for the acquisition was in effect before May 6, 2003, and

''(iii) which is placed in service by the taxpayer before January 1, 2006, or, in the case of property described in paragraph (2)(B) (as modified by subparagraph (C) of this paragraph), before January 1, 2007.

''(C) SPECIAL RULES.—Rules similar to the rules of subparagraphs (B) and (D) of paragraph (2) shall apply for purposes of this paragraph; except that—

''(i) references to September 10, 2001, shall be treated as references to May 5, 2003, and

''(ii) references to September 11, 2001, shall be treated as references to May 6, 2003.

''(D) AUTOMOBILES.—Paragraph (2)(E) shall be applied by substituting '$9,200' for '$4,600' in the case of 50-percent bonus depreciation property.

''(E) ELECTION OF 30 PERCENT BONUS.—If a taxpayer makes an election under this subparagraph with respect to any class of property for any taxable year, subparagraph (A)(i) shall not apply to all property in such class placed in service during such taxable year.''

(b) EXTENSION OF PLACED IN SERVICE DATES, ETC. FOR 30-PERCENT BONUS DEPRECIATION PROPERTY.—

(1) IN GENERAL.—Clause (iv) of section 168(k)(2)(A) is amended—

(A) by striking ''January 1, 2005'' and inserting ''January 1, 2006'', and

(B) by striking ''January 1, 2006'' (as in effect before the amendment made by subparagraph (A)) and inserting ''January 1, 2007''.

(2) PORTION OF BASIS TAKEN INTO ACCOUNT.—Subparagraphs (B)(ii) and (D)(i) of section 168(k)(2) are each amended by striking ''September 11, 2004'' each place it appears and inserting ''January 1, 2006''.

(3) ELECTION.—Clause (iii) of section 168(k)(2)(C) is amended by adding at the end the following: ''The preceding sentence shall be applied separately with respect to property treated as qualified property by paragraph (4) and other qualified property.''

(c) CONFORMING AMENDMENTS.—

(1) The subsection heading for section 168(k) is amended by striking ''SEPTEMBER 11, 2004'' and inserting ''JANUARY 1, 2006''.

(2) The heading for clause (i) of section 1400L(b)(2)(C) is amended by striking ''30-PERCENT ADDITIONAL ALLOWABLE PROPERTY'' and inserting ''BONUS DEPRECIATION PROPERTY UNDER SECTION 168(K)''.

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

SEC. 107A. INCREASED EXPENSING FOR SMALL BUSINESS.

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2008).''.

(b) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) (relating to reduction in limitation) is amended by inserting ''($400,000 in the case of taxable years beginning after 2002 and before 2008)'' after ''$200,000''.

(c) OFF-THE-SHELF COMPUTER SOFTWARE.—Paragraph (1) of section 179(d) (defining section 179 property) is amended to read as follows:

''(1) SECTION 179 PROPERTY.—For purposes of this section, the term 'section 179 property' means property—

''(A) which is—

''(i) tangible property (to which section 168 applies), or

''(ii) computer software (as defined in section 197(e)(3)(B)) which is described in section 197(e)(3)(A)(i), to which section 167 applies, and which is placed in service in a taxable year beginning after 2002 and before 2008,

''(B) which is section 1245 property (as defined in section 1245(a)(3)), and

''(C) which is acquired by purchase for use in the active conduct of a trade or business. Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units.''.

(d) ADJUSTMENT OF DOLLAR LIMIT AND PHASEOUT THRESHOLD FOR INFLATION.—Subsection (b) of section 179 (relating to limitations) is amended by adding at the end the following new paragraph:

''(5) INFLATION ADJUSTMENTS.—

''(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003 and before 2008, the $100,000 and $400,000 amounts in paragraphs (1) and (2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—

''(i) DOLLAR LIMITATION.—If the amount in paragraph (1) as increased under subparagraph (A) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

''(ii) PHASEOUT AMOUNT.—If the amount in paragraph (2) as increased under subparagraph (A) is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(e) REVOCATION OF ELECTION.—Paragraph (2) of section 179(c) (relating to election irrevocable) is amended to read as follows:

''(2) REVOCATION OF ELECTION.—An election under paragraph (1) with respect to any taxable year beginning after 2002 and before 2008, and any specification contained in any such election, may be revoked by the taxpayer with respect to any property. Such revocation, once made, shall be irrevocable.''.

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

SA 587. Mr. JEFFORDS proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

After section 107, insert the following:

SEC. 107A. ACCELERATION OF MARRIAGE PENALTY RELIEF FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(b)(2)(B) (relating to joint returns) is amended by striking '''increased by—'' and all that follows and inserting ''increased by $3,000.''.

(b) INFLATION ADJUSTMENT.—Clause (ii) of section 32(j)(1)(B) (relating to inflation adjustments) is amended to read as follows:

''(ii) in the case of the $3,000 amount in subsection (b)(2)(B), by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) of such section 1.''.

(c) CONFORMING AMENDMENT.—Section 303(i)(2) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2003''.

(d) ADJUSTMENT OF HIGHEST INDIVIDUAL INCOME TAX RATE.—In lieu of the rate specified for taxable years beginning during calendar year 2003 and thereafter in the last column of the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as amended by section 102(a), the Secretary of the Treasury shall adjust such rate for 1 or more of such taxable years to provide such revenues as are necessary to equal the loss in revenues which would result in the enactment of the amendments made by subsections (a), (b), and (c) of this section.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(2) CONFORMING AMENDMENT.—The amendment made by subsection (c) shall take effect on January 1, 2003.

SA 588. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, insert the following:

SEC. ___. CERTAIN POSTSECONDARY EDUCATIONAL BENEFITS PROVIDED BY AN EMPLOYER TO CHILDREN OF EMPLOYEES EXCLUDABLE FROM GROSS INCOME UNDER EDUCATIONAL ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by redesignating subsection (d) as subsection (e), and inserting after subsection (c) the following:

''(d) POST SECONDARY EDUCATIONAL BENEFITS PROVIDED TO CHILDREN OF EMPLOYEES.—

''(1) IN GENERAL.—For purposes of this section, educational assistance provided by the employer to a child (as defined in section 151(c)(3)) of an employee of such employer pursuant to an educational assistance program shall be treated as educational assistance provided for the exclusive benefit of the employee.

''(2) DOLLAR LIMITATIONS.—The amount excluded from the gross income of the employee by reason of paragraph (1) for a taxable year with respect to amounts provided to each child of such employee shall not exceed $2,000.

''(3) LIMITATION ON EDUCATIONAL ASSISTANCE.—Paragraph (1) shall only apply to expenses paid or incurred in connection with the enrollment or attendance of a child of an employee at an educational institution described in section 529(e)(5).''.

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

SA 589. Mr. BUNNING (for himself and Mr. MCCONNELL) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the appropriate place, insert the following:

SECTION . SENSE OF THE SENATE ON REPEALING THE 1993 TAX HIKE ON SOCIAL SECURITY BENEFITS SECTION .

(a) FINDINGS.—

The 1993 tax on Social Security benefits was imposed as part of the President Clinton's agenda to raise taxes;

The original 1993 tax hike on Social Security benefits was to raise income taxes on Social Security retirees with as little as $25,000 of income;

Repeated efforts to repeal the 1993 tax hike on Social Security benefits have failed; and

Seniors rely on Social Security benefits as well as dividend income to fund their retirement and they should have taxes reduced on both sources of income:

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the Senate Finance Committee should report out the Social Security Benefits Tax Relief Act of 2003, S. 514, to repeal the tax on seniors not later than July 31, 2003, and the Senate shall consider such bill not later than September 30, 2003 in a manner consistent with the preservation of the Medicare Trust Fund.

SA 590. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, insert the following:

SEC. ___. INTEREST RATES USED FOR PENSION PLANS; COMMISSION ON DEFINED BENEFIT PLANS.

(a) REPLACEMENT OF INTEREST RATE ON 30-YEAR TREASURY SECURITIES WITH INTEREST RATE ON CONSERVATIVELY-INVESTED LONG-TERM CORPORATE BONDS.—

(1) INTERNAL REVENUE CODE OF 1986.—

(A) IN GENERAL.—Section 412(b)(5)(B)(ii)(I) of the Internal Revenue Code of 1986 is amended—

(i) by striking ''not more than 10 percent above and, not more than 10 percent below,'' and inserting ''not more than 10 percent below''; and

(ii) by striking ''the rates of interest on 30-year Treasury securities'' and inserting ''conservative long-term corporate bond rates''.

(B) CONSERVATIVE LONG-TERM CORPORATE BOND RATES.—Section 412(b)(5) of such Code is amended by adding at the end the following new subparagraph:

''(C) CONSERVATIVE LONG-TERM CORPORATE BOND RATES.—The Secretary shall, by regulation, prescribe a method for periodically determining the conservative long-term corporate bond rates for purposes of this paragraph. Such rates shall reflect rates of interest on amounts conservatively invested in long-term corporate bonds and shall be based on the use of 1 or more indices.''

(C) AMENDMENT REFLECTING THE CHANGE IN THE INTEREST RATE CALCULATION.—Section 412(b)(5)(B)(iii)(II) of such Code is amended to read as follows:

''(II) consistent with the annual rate of return with respect to amounts conservatively invested in long-term corporate bonds.''

(D) ELIMINATION OF CORRIDOR.—Section 412(l)(7)(C) of such code is amended by striking clause (i) and inserting the following:

''(i) INTEREST RATE.—The rate of interest used to determine current liability under this subsection shall be the rate of interest used under subsection (b)(5).''

(E) DETERMINATION OF PRESENT VALUE.—

(i) IN GENERAL.—Section 417(e)(3)(A)(ii)(II) of such Code is amended to read as follows:

''(II) APPLICABLE INTEREST RATE.—The term 'applicable interest rate' means an annual rate of interest equal to the conservative long-term corporate bond rate (as determined under section 412(b)(5)(C)) for the month before the date of distribution or such other time as the Secretary may by regulations prescribe.''

(ii) LIMITATION ON CERTAIN ASSUMPTIONS.—Section 415(b)(2)(E)(ii) of such Code is amended by striking ''the applicable interest rate (as defined in section 417(e)(3))'' and inserting ''5.5 percent''.

(iii) PHASE IN OF INTEREST RATE ON LONG-TERM CORPORATE BONDS.—Section 417(e)(3) of such Code is amended by adding at the end the following:

''(C) RULES FOR PHASE IN OF INTEREST RATE ON LONG-TERM CORPORATE BONDS.—

''(i) IN GENERAL.—In the case of a plan year specified in the table in clause (ii), the applicable interest rate under subparagraph (A)(ii)(II) shall be the lower of—

''(I) such applicable interest rate (without regard to this subparagraph); or

''(II) the 30-year Treasury securities rate plus the applicable percentage of the excess of such applicable interest rate (without regard to this subparagraph) over the 30-year Treasury securities rate.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined in accordance with the following table:

''Plan year beginning in calendar year:	Applicable percentage:
2004	0
2005	0
2006	20
2007	40
2008	60
2009	80.

''(iii) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified by the date of enactment of this subparagraph, in lieu of the 6 calendar years specified in clause (ii), the years corresponding to the applicable percentages in clause (ii) shall be the first 6 years in which clause (i) applies to employees covered by any such agreement. This clause shall only apply to such employees.''

(2) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(A) IN GENERAL.—Section 302(b)(5)(B)(ii)(I) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(5)(B)(ii)(I)) is amended—

(i) by striking ''not more than 10 percent above and, not more than 10 percent below,'' and inserting ''not more than 10 percent below''; and

(ii) by striking ''the rates of interest on 30-year Treasury securities'' and inserting ''conservative long-term corporate bond rates''.

(B) CONSERVATIVE LONG-TERM CORPORATE BOND RATES.—Section 302(b)(5) of such Act (29 U.S.C. 1082(b)(5)) is amended by adding at the end the following new subparagraph:

''(C) CONSERVATIVE LONG-TERM CORPORATE BOND RATE.—The Secretary of the Treasury shall, by regulation, prescribe a method for periodically determining conservative long-term corporate bond rates for purposes of this paragraph. Such rates shall reflect rates of interest on amounts conservatively invested in long-term corporate bonds and shall be based on the use of 1 or more indices.''

(C) AMENDMENT REFLECTING THE CHANGE IN THE INTEREST RATE CALCULATION.—Section 302(b)(5)(B)(iii)(II) of such Act (29 U.S.C. 1082(b)(5)(B)(iii)(II)) is amended to read as follows:

''(II) consistent with the annual rate of return with respect to amounts conservatively invested in long-term corporate bonds.''

(D) ELIMINATION OF CORRIDOR.—Section 302(d)(7)(C) of such Act is amended by striking clause (i) and inserting the following:

''(i) INTEREST RATE.—The rate of interest used to determine current liability under this subsection shall be the rate of interest used under subsection (b)(5).''

(E) DETERMINATION OF PRESENT VALUE.—

(i) IN GENERAL.—Section 205(g)(3)(A)(ii)(II) of such Act (29 U.S.C. 1055(g)(3)(A)(ii)(II)) is amended to read as follows:

''(II) APPLICABLE INTEREST RATE.—The term 'applicable interest rate' means an annual rate of interest equal to the conservative long-term corporate bond rate (as determined under section 302(b)(5)(C)) for the month before the date of distribution or such other time as the Secretary may by regulations prescribe.''

(ii) PHASE IN OF INTEREST RATE ON LONG-TERM CORPORATE BONDS.—Section 205(g)(3) of such Act (29 U.S.C. 1055(g)(3)) is amended by adding at the end the following:

''(C) RULES FOR PHASE IN OF INTEREST RATE ON LONG-TERM CORPORATE BONDS.—

''(i) IN GENERAL.—In the case of a plan year specified in the table in clause (ii), the applicable interest rate under subparagraph (A)(ii)(II) shall be the lower of—

''(I) such applicable interest rate (without regard to this subparagraph); or

''(II) the 30-year Treasury securities rate plus the applicable percentage of the excess of such applicable interest rate (without regard to this subparagraph) over the 30-year Treasury securities rate.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined in accordance with the following table:

''Plan year beginning in calendar year:	Applicable percentage:
2004	0
2005	0
2006	20
2007	40
2008	60
2009	80.

''(iii) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified by the date of enactment of this subparagraph, in lieu of the 6 calendar years specified in clause (ii), the years corresponding to the applicable percentages in clause (ii) shall be the first 6 years in which clause (i) applies to employees covered by any such agreement. This clause shall only apply to such employees.''

(C) PBGC PREMIUM RATES.—The first sentence of section 4006(a)(3)(E)(iii)(II) of such Act (29 U.S.C. 1306(a)(3)(E)(iii)(II)) is amended by striking ''the annual yield on 30-year Treasury securities'' and inserting ''the annual rate of interest equal to the long-term corporate bond rate (as determined under section 302(b)(5)(C)''.

(b) COMMISSION.—

(1) ESTABLISHMENT OF THE COMMISSION.—

(A) ESTABLISHMENT.—There is established the Commission on Defined Benefit Pension Plans (in this Act referred to as the ''Commission'').

(B) MEMBERSHIP.—

(i) COMPOSITION.—The Commission shall be composed of 13 members of whom—

(I) 1 shall be the Secretary of Labor or their designee;

(II) 1 shall be the Secretary of the Treasury or their designee;

(III) 1 shall be the Executive Director of the Pension Benefit Guaranty Corporation;

(IV) 2 shall be appointed by the President from among members of the general public;

(V) 1 shall be appointed by the chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(VI) 1 shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(VII) 1 shall be appointed by the chairman of the Committee on Finance of the Senate;

(VIII) 1 shall be appointed by the ranking minority member of the Committee on Finance of the Senate;

(IX) 1 shall be appointed by the chairman of the Committee on Education and the Workforce of the House of Representatives;

(X) 1 shall be appointed by the ranking minority member of the Committee on Education and the Workforce of the House of Representatives;

(XI) 1 shall be appointed by the chairman of the Committee on Ways and Means of the House of Representatives; and

(XII) 1 shall be appointed by the ranking minority member of the Committee on Ways and Means of the House of Representatives.

(C) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(D) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(E) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(2) DUTIES OF THE COMMISSION.—

(A) STUDY AND RECOMMENDATIONS.—The Commission shall conduct a thorough study of, and shall develop recommendations on the following issues relating to defined benefit pension plans:

(i) The most appropriate interest rate for funding standards.

(ii) Methods for valuating liabilities, including the private yield curve approach.

(iii) Funding rules.

(iv) Mandatory actuarial assumptions, including mortality tables.

(v) Appropriate transition rules.

(vi) Other reforms to remove impediments or to create incentives for the creation and expansion of defined benefit plans.

(B) REPORT.—Not later than 6 months after the date of the appointment of the last member of the Commission, the Commission shall submit a report to the appropriate committees of Congress containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation as it considers appropriate.

(3) POWERS OF THE COMMISSION.—

(A) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act. The Commission shall, to the maximum extent possible, use existing data and research prior to holding such hearings.

(B) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(C) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) COMMISSION PERSONNEL MATTERS.—

(A) COMPENSATION; TRAVEL EXPENSES.—Each member of the Commission shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(B) STAFF AND EQUIPMENT.—The Department of the Treasury shall provide all financial, administrative, and staffing requirements for the Commission including—

(i) office space;

(ii) furnishings; and

(iii) equipment.

(5) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under paragraph (2)(B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), (4), and (5), the amendments made by this section shall apply to years beginning after December 31, 2003.

(2) SURVIVOR ANNUITIES.—Except as provided in paragraphs (3) and (4), in the case of amendments made by this section to section 417(e)(3) of the Internal Revenue Code of 1986 and to section 205(g)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(g)(3)), and for purposes of section 411(a)(11)(B) of the Internal Revenue Code of 1986 and section 203(e)(2) of the Employee Retirement Income Security Act of 1974 (29 (U.S.C. 1053(e)(2)), such amendments shall apply to years beginning after December 31, 2005.

(3) LOOKBACK RULES.—For purposes of applying all applicable lookback rules in years beginning on or after the otherwise applicable effective date determined under paragraph (1), (2), or (4), the amendments made by this section may be applied as if such amendments had been in effect for all years beginning before such effective date. For purposes of this paragraph, a lookback rule is a rule that uses data from a prior year in determining requirements applicable to the current year.

(4) COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in paragraph (3), in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified by the date of the enactment of this Act, the amendments described in paragraph (2) shall not apply to employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment); or

(ii) January 1, 2006; or

(B) January 1, 2008.

(5) NO REDUCTION REQUIRED.—In the case of any participant or beneficiary, the amount payable under any form of benefit subject to section 417(e)(3) of the Internal Revenue Code of 1986 shall not be required to be reduced below the amount determined as of the last day of the last plan year beginning before January 1, 2004, merely because of the amendments made by subsection (a)(2)(A).

(d) TERMINATION DATE.—None of the amendments made by this section shall apply to plan years beginning after December 31, 2008.

SA 591. Mr. KERRY (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page ___, between lines ___ and ___, insert the following:

SEC. ___. MEDICAID DSH ALLOTMENTS.

(a) TEMPORARY INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE UNDER THE MEDICAID PROGRAM.—

(1) IN GENERAL.—Section 1923(f)(5) of the Social Security Act (42 U.S.C. 1396r–4(f)(5)) is amended—

(A) by striking ''In the case of'' and inserting the following:

''(A) IN GENERAL.—In the case of''; and

(B) by adding at the end the following:

''(B) TEMPORARY INCREASE IN FLOOR FOR FISCAL YEAR 2004.—During the period that begins on October 1, 2003, and ends on September 30, 2004, subparagraph (A) shall be applied—

''(i) by substituting 'fiscal year 2002' for 'fiscal year 1999';

''(iii) by substituting 'Centers for Medicare & Medicaid Services' for 'Health Care Financing Administration';

''(ii) by substituting 'August 31, 2003' for 'August 31, 2000';

''(iv) by substituting '3 percent' for '1 percent' each place it appears;

''(v) by substituting 'fiscal year 2004' for 'fiscal year 2001'; and

''(vi) without regard to the second sentence.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2003, and apply to DSH allotments under title XIX of the Social Security Act only with respect to fiscal year 2004.

(b) CONTINUATION OF BIPA RULE FOR DETERMINATION OF ALLOTMENTS FOR FISCAL YEAR 2003.—

(1) IN GENERAL.—Section 1923(f)(4) of the Social Security Act (42 U.S.C. 1396r–4(f)(4)) is amended—

(A) in the paragraph heading, by striking ''AND 2002'' and inserting ''THROUGH 2003'';

(B) in subparagraph (A)—

(i) in clause (i), by striking ''and'' at the end;

(ii) in clause (ii), by striking the period and inserting a semicolon; and

(iii) by adding at the end the following:

''(iii) fiscal year 2003, shall be the DSH allotment determined under clause (ii) increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average) for fiscal year 2002.''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''2002'' and inserting ''2003''; and

(ii) by striking ''2003'' and inserting ''2004''.

(3) CONFORMING AMENDMENTS.—Section 1923(f)(3) of such Act (42 U.S.C. 1396r–4(f)(3)) is amended—

(A) in the paragraph heading, by striking ''2003'' and inserting ''2004''; and

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

''(A) IN GENERAL.—The DSH allotment for any State—

''(i) for fiscal year 2004, is equal to the DSH allotment determined for the State for fiscal

year 2002 under the table set forth in paragraph (2), increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average), for each of fiscal years 2002 and 2003; and

''(ii) for fiscal year 2005 and each succeeding fiscal year, is equal to the DSH allotment determined for the State for the preceding fiscal year under this paragraph, increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average), for the previous fiscal year.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 701 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554 (114 Stat. 2763A–569).

(c) ALLOTMENT ADJUSTMENT FOR CERTAIN STATES.—

(1) IN GENERAL.—Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f)) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

''(6) ALLOTMENT ADJUSTMENT FOR CERTAIN STATES.—

''(A) TENNESSEE.—If the State-wide waiver approved under section 1115 for the State of Tennessee with respect to the requirements of this title (as in effect on the date of enactment of this subsection) is revoked or terminated, the Secretary shall—

''(i) permit the State of Tennessee to submit an amendment to its State plan that would describe the methodology to be used by the State (after the effective date of such revocation or termination) to identify and make payments to disproportionate share hospitals, including children's hospitals and institutions for mental diseases or other mental health facilities (other than State-owned institutions or facilities), on the basis of the proportion of patients served by such hospitals that are low-income patients with special needs; and

''(ii) provide for purposes of this subsection for computation of an appropriate DSH allotment for the State that provides for the maximum amount (permitted consistent with paragraph (3)(B)(ii)) that does not result in greater expenditures under this title than would have been made if such waiver had not been revoked or terminated.

''(B) HAWAII.—Effective for DSH allotments beginning with fiscal year 2003, the Secretary shall compute a DSH allotment for the State of Hawaii in the same manner as DSH allotments are determined with respect to those States to which paragraph (5) applies (but without regard to the requirement under such paragraph that total expenditures under the State plan for disproportionate share hospital adjustments for any fiscal year exceeds 0).''.

(2) TREATMENT OF INSTITUTIONS FOR MENTAL DISEASES.—Section 1923(h)(1) of the Social Security Act (42 U.S.C. 1396r–4(h)(1)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''(subject to paragraph (3))'' after ''the lesser of the following''; and

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

''(3) SPECIAL RULE.—The limitation of paragraph (1) shall not apply in the case of Tennessee in the case of a revocation or termination of its statewide waiver described in subsection (f)(6)(A).''.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if enacted on October 1, 2002.

(d) FUNDING.—Of the amount appropriated in section 371(e) for fiscal year 2003 (after the application of section 1903(x) of the Social Security Act), an amount equal to the amount required to carry out the amendments made by this section for each of fiscal years 2003 through 2013 shall be transferred and made available from the amount so appropriated in section 371(e) (after such application) to the Secretary of Health and Human Services to carry out the amendments made by this section.

SA 592. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fundamental Tax Reform Commission Act of 2003''.

SEC. 2. ESTABLISHMENT OF COMMISSION.

(1) ESTABLISHMENT.—There is established the ''Blue Ribbon Commission on Comprehensive Tax Reform'' (in this Act referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 12 members of whom—

(A) 1 shall be the Chairman of the Board of Governors of the Federal Reserve System;

(B) 1 shall be the Vice chairman of the Board of Governors of the Federal Reserve System;

(C) 1 shall be the Commissioner of Internal Revenue;

(D) 2 shall be appointed by the majority leader of the Senate;

(E) 1 shall be appointed by the minority leader of the Senate;

(F) 2 shall be appointed by the Speaker of the House of Representatives;

(G) 1 shall be appointed by the minority leader of the House of Representatives; and

(H) 3 shall be appointed by the President, of which—

(i) no more than 2 shall be of the same party as the President; and

(ii) 1 may be the Secretary of the Treasury.

(2) FEDERAL EMPLOYEES.—The members of the Commission may be employees or former employees of the Federal Government.

(3) DATE.—The appointments of the members of the Commission shall be made not later than July 30, 2003.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—!NOT LATER THAN 30 DAYS AFTER THE DATE ON WHICH ALL MEMBERS OF THE COMMISSION HAVE BEEN APPOINTED, THE COMMISSION SHALL HOLD ITS FIRST MEETING.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among its members.

SEC. 3. DUTIES OF THE COMMISSION.

(a) STUDY.—The Commission shall conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations on how to comprehensively reform the Federal tax system in a manner that generates appropriate revenue for the Federal Government.

(c) REPORT.—Not later than 18 months after the date on which all initial members of the commission have been appointed pursuant to section 2(b), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be

detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 6. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 3.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to the commission to carry out this Act.

SA 593. Mr. BURNS (for himself, Mr. ROCKEFELLER, Mr. BAUCUS, Mrs. CLINTON, Mr. JOHNSON, and Mr. KENNEDY) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end of subtitle C of title V, add the following:

SEC. ___. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

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

"SEC. 191. BROADBAND EXPENDITURES.

''(a) TREATMENT OF EXPENDITURES.—

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

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

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

''(1) IN GENERAL.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred and properly taken into account with respect to the purchase or installation of qualified equipment (including any upgrades thereto), together with any direct or indirect costs incurred and properly taken into account with respect to the connection of such qualified equipment to any qualified subscriber, but only if such costs are incurred after December 31, 2003, and before January 1, 2005.

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

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

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

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

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

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

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

''(2) LIMITATION.—

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

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

''(ii) which is placed in service,

after December 31, 2003.

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

''(i) is originally placed in service after December 31, 2003, by any person, and

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

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

''(d) SPECIAL ALLOCATION RULES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

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

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

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

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

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

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

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

''(13) QUALIFIED EQUIPMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(ii) any residential subscriber.

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

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

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

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

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

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

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

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

''(B) such services can be utilized—

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

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

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

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

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

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

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

''(23) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

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

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

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

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

''(f) SPECIAL RULES.—

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

''(2) BASIS REDUCTION.—

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

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

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

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following:

''(v) from the sale of property subject to a lease described in section 191(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the qualified broadband expenditures which would be taken into account under section 191 for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(c) CONFORMING AMENDMENTS.—

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

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

(2) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

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

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

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

(d) DESIGNATION OF CENSUS TRACTS.—

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

(2) SATURATED MARKET.—

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

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

census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

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

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

(C) AUTHORITY TO DISREGARD FALSE SUBMISSIONS.—In addition to imposing any other applicable penalties, the Secretary of the Treasury shall have the discretion to disregard any form described in subparagraph (A)(i) on which a provider knowingly submitted false information.

(e) OTHER REGULATORY MATTERS.—

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

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

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

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

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2003.

SA 594. Mr. GRASSLEY proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end of subtitle C of title V, add the following:

Subtitle D—Medicare Provisions

SEC. 531. EQUALIZING URBAN AND RURAL STANDARDIZED PAYMENT AMOUNTS UNDER THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1886(d)(3)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking ''(iv) For discharges'' and inserting ''(iv)(I) Subject to subclause (II), for discharges''; and

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

''(II) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Secretary shall compute a standardized amount for hospitals located in any area within the United States and within each region equal to the standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i) for the fiscal year involved.''.

(b) CONFORMING AMENDMENTS.—

(1) COMPUTING DRG-SPECIFIC RATES.—Section 1886(d)(3)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(A) in the heading, by striking ''IN DIFFERENT AREAS'';

(B) in the matter preceding clause (i), by striking '', each of'';

(C) in clause (i)—

(i) in the matter preceding subclause (I), by inserting ''for fiscal years before fiscal year 2004,'' before ''for hospitals''; and

(ii) in subclause (II), by striking ''and'' after the semicolon at the end;

(D) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting ''for fiscal years before fiscal year 2004,'' before ''for hospitals''; and

(ii) in subclause (II), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following new clause:

''(iii) for a fiscal year beginning after fiscal year 2003, for hospitals located in all areas, to the product of—

''(I) the applicable standardized amount (computed under subparagraph (A)), reduced under subparagraph (B), and adjusted or reduced under subparagraph (C) for the fiscal year; and

''(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.''.

(2) TECHNICAL CONFORMING SUNSET.—Section 1886(d)(3) of the Social Security Act (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', for fiscal years before fiscal year 1997,'' before ''a regional adjusted DRG prospective payment rate''; and

(B) in subparagraph (D), in the matter preceding clause (i), by inserting '', for fiscal years before fiscal year 1997,'' before ''a regional DRG prospective payment rate for each region,''.

SEC. 532. FAIRNESS IN THE MEDICARE DISPROPORTIONATE SHARE HOSPITAL (DSH) ADJUSTMENT FOR RURAL HOSPITALS.

(a) EQUALIZING DSH PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1886(d)(5)(F)(vii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(vii)) is amended by inserting '', and, after October 1, 2003, for any other hospital described in clause (iv),'' after ''clause (iv)(I)'' in the matter preceding subclause (I).

(2) CONFORMING AMENDMENTS.—Section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (iv)—

(i) in subclause (II)—

(I) by inserting ''and before October 1, 2003,'' after ''April 1, 2001,''; and

(II) by inserting ''or, for discharges occurring on or after October 1, 2003, is equal to the percent determined in accordance with the applicable formula described in clause (vii)'' after ''clause (xiii)'';

(ii) in subclause (III)—

(I) by inserting ''and before October 1, 2003,'' after ''April 1, 2001,''; and

(II) by inserting ''or, for discharges occurring on or after October 1, 2003, is equal to the percent determined in accordance with the applicable formula described in clause (vii)'' after ''clause (xii)'';

(iii) in subclause (IV)—

(I) by inserting ''and before October 1, 2003,'' after ''April 1, 2001,''; and

(II) by inserting ''or, for discharges occurring on or after October 1, 2003, is equal to the percent determined in accordance with the applicable formula described in clause (vii)'' after ''clause (x) or (xi)'';

(iv) in subclause (V)—

(I) by inserting ''and before October 1, 2003,'' after ''April 1, 2001,''; and

(II) by inserting ''or, for discharges occurring on or after October 1, 2003, is equal to the percent determined in accordance with the applicable formula described in clause (vii)'' after ''clause (xi)''; and

(v) in subclause (VI)—

(I) by inserting ''and before October 1, 2003,'' after ''April 1, 2001,''; and

(II) by inserting ''or, for discharges occurring on or after October 1, 2003, is equal to the percent determined in accordance with the applicable formula described in clause (vii)'' after ''clause (x)'';

(B) in clause (viii), by striking ''The formula'' and inserting ''For discharges occurring before October 1, 2003, the formula''; and

(C) in each of clauses (x), (xi), (xii), and (xiii), by striking ''For purposes'' and inserting ''With respect to discharges occurring before October 1, 2003, for purposes''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 2003.

SEC. 533. MEDICARE INPATIENT HOSPITAL PAYMENT ADJUSTMENT FOR LOW-VOLUME HOSPITALS.

Section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) is amended by adding at the end the following new paragraph:

''(12) PAYMENT ADJUSTMENT FOR LOW-VOLUME HOSPITALS.—

''(A) PAYMENT ADJUSTMENT.—

''(i) IN GENERAL.—Notwithstanding any other provision of this section, for each cost reporting period (beginning with the cost reporting period that begins in fiscal year 2005), the Secretary shall provide for an additional payment amount to each low-volume hospital (as defined in clause (iii)) for discharges occurring during that cost reporting period to increase the amount paid to such hospital under this section for such discharges by the applicable percentage increase determined under clause (ii).

''(ii) APPLICABLE PERCENTAGE INCREASE.—The Secretary shall determine a percentage increase applicable under this paragraph that ensures that—

''(I) no percentage increase in payments under this paragraph exceeds 25 percent of the amount of payment that would otherwise be made to a low-volume hospital under this section for each discharge (but for this paragraph);

''(II) low-volume hospitals that have the lowest number of discharges during a cost reporting period receive the highest percentage increase in payments due to the application of this paragraph; and

''(III) the percentage increase in payments due to the application of this paragraph is reduced as the number of discharges per cost reporting period increases.

''(iii) LOW-VOLUME HOSPITAL DEFINED.—For purposes of this paragraph, the term 'low-volume hospital' means, for a cost reporting period, a subsection (d) hospital (as defined in paragraph (1)(B)) other than a critical access hospital (as defined in section 1861(mm)(1)) that—

''(I) the Secretary determines had an average of less than 2,000 discharges (determined with respect to all patients and not just individuals receiving benefits under this title) during the 3 most recent cost reporting periods for which data are available that precede

the cost reporting period to which this paragraph applies; and

''(II) is located at least 15 miles from a similar hospital (or is deemed by the Secretary to be so located by reason of such factors as the Secretary determines appropriate, including the time required for an individual to travel to the nearest alternative source of appropriate inpatient care (taking into account the location of such alternative source of inpatient care and any weather or travel conditions that may affect such travel time)).

''(B) PROHIBITING CERTAIN REDUCTIONS.—Notwithstanding subsection (e), the Secretary shall not reduce the payment amounts under this section to offset the increase in payments resulting from the application of subparagraph (A).''.

SEC. 534. ADJUSTMENT TO THE MEDICARE INPATIENT HOSPITAL PPS WAGE INDEX TO REVISE THE LABOR-RELATED SHARE OF SUCH INDEX.

(a) IN GENERAL.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(1) by striking ''WAGE LEVELS.—The Secretary'' and inserting ''WAGE LEVELS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary''; and

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

''(ii) ALTERNATIVE PROPORTION TO BE ADJUSTED BEGINNING IN FISCAL YEAR 2004.—

''(I) IN GENERAL.—Except as provided in subclause (II), for discharges occurring on or after October 1, 2003, the Secretary shall substitute '62 percent' for the proportion described in the first sentence of clause (i).

''(II) HOLD HARMLESS FOR CERTAIN HOSPITALS.—If the application of subclause (I) would result in lower payments to a hospital than would otherwise be made, then this subparagraph shall be applied as if this clause had not been enacted.''.

(b) WAIVING BUDGET NEUTRALITY.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)), as amended by subsection (a), is amended by adding at the end of clause (i) the following new sentence: ''The Secretary shall apply the previous sentence for any period as if the amendments made by section 534(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 had not been enacted.''.

SEC. 535. ONE-YEAR EXTENSION OF HOLD HARMLESS PROVISIONS FOR SMALL RURAL HOSPITALS AND TEMPORARY TREATMENT OF CERTAIN SOLE COMMUNITY HOSPITALS TO LIMIT DECLINE IN PAYMENT UNDER THE OPD PPS.

(a) HOLD HARMLESS PROVISIONS.—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in the heading, by striking ''SMALL'' and inserting ''CERTAIN'';

(2) by inserting ''or a sole community hospital (as defined in section 1886(d)(5)(D)(iii)) located in a rural area'' after ''100 beds''; and

(3) by striking ''2004'' and inserting ''2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply with respect to payment for OPD services furnished on and after January 1, 2004.

SEC. 536. CRITICAL ACCESS HOSPITAL (CAH) IMPROVEMENTS.

(a) PERMITTING HOSPITALS TO ALLOCATE SWING BEDS AND ACUTE CARE INPATIENT BEDS SUBJECT TO A TOTAL LIMIT OF 25 BEDS.—

(1) IN GENERAL.—Section 1820(c)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395i–4(c)(2)(B)(iii)) is amended to read as follows:

''(iii) provides not more than a total of 25 extended care service beds (pursuant to an agreement under subsection (f)) or acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period that does not exceed, as determined on an annual, average basis, 96 hours per patient;''.

(2) CONFORMING AMENDMENT.—Section 1820(f) of the Social Security Act (42 U.S.C. 1395i–4(f)) is amended by striking ''and the number of beds used at any time for acute care inpatient services does not exceed 15 beds''.

(b) ELIMINATION OF THE ISOLATION TEST FOR COST-BASED CAH AMBULANCE SERVICES.—

(1) IN GENERAL.—Section 1834(l)(8) of the Social Security Act (42 U.S.C. 1395m(l)(8)), as added by section 205(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–482), as enacted into law by section 1(a)(6) of Public Law 106–554 (114 Stat. 2763), is amended by striking the comma at the end of subparagraph (B) and all that follows and inserting a period.

(2) TECHNICAL CORRECTION.—Section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) is amended by redesignating paragraph (8), as added by section 221(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–486), as enacted into law by section 1(a)(6) of Public Law 106–554 (114 Stat. 2763), as paragraph (9).

(c) COVERAGE OF COSTS FOR CERTAIN EMERGENCY ROOM ON-CALL PROVIDERS.—

(1) IN GENERAL.—Section 1834(g)(5) of the Social Security Act (42 U.S.C. 1395m(g)(5)) is amended—

(A) in the heading—

(i) by inserting ''CERTAIN'' before ''EMERGENCY''; and

(ii) by striking ''PHYSICIANS'' and inserting ''PROVIDERS'';

(B) by striking ''emergency room physicians who are on-call (as defined by the Secretary)'' and inserting ''physicians, physician assistants, nurse practitioners, and clinical nurse specialists who are on-call (as defined by the Secretary) to provide emergency services''; and

(C) by striking ''physicians' services'' and inserting ''services covered under this title''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to costs incurred for services provided on or after January 1, 2004.

(d) AUTHORIZATION OF PERIODIC INTERIM PAYMENT (PIP).—

(1) IN GENERAL.—Section 1815(e)(2) of the Social Security Act (42 U.S.C. 1395g(e)(2)) is amended—

(A) in subparagraph (C), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (D), by adding ''and'' after the semicolon at the end; and

(C) by inserting after subparagraph (D) the following new subparagraph:

''(E) inpatient critical access hospital services,''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to payments for inpatient critical access hospital services furnished on or after January 1, 2004.

(e) EXCLUSION OF NEW CAHS FROM PPS HOSPITAL WAGE INDEX CALCULATION.—Section 1886(d)(3)(E)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)(i)), as amended by section 534, is amended by inserting after the first sentence the following new sentence: ''In calculating the hospital wage levels under the preceding sentence applicable with respect to cost reporting periods beginning on or after January 1, 2004, the Secretary shall exclude the wage levels of any hospital that became a critical access hospital prior to the cost reporting period for which such hospital wage levels are calculated.''.

SEC. 537. TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—In the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D))) on or after October 1, 2003, and before October 1, 2005, the Secretary of Health and Human Services shall increase the payment amount otherwise made under section 1895 of such Act (42 U.S.C. 1395fff) for such services by 10 percent.

(b) WAIVING BUDGET NEUTRALITY.—The Secretary of Health and Human Services shall not reduce the standard prospective payment amount (or amounts) under section 1895 of the Social Security Act (42 U.S.C. 1395fff) applicable to home health services furnished during a period to offset the increase in payments resulting from the application of subsection (a).

(c) NO EFFECT ON SUBSEQUENT PERIODS.—The payment increase provided under subsection (a) for a period under such subsection, shall not apply to episodes and visits ending after such period, and shall not be taken into account in calculating the payment amounts applicable for episodes and visits occurring after such period.

SEC. 538. TEMPORARY INCREASE IN PAYMENTS FOR CERTAIN SERVICES FURNISHED BY SMALL RURAL HOSPITALS UNDER MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) INCREASE.—

(1) IN GENERAL.—In the case of an applicable covered OPD service (as defined in paragraph (2)) that is furnished by a hospital described in paragraph (7)(D)(i) of section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t)) on or after January 1, 2004, and before January 1, 2007, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall increase the medicare OPD fee schedule amount (as determined under paragraph (4)(A) of such section) that is applicable for such service in that year (determined without regard to any increase under this section in a previous year) by 5 percent.

(2) APPLICABLE COVERED OPD SERVICES DEFINED.—For purposes of this section, the term ''applicable covered OPD service'' means a covered clinic or emergency room visit that is classified within the groups of covered OPD services (as defined in paragraph (1)(B) of section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t))) established under paragraph (2)(B) of such section.

(b) NO EFFECT ON COPAYMENT AMOUNT.—The Secretary shall compute the copayment amount for applicable covered OPD services under section 1833(t)(8)(A) of the Social Security Act (42 U.S.C. 1395*l*(t)(8)(A)) as if this section had not been enacted.

(c) NO EFFECT ON INCREASE UNDER HOLD HARMLESS OR OUTLIER PROVISIONS.—The Secretary shall apply the temporary hold harmless provision under paragraph (7)(D)(i) of section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t)) and the outlier provision under paragraph (5) of such section as if this section had not been enacted.

(d) WAIVING BUDGET NEUTRALITY AND NO REVISION OR ADJUSTMENTS.—The Secretary shall not make any revision or adjustment under subparagraph (A), (B), or (C) of section 1833(t)(9) of the Social Security Act (42 U.S.C. 1395*l*(t)(9)) because of the application of subsection (a)(1).

(e) NO EFFECT ON PAYMENTS AFTER INCREASE PERIOD ENDS.—The Secretary shall not take into account any payment increase provided under subsection (a)(1) in determining payments for covered OPD services

(as defined in paragraph (1)(B) of section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t))) under such section that are furnished after January 1, 2007.

(f) FINDINGS.—The Senate finds the following:

(1) The medicare program has a responsibility to pay enough for beneficial new technologies in order to ensure that medicare beneficiaries have access to care; however, such program must also be a prudent purchaser of health care items and services.

(2) The 2003 Medicare Hospital Outpatient Prospective Payment System Regulation may have resulted in limiting beneficiary access to care.

(3) A methodology should be developed under the medicare outpatient prospective payment system under section 1833(t) of the Social Security Act (42 U.S.C. 1395*l*(t)) with appropriate resources and such methodology should be implemented January 1, 2004. This will ensure that all hospitals are appropriately reimbursed for the drugs and biologics that are used in the outpatient setting which in turn will ensure patient access to new technologies.

(g) TECHNICAL AMENDMENT.—Section 1833(t)(2)(B) (42 U.S.C. 1395*l*(t)(2)(B)) is amended by inserting ''(and periodically revise such groups pursuant to paragraph (9)(A))'' after ''establish groups''.

SEC. 539. TEMPORARY INCREASE FOR GROUND AMBULANCE SERVICES FURNISHED IN A RURAL AREA.

Section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)), as amended by section 536(b)(2), is amended by adding at the end the following new paragraph:

''(10) TEMPORARY INCREASE FOR GROUND AMBULANCE SERVICES FURNISHED IN A RURAL AREA.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, in the case of ground ambulance services furnished on or after January 1, 2004, and before January 1, 2007, for which the transportation originates in a rural area described in paragraph (9) or in a rural census tract described in such paragraph, the fee schedule established under this section shall provide that the rate for the service otherwise established, after application of any increase under such paragraph, shall be increased by 5 percent.

''(B) APPLICATION OF INCREASED PAYMENTS AFTER 2006.—The increased payments under subparagraph (A) shall not be taken into account in calculating payments for services furnished on or after the period specified in such subparagraph.''.

SEC. 540. EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES FROM THE MEDICARE PPS FOR SKILLED NURSING FACILITIES.

(a) IN GENERAL.—Section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)) is amended—

(1) in paragraph (2)(A)(i)(II), by striking ''clauses (ii) and (iii)'' and inserting ''clauses (ii), (iii), and (iv)''; and

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

''(iv) EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES.—Services described in this clause are—

''(I) rural health clinic services (as defined in paragraph (1) of section 1861(aa)); and

''(II) Federally qualified health center services (as defined in paragraph (3) of such section);

that would be described in clause (ii) if such services were furnished by a physician or practitioner not affiliated with a rural health clinic or a Federally qualified health center.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 2004.

SEC. 541. MEDICARE INCENTIVE PAYMENT PROGRAM IMPROVEMENTS.

(a) PROCEDURES FOR SECRETARY, AND NOT PHYSICIANS, TO DETERMINE WHEN BONUS PAYMENTS UNDER MEDICARE INCENTIVE PAYMENT PROGRAM SHOULD BE MADE.—Section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)) is amended—

(1) by inserting ''(1)'' after ''(m)''; and

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

''(2) The Secretary shall establish procedures under which the Secretary, and not the physician furnishing the service, is responsible for determining when a payment is required to be made under paragraph (1).''.

(b) EDUCATIONAL PROGRAM REGARDING THE MEDICARE INCENTIVE PAYMENT PROGRAM.—The Secretary shall establish and implement an ongoing educational program to provide education to physicians under the medicare program on the medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)).

(c) ONGOING STUDY AND ANNUAL REPORT ON THE MEDICARE INCENTIVE PAYMENT PROGRAM.—

(1) ONGOING STUDY.—The Secretary shall conduct an ongoing study on the medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)). Such study shall focus on whether such program increases the access of medicare beneficiaries who reside in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A))) as a health professional shortage area to physicians' services under the medicare program.

(2) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Secretary considers appropriate.

SEC. 542. TWO-YEAR TREATMENT OF CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED BY A SOLE COMMUNITY HOSPITAL.

Notwithstanding subsections (a)(1)(D) and (h) of section 1833 of the Social Security Act (42 U.S.C. 1395*l*) and section 1834(d)(1) of such Act (42 U.S.C. 1395m(d)(1)), in the case of a clinical diagnostic laboratory test covered under part B of title XVIII of such Act that is furnished in 2004 or 2005 by a sole community hospital (as defined in section 1886(d)(5)(D)(iii) of such Act (42 U.S.C. 1395ww(d)(5)(D)(iii))) as part of services provided to patients of the hospital, the following rules shall apply:

(1) PAYMENT BASED ON REASONABLE COSTS.—The amount of payment for such test shall be 100 percent of the reasonable costs of the hospital in furnishing such test.

(2) NO BENEFICIARY COST-SHARING.—No coinsurance, deductible, copayment, or other cost-sharing otherwise applicable under such part B shall apply with respect to such test.

SEC. 543. ESTABLISHMENT OF FLOOR ON GEOGRAPHIC ADJUSTMENTS OF PAYMENTS FOR PHYSICIANS' SERVICES.

Section 1848(e)(1) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)) is amended—

(1) in subparagraph (A), by striking ''subparagraphs (B) and (C)'' and inserting ''subparagraphs (B), (C), and (E)''; and

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

''(E) FLOOR FOR PRACTICE EXPENSE, MALPRACTICE, AND WORK GEOGRAPHIC INDICES.—For purposes of payment for services furnished on or after January 1, 2004, after calculating the practice expense, malpractice, and work geographic indices in clauses (i), (ii), and (iii) of subparagraph (A) and in subparagraph (B), the Secretary shall increase any such index to 1.00 for any locality for which such index is less than 1.00.''.

SEC. 544. FREEZE IN PAYMENTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT AND ORTHOTICS AND PROSTHETICS.

(a) DME.—Section 1834(a)(14) of the Social Security Act (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F)—

(A) by striking ''a subsequent year'' and inserting ''2003''; and

(B) by striking ''the previous year.'' and inserting ''2002;''; and

(3) by adding at the end the following new subparagraphs:

''(G) for each of the years 2004 through 2013, 0 percentage points; and

''(H) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.''.

(b) ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) of the Social Security Act (42 U.S.C. 1395m(h)(4)(A)) is amended—

(1) in clause (vii), by striking ''and'' at the end;

(2) in clause (viii)—

(A) by striking ''a subsequent year'' and inserting ''2003''; and

(B) by striking ''the previous year'' and inserting ''2002''; and

(3) by adding at the end the following new clauses:

''(ix) for each of the years 2004 through 2013, 0 percent; and

''(x) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year;''.

SEC. 545. APPLICATION OF COINSURANCE AND DEDUCTIBLE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) COINSURANCE.—

(1) IN GENERAL.—Section 1833(a) of the Social Security Act (42 U.S.C. 1395*l*(a)) is amended—

(A) in paragraph (1)(D)—

(i) in clause (i), by striking ''(or 100 percent, in the case of such tests for which payment is made on an assignment-related basis)''; and

(ii) in clause (ii), by striking ''100 percent'' and inserting ''80 percent''; and

(B) in paragraph (2)(D)—

(i) in clause (i), by striking ''(or 100 percent, in the case of such tests for which payment is made on an assignment-related basis or to a provider having an agreement under section 1866)''; and

(ii) in clause (ii), by striking ''100 percent'' and inserting ''80 percent''.

(2) CONFORMING AMENDMENT.—The third sentence of section 1866(a)(2)(A) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A) is amended by striking ''and with respect to clinical diagnostic laboratory tests for which payment is made under part B''.

(b) DEDUCTIBLE.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395*l*(b)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

SEC. 546. REVISION IN PAYMENTS FOR COVERED OUTPATIENT DRUGS.

Section 1842(o)(1) of the Social Security Act (42 U.S.C. 1395u(o)(1)) is amended by

striking ''equal to 95 percent of the average wholesale price.'' and inserting ''equal to—

''(A) in the case of drugs furnished prior to January 1, 2004, 95 percent of the average wholesale price; and

''(B) in the case of drugs furnished on or after January 1, 2004, the lesser of—

''(i) 85 percent of the average wholesale price; or

''(ii) the amount payable for the drug or biological during the last quarter of the previous year (as determined under this subparagraph, or, in the case of 2004, under subparagraph (A) using the second quarter of 2003) increased by the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.''.

SEC. 547. INAPPLICABILITY OF SUNSET.

The provisions of section 601(a) of this Act shall not apply to the provisions of, and amendments made by, this subtitle.

SA 595. Mr. HARKIN proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

On page 281, between lines 2 and 3, insert the following:

SEC. ___. FAIR REIMBURSEMENT FOR RURAL HEALTH CARE PROVIDERS UNDER MEDICARE.

(a) REDUCTION OF GEOGRAPHIC DISPARITY UNDER MEDICARE.—

(1) IN GENERAL.—Subject to paragraph (3), the Secretary of Health and Human Services shall promulgate the regulations described in paragraph (2) by December 31, 2004 (unless legislation has been enacted having the effect of such regulations before the conclusion of the first session of the 108th Congress).

(2) REGULATIONS DESCRIBED.—The regulations described in this paragraph are regulations that reduce the geographic disparity in payments under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to health care providers by—

(A) equalizing urban and rural standardized payment amounts under the medicare inpatient hospital prospective payment system under section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3));

(B) improving the medicare incentive payment program under section 1833(m) of such Act (42 U.S.C. 1395l(m)) to ensure that bonus payments under such section are made on behalf of all eligible physicians;

(C) providing fairness in the medicare disproportionate share hospitals adjustment for rural hospitals under section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F));

(D) establishing a medicare inpatient hospital bonus payment for low-volume hospitals under section 1886(d) of such Act (42 U.S.C. 1395ww(d));

(E) adjusting the medicare inpatient hospital prospective payment system wage index to revise the labor-related share of such index to account for 62 percent of such index under section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(3)(E));

(F) revising the physician fee schedule wage index under section 1848(e)(1) of such Act (42 U.S.C. 1395w–4(e)(1)) to establish a minimum geographic cost-of-practice index value of not less than 1 for physicians' services furnished under the medicare program;

(G) extending the temporary increase under section 508(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–533), as enacted into law by section 1(a)(6) of Public Law 106–554, for home health services furnished in a rural area; and

(H) making any other change to a payment system under the medicare program that the Secretary determines is appropriate.

(3) HOLD-HARMLESS.—The regulations promulgated under paragraph (1) may not result in a lower level of reimbursement for a health care provider under the medicare program under title XVIII of the Social Security Act than such provider would have received but for the enactment of this section.

(b) FUNDING.—

(1) APPROPRIATION.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, $50,000,000,000 for the purpose of implementing the regulations described in subsection (a)(2).

(2) REVERSION OF EXCESS FUNDS.—Any funds appropriated under this subsection that are not used to implement such regulations shall revert to the Treasury and shall be used to reduce the Federal deficit.

(c) FUNDING OFFSET.—Paragraph (2) of section 116(a) (relating to partial exclusion of dividends received by individuals), as added by section 201(a), is amended to read as follows:

''(2) LIMITATION.—Paragraph (1) shall apply to qualified dividend income of a taxpayer only to the extent such income does not exceed the sum of $500 ($250 in the case of a married individual filing a separate return).''.

SA 596. Ms. COLLINS (for herself, Mr. ROCKEFELLER, Mr. NELSON of Nebraska, Mr. SMITH, Mr. SCHUMER, Mr. COLEMAN, Mrs. CLINTON, Mrs. MURRAY, and Mr. WYDEN) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Strike section 371 and insert the following:

SEC. 371. TEMPORARY STATE AND LOCAL FISCAL RELIEF.

(a) $10,000,000,000 FOR A TEMPORARY INCREASE OF THE MEDICAID FMAP.—

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FIRST 3 QUARTERS OF FISCAL YEAR 2004.—Subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for the first, second, and third calendar quarters of fiscal year 2004, before the application of this subsection.

(3) GENERAL 2.95 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FIRST 3 CALENDAR QUARTERS OF FISCAL YEAR 2004.—Subject to paragraphs (5), (6), and (7), for each State for the third and fourth calendar quarters of fiscal year 2003 and for the first, second, and third calendar quarters of fiscal year 2004, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 2.95 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to paragraphs (6) and (7), with respect to the third and fourth calendar quarters of fiscal year 2003 and the first, second, and third calendar quarters of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 5.90 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.); or

(C) any payments under XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)).

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) REQUIREMENT FOR CERTAIN STATES.—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State shall not require that such political subdivisions pay a greater percentage of the non-Federal share of such expenditures for the third and fourth calendar quarters of fiscal year 2003 and the first, second and third calendar quarters of fiscal year 2004, than the percentage that was required by the State under such plan on April 1, 2003, prior to application of this subsection.

(8) DEFINITIONS.—In this subsection:

(A) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(9) REPEAL.—Effective as of October 1, 2004, this subsection is repealed.

(b) $10,000,000,000 FOR ASSISTANCE IN PROVIDING GOVERNMENT SERVICES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary shall establish a program under which the Secretary shall make a payment to each State in accordance with paragraph (2) and each unit of general local government which qualifies for a payment under paragraph (3).

(B) REQUIREMENT.—In making payments under this subsection, the Secretary shall ensure that not more than 72.70 percent of the amount appropriated under subparagraph (C) is paid in fiscal year 2003.

(C) APPROPRIATION.—There is authorized to be appropriated and is appropriated for making payments under this subsection, $10,000,000,000. Amounts appropriated under this subparagraph shall remain available for expenditure through September 30, 2004.

(2) $6,000,000,000 PAID TO STATES.—

(A) AMOUNT OF PAYMENT.—

(i) BASED ON POPULATION.—Subject to clause (ii), $6,000,000,000 of the amount appropriated under paragraph (1)(C) shall be used to pay each State an amount equal to the relative population proportion amount described in clause (iii).

(ii) MINIMUM PAYMENT.—

(I) IN GENERAL.—No State shall receive a payment under this paragraph that is less than—

(aa) in the case of any of the several States or the District of Columbia, $30,000,000; and

(bb) in the case of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa, $6,000,000.

(II) PRO RATA ADJUSTMENTS.—The Secretary shall adjust on a pro rata basis the amount of the payments to States determined under this subparagraph to the extent necessary to comply with the requirements of subclause (I).

(iii) RELATIVE POPULATION PROPORTION AMOUNT.—The relative population proportion amount described in this clause is the product of—

(I) $6,000,000,000; and

(II) the relative State population proportion (defined in clause (iv)).

(iv) RELATIVE STATE POPULATION PROPORTION DEFINED.—For purposes of clause (iii)(II), the term ''relative State population proportion'' means, with respect to a State, the amount equal to the quotient of—

(I) the population of the State (as reported in the most recent decennial census); and

(II) the total population of all States (as reported in the most recent decennial census).

(B) USE OF PAYMENT.—

(i) IN GENERAL.—Subject to clause (ii), a State shall use the funds provided under a payment made under this paragraph to fund 1 or more of the following activities:

(I) Education or job training.

(II) Health care or other social services.

(III) Transportation or other infrastructure.

(IV) Law enforcement or public safety.

(V) Essential government services.

(ii) LIMITATION.—A State may only use funds provided under a payment made under this paragraph for types of expenditures permitted under the most recently approved budget for the State.

(C) CERTIFICATION.—In order to receive a payment under this paragraph for a fiscal year, the State shall provide the Secretary with a certification that the State's proposed uses of the funds are consistent with subparagraph (B).

(3) $4,000,000,000 PAID TO UNITS OF GENERAL LOCAL GOVERNMENT.—

(A) ELIGIBILITY.—The Secretary shall, by regulation, establish procedures under which units of general local government may qualify for the payments provided under this paragraph. Such procedures shall include a requirement that no unit of general local government shall be eligible for a payment under this paragraph unless the unit provides the Secretary with a certification that the unit's proposed uses of the funds are consistent with subparagraph (C).

(B) AMOUNT OF PAYMENT.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary shall pay each unit of general local government that qualifies for a payment under the regulation required under subparagraph (A), an amount equal to the same ratio to $4,000,000,000 as the population of such unit of general local government (as reported in the most recent decennial census) bears to the total population of all such units that qualify for a payment under this paragraph (as so reported).

(ii) ADJUSTMENTS.—The Secretary may adjust the amount of the payment otherwise determined for a unit of general local government under this subparagraph to the extent the Secretary determines necessary to ensure that all such units that would qualify for a payment under this paragraph receive a payment.

(C) USE OF PAYMENT.—

(i) IN GENERAL.—Subject to clause (ii), a unit of general local government shall use the funds provided under a payment made under this paragraph to fund 1 or more of the following activities:

(I) Education or job training.

(II) Health care or other social services.

(III) Transportation or other infrastructure.

(IV) Law enforcement or public safety.

(V) Essential government services.

(ii) LIMITATION.—A unit of general local government may only use funds provided under a payment made under this paragraph for types of expenditures permitted under the most recently approved budget for the unit.

(4) DEFINITIONS.—In this subsection:

(A) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(B) STATE.—The term ''State'' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

(C) UNIT OF GENERAL LOCAL GOVERNMENT.—

(i) IN GENERAL.—The term ''unit of general local government'' means—

(I) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(II) the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(ii) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this subsection, the rules under section 6720(c) of title 31, United States Code, shall apply.

(5) REPEAL.—Effective as of October 1, 2004, this subsection is repealed.

SA 597. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 281, between lines 2 and 3, insert the following:

SEC. . REPEAL OF ALTERNATIVE MINIMUM TAX SPECIAL DEDUCTION ADJUSTMENT FOR CERTAIN TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (3) of section 56(c) (relating to special deduction for certain organizations not allowed) is amended by striking ''The'' and inserting ''Other than for an organization described in paragraph (3) or (4) of section 501(c), the''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this section.

SA 598. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subpart C of title V, insert the following:

SEC. ____. LEAD ABATEMENT TAX CREDIT.

(a) FINDINGS.—Congress finds that:

(1) Of the 98,000,000 housing units in the United States, 38,000,000 have lead-based paint.

(2) Of the 38,000,000 housing units with lead-based paint, 25,000,000 pose a hazard, as defined by Environmental Protection Agency and Department of Housing and Urban Development standards, due to conditions such as peeling paint and settled dust on floors and windowsills that contain lead at levels above Federal safety standards.

(3) Though the number of children in the United States ages 1 through 5 with blood levels higher than the Centers for Disease Control action level of 10 micrograms per deciliter has declined to 300,000, lead poisoning remains a serious, entirely preventable threat to a child's intelligence, behavior, and learning.

(4) The Secretary of Health and Human Services has established a national goal of ending childhood lead poisoning by 2010.

(5) Current Federal lead abatement programs, such as the Lead Hazard Control Grant Program of the Department of Housing and Urban Development, only have resources sufficient to make approximately 7,000 homes lead-safe each year. In many cases, when State and local public health departments identify a lead-poisoned child, resources are insufficient to reduce or eliminate the hazards.

(6) Approximately 15 percent of children are lead-poisoned by home renovation projects performed by remodelers who fail to follow basic safeguards to control lead dust.

(7) Old windows typically pose significant risks because wood trim is more likely to be painted with lead-based paint, moisture causes paint to deteriorate, and friction generates lead dust. The replacement of old windows that contain lead based paint significantly reduces lead poisoning hazards in addition to producing significant energy savings.

(b) PURPOSE.—The purpose of this section is to encourage the safe removal of lead hazards from homes and thereby decrease the number of children who suffer reduced intelligence, learning difficulties, behavioral problems, and other health consequences due to lead-poisoning.

(c) LEAD ABATEMENT TAX CREDIT.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. HOME LEAD ABATEMENT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter an amount equal to 50 percent of the abatement cost paid or incurred

by the taxpayer during the taxable year for each eligible dwelling unit of the taxpayer.

''(b) LIMITATION.—The amount of the credit allowed under subsection (a) for any eligible dwelling unit shall not exceed—

''(1) $1,500, over

''(2) the aggregate cost taken into account under subsection (a) with respect to such unit for all preceding taxable years.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

''(1) ABATEMENT COST.—

''(A) IN GENERAL.—The term 'abatement cost' means, with respect to any eligible dwelling unit—

''(i) the cost for a certified risk assessor to conduct an assessment to determine the presence of a lead-based paint hazard,

''(ii) the cost for a certified lead abatement supervisor to perform the removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil when lead-based paint hazards are present in such paint, dust, or soil,

''(iii) the cost for a certified lead abatement supervisor to perform all preparation, cleanup, disposal, and postabatement clearance testing activities associated with the activities described in clause (ii), and

''(iv) costs incurred by or on behalf of any occupant of such dwelling unit for any relocation which is necessary to achieve occupant protection (as defined under section 1345 of title 24, Code of Federal Regulations).

''(B) LIMITATION.—The term 'abatement cost' does not include any cost to the extent such cost is funded by any grant, contract, or otherwise by another person (or any governmental agency).

''(2) ELIGIBLE DWELLING UNIT.—

''(A) IN GENERAL.—The term 'eligible dwelling unit' means any dwelling unit—

''(i) placed in service before 1978,

''(ii) located in the United States, and

''(iii) determined by a certified risk assessor to have a lead-based paint hazard.

''(B) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

''(3) LEAD-BASED PAINT HAZARD.—The term 'lead-based paint hazard' has the meaning given such term under part 745 of title 40, Code of Federal Regulations.

''(4) CERTIFIED LEAD ABATEMENT SUPERVISOR.—The term 'certified lead abatement supervisor' means an individual certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(5) CERTIFIED INSPECTOR.—The term 'certified inspector' means an inspector certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(6) CERTIFIED RISK ASSESSOR.—The term 'certified risk assessor' means a risk assessor certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(7) DOCUMENTATION REQUIRED FOR CREDIT ALLOWANCE.—No credit shall be allowed under subsection (a) with respect to any eligible dwelling unit unless—

''(A) after lead abatement is complete, a certified inspector or certified risk assessor provides written documentation to the taxpayer that includes—

''(i) a certification that the postabatement procedures (as defined by section 745.227 of title 40, Code of Federal Regulations) have been performed and that the unit does not contain lead dust hazards (as defined by section 745.227(e)(8)(viii) of title 40, Code of Federal Regulations), and

''(ii) documentation showing that the lead abatement meets the requirements of this section, and

''(B) the taxpayer files with the appropriate State agency—

''(i) the documentation described in subparagraph (A),

''(ii) a receipt from the certified risk assessor documenting the costs of determining the presence of a lead-based paint hazard,

''(iii) a receipt from the certified lead abatement supervisor documenting the abatement cost (other than the costs described in paragraph (1)(A)(i)), and

''(iv) a statement indicating the age of the dwelling unit.

''(8) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (d)).

''(d) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30A for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1016(a) is amended by striking ''and'' in paragraph (27), by striking the period and inserting '', and'' in paragraph (28), and by inserting at the end the following new paragraph:

''(29) in the case of an eligible dwelling unit with respect to which a credit for lead abatement was allowed under section 30B, to the extent provided in section 30B(c)(8).''.

(B) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Home lead abatement.''.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to abatement costs incurred after December 31, 2003, in taxable years ending after that date.

SA 599. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—MEDICARE AND MEDICAID PROVISIONS

SEC. ____00. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO BIPA; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Health Care Improvement Act of 2003''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) BIPA.—In this title, the term ''BIPA'' means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554.

(d) TABLE OF CONTENTS.—The table of contents of this title is as follows:

TITLE ____—MEDICARE AND MEDICAID PROVISIONS

Sec. ____00. Short title; amendments to Social Security Act; references to BIPA; table of contents.

SUBTITLE A—MEDICARE PROVISIONS

Sec. ____01. Revision of acute care hospital payment updates.

Sec. ____02. Extension of level of adjustment for Indirect Costs of Medical Education (IME).

Sec. ____03. Hospital outpatient department outlier payments.

Sec. ____04. Hospital outpatient department transitional payments.

Sec. ____05. Application of rules for determining provider-based status for certain entities.

Sec. ____06. Extension of treatment of certain physician pathology services.

Sec. ____07. Extension of the authorization for appropriations for Medicare Rural Grant Program.

Sec. ____08. Extension of enhanced payments for psychiatric hospitals.

Sec. ____09. Additional delay in application of 15 percent reduction on payment limits for home health services.

Sec. ____10. Extension of temporary increase for home health services furnished in a rural area.

Sec. ____11. Extension of temporary increase in adjusted Federal per diem rate under PPS for skilled nursing facilities.

Sec. ____12. Extension of increase in nursing component of PPS Federal rate under PPS for skilled nursing facilities.

Sec. ____13. Increase in renal dialysis composite rate for services furnished in 2003.

Sec. ____14. Extension of the authorization for appropriations for vaccines outreach expansion.

Sec. ____15. Extension of moratorium on therapy caps.

Sec. ____16. Increase in the conversion factor for payments under the medicare physician fee schedule.

Sec. ____17. Revision of Medicare+Choice minimum percentage increase.

SUBTITLE B—MEDICAID PROVISIONS

Sec. ____21. Extension of medicare cost-sharing for part B premium for certain additional low-income medicare beneficiaries.

Sec. ____22. Medicaid DSH allotments.

SUBTITLE C—APPLICATION AND BUDGET SCOREKEEPING

Sec. ____31. Application of provisions of title.

Subtitle A—Medicare Provisions

SEC. ____01. REVISION OF ACUTE CARE HOSPITAL PAYMENT UPDATES.

Subclause (XVIII) of section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking ''minus 0.55 percentage points''.

SEC. ____02. EXTENSION OF LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME).

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI) by inserting ''and fiscal year 2003'' after ''2002''; and

(2) in subclause (VII), by striking ''2002'' and inserting ''2003''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking ''1999 or'' and inserting ''1999,''; and

(2) by inserting '', or of section ___02 of the Health Care Improvement Act of 2003'' after ''2000''.

SEC. ___03. HOSPITAL OUTPATIENT DEPARTMENT OUTLIER PAYMENTS.

(a) IN GENERAL.—Section 1833(t)(5) (42 U.S.C. 1395*l*(t)(5)) is amended—

(1) in subparagraph (C)—

(A) in clause (i), by striking ''exceed the applicable'' and inserting ''exceed a percentage specified by the Secretary that is not less than the applicable minimum percentage or greater than the applicable maximum''; and

(B) by striking clause (ii) and inserting the following new clause:

''(ii) APPLICABLE PERCENTAGES.—For purposes of clause (i)—

''(I) the term 'applicable minimum percentage' for a year means zero percent for years before 2003 and 2.0 percent for years after 2002; and

''(II) the term 'applicable maximum percentage' for a year means 2.5 percent for years before 2003 and 3.0 percent for years after 2002.''; and

(2) in subparagraph (D)—

(A) in the heading, by striking ''TRANSITIONAL AUTHORITY'' and inserting ''FLEXIBILITY''; and

(B) in the matter preceding clause (i), by striking ''for covered OPD services furnished before January 1, 2002,''.

SEC. ___04. HOSPITAL OUTPATIENT DEPARTMENT TRANSITIONAL PAYMENTS.

Section 1833(t)(7) (42 U.S.C. 1395*l*(t)(7)) is amended—

(1) in subparagraph (B)—

(A) in the heading, by inserting ''AND 2003'' after ''2002''; and

(B) by inserting ''and 2003'' after ''furnished during 2002'' in the matter preceding clause (i); and

(2) in subparagraph (C)—

(A) in the heading, by striking ''2003'' and inserting ''2004''; and

(B) by striking ''2003'' and inserting ''2004'' in the matter preceding clause (i); and

(3) in subparagraph (D)(i), by striking ''2004'' and inserting ''2005''.

SEC. ___05. APPLICATION OF RULES FOR DETERMINING PROVIDER-BASED STATUS FOR CERTAIN ENTITIES.

Section 404 of BIPA (114 Stat. 2763A–506) is amended by striking ''2002'' and inserting ''2003'' each place it appears.

SEC. ___06. EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of BIPA (114 Stat. 2763A–550) is amended by striking ''2-year period'' and inserting ''3-year period''.

SEC. ___07. EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR MEDICARE RURAL GRANT PROGRAM.

Section 1820(j) (42 U.S.C. 1395i–4(j)) is amended by striking ''2002'' and inserting ''2003''.

SEC. ___08. EXTENSION OF ENHANCED PAYMENTS FOR PSYCHIATRIC HOSPITALS.

Section 1886(b)(2)(E)(i) (42 U.S.C. 1395ww(b)(2)(E)(i)) is amended—

(1) in subclause (I), by striking ''and'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subclause:

''(III) only in the case of a hospital or unit described in clause (ii)(I), for a cost reporting period beginning on or after October 1, 2002, and before September 30, 2003, 2 percent.''.

SEC. ___09. ADDITIONAL DELAY IN APPLICATION OF 15 PERCENT REDUCTION ON PAYMENT LIMITS FOR HOME HEALTH SERVICES.

Section 1895(b)(3)(A)(i) (42 U.S.C. 1395fff(b)(3)(A)(i)) is amended—

(1) by redesignating subclause (III) as subclause (IV);

(2) in subclause (IV), as redesignated, by striking ''described in subclause (II)'' and inserting ''described in subclause (III)''; and

(3) by inserting after subclause (II) the following new subclause:

''(III) For the 12-month period beginning after the period described in subclause (II), such amount (or amounts) shall be equal to the amount (or amounts) determined under subclause (II), updated under subparagraph (B).''.

SEC. ___10. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) BIPA (114 Stat. 2763A–533) is amended—

(1) by striking ''24-MONTH INCREASE BEGINNING APRIL 1, 2001'' and inserting ''IN GENERAL''; and

(2) by striking ''April 1, 2003'' and inserting ''October 1, 2003''.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of BIPA (114 Stat. 2763A–553) is amended by striking ''the period beginning on April 1, 2001, and ending on September 30, 2002,'' and inserting ''a period under such section''.

SEC. ___11. EXTENSION OF TEMPORARY INCREASE IN ADJUSTED FEDERAL PER DIEM RATE UNDER PPS FOR SKILLED NURSING FACILITIES.

Section 101(d)(1) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–325), as enacted into law by section 1000(a)(6) of Public Law 106–113, is amended—

(1) in the heading, by striking ''AND 2002'' and inserting '', 2002, AND 2003''; and

(2) by striking ''and 2002'' and inserting '', 2002, and 2003''.

SEC. ___12. EXTENSION OF INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE UNDER PPS FOR SKILLED NURSING FACILITIES.

Section 312(a) of BIPA (114 Stat. 2763A–498) is amended by striking ''October 1, 2002'' and inserting ''October 1, 2003''.

SEC. ___13. INCREASE IN RENAL DIALYSIS COMPOSITE RATE FOR SERVICES FURNISHED IN 2003.

Notwithstanding any other provision of law, with respect to payment under part B of title XVIII of the Social Security Act for renal dialysis services furnished in 2003, the composite payment rate otherwise established under section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) shall be increased by 1.2 percent.

SEC. ___14. EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR VACCINES OUTREACH EXPANSION.

Section 4107(b) of the Balanced Budget Act of 1997 (42 U.S.C. 1395x note) is amended by striking ''2002'' and inserting ''2003''.

SEC. ___15. EXTENSION OF MORATORIUM ON THERAPY CAPS.

Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking ''and 2002'' and inserting ''2002, and 2003''.

SEC. ___16. INCREASE IN THE CONVERSION FACTOR FOR PAYMENTS UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(d)(5)(A) of the Social Security Act (42 U.S.C. 1395w–4(d)(5)(A)), as added by section 402 of the Miscellaneous Appropriations Act, 2003 (Public Law 108–7), is amended by inserting ''increased by 2 percent'' after ''2002''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of such section 402.

SEC. ___17. REVISION OF MEDICARE+CHOICE MINIMUM PERCENTAGE INCREASE.

Section 1853(c)(1)(C) (42 U.S.C. 1395w–23(c)(1)(C)) is amended by striking clause (iv) and inserting the following:

''(iv) For 2002, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2001.

''(v) For 2003, 104 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2002.

''(vii) For 2004 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.''.

Subtitle B—Medicaid Provisions

SEC. ___21. EXTENSION OF MEDICARE COST-SHARING FOR PART B PREMIUM FOR CERTAIN ADDITIONAL LOW-INCOME MEDICARE BENEFICIARIES.

Section 136 of Public Law 107–229, as added by section 5 of Public Law 107–240, is amended by striking ''60 days after the date specified in section 107(c) of Public Law 107–229, as amended'' and inserting ''September 30, 2003''.

SEC. ___22. MEDICAID DSH ALLOTMENTS.

(a) CONTINUATION OF BIPA RULE FOR DETERMINATION OF ALLOTMENTS FOR FISCAL YEAR 2003.—

(1) IN GENERAL.—Section 1923(f)(4) (42 U.S.C. 1396r–4(f)(4)) is amended—

(A) in the paragraph heading, by striking ''AND 2002'' and inserting ''THROUGH 2003'';

(B) in subparagraph (A)—

(i) in clause (i), by striking ''and'' at the end;

(ii) in clause (ii), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(iii) fiscal year 2003, shall be the DSH allotment determined under clause (ii) increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average) for fiscal year 2002.''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''2002'' and inserting ''2003''; and

(ii) by striking ''2003'' and inserting ''2004''.

(2) CONFORMING AMENDMENTS.—Section 1923(f)(3) (42 U.S.C. 1396r–4(f)(3)) is amended—

(A) in the paragraph heading, by striking ''2003'' and inserting ''2004''; and

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

''(A) IN GENERAL.—The DSH allotment for any State—

''(i) for fiscal year 2004, is equal to the DSH allotment determined for the State for fiscal year 2002 under the table set forth in paragraph (2), increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average), for fiscal year 2004; and

''(ii) for fiscal year 2005 and each succeeding fiscal year, is equal to the DSH allotment determined for the State for the preceding fiscal year under this paragraph, increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average), for the previous fiscal year.''.

(b) INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE TO 3 PERCENT IN FISCAL YEAR 2003.—Section 1923(f)(5) (42 U.S.C. 1396r–4(f)(5)) is amended—

(1) by striking ''fiscal year 1999'' and inserting ''fiscal year 2001'';

(2) by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(3) by striking ''August 31, 2000'' and inserting ''August 31, 2002'';

(4) by striking ''1 percent'' each place it appears and inserting ''3 percent''; and

(5) by striking ''fiscal year 2001'' and inserting ''fiscal year 2003 (as determined under paragraph (4)(A)(iii))''.

Subtitle C—Application and Budget Scorekeeping

SEC. ___31. APPLICATION OF PROVISIONS OF TITLE.

(a) APPLICATION ONLY TO LAST 6 MONTHS OF FISCAL YEAR 2003.—Except for the amendments made by sections ___16 and ___21, the provisions of, and amendments made by, this title shall only apply to the Social Security Act, the Balanced Budget Act of 1997, the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–321), as enacted into law by section 1000(a)(6) of Public Law 106–113, and BIPA during the period that begins on April 1, 2003, and ends on September 30, 2003.

(b) NO EFFECT ON PERIODS BEYOND SEPTEMBER 30, 2003.—All provisions of, and amendments made by, this title shall not apply after September 30, 2003, and, after such date, the Social Security Act, the Balanced Budget Act of 1997, the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–321), as enacted into law by section 1000(a)(6) of Public Law 106–113, and BIPA shall be applied and administered as if the provisions of, and amendments made by, this title had not been enacted.

On page 19, strike lines 7 through 15, and insert the following:

''(2) LIMITATION.—Paragraph (1) shall apply to qualified dividend income of a taxpayer only to the extent such income does not exceed the sum of $500 ($250 in the case of a married individual filing a separate return).

On page 26, strike lines 17 through 22.

SA 600. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike section 371 and insert the following:

SEC. 371. TEMPORARY STATE FISCAL RELIEF FUND.

(a) AUTHORITY TO MAKE PAYMENTS TO STATES.—

(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary of the Treasury (in this section referred to as the ''Secretary'') shall establish a program under which the Secretary shall make a payment to each State in which the chief executive officer of the State, or the chief executive officer's designee, in consultation and coordination with other State and local officials, notifies the Secretary not later than 6 months after the date of enactment of this Act that the State intends to use the payment in accordance with this section.

(2) REQUIREMENT.—In making payments to States under this section, the Secretary shall ensure that not more than 50 percent of the aggregate amount made available for payments under this section (after the application of subsection (f)) is paid to States in fiscal year 2003.

(b) USE OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall use the funds provided under a payment made under this section to carry out 1 or more of the following activities:

(A) Improving education or job training.

(B) Improving health care services.

(C) Improving transportation or other infrastructure.

(D) Improving law enforcement or public safety.

(E) Maintaining essential government services.

(2) LIMITATION.—A State may only use funds provided under a payment made under this section for types of expenditures permitted under the most recently approved budget for the State.

(c) CERTIFICATIONS.—In order to receive a payment under this section, the State shall provide the Secretary with certifications that—

(1) the State's proposed uses of the funds are consistent with subsection (b); and

(2) the State will allocate 50 percent of the funds directly to units of general local government based on the relative local population proportion for the State (as defined in subsection (d)(5)) and not use the funds to supplant State funding or revenue that the State otherwise provides to units of general local government.

(d) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—The amount of payment made to a State under this section shall be the minimum payment amount described in paragraph (2) plus the relative population proportion amount described in paragraph (3).

(2) MINIMUM PAYMENT AMOUNT.—The minimum payment amount described in this paragraph is—

(A) in the case of any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico, one-half of 1 percent of the aggregate amount made available for payments under this section (after the application of subsection (f)); and

(B) in the case of the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa, one-tenth of 1 percent of such aggregate amount (after the application of subsection (f)).

(3) RELATIVE POPULATION PROPORTION AMOUNT.—The relative population proportion amount described in this paragraph is the product of—

(A) the aggregate amount made available for payments under this section (after the application of subsection (f)) minus the total of all of the minimum payment amounts determined under paragraph (2); and

(B) the relative State population proportion (as defined in paragraph (4)).

(4) RELATIVE STATE POPULATION PROPORTION DEFINED.—In this section, the term ''relative State population proportion'' means, with respect to a State, the amount equal to the quotient of—

(A) the population of the State (as reported in the most recent decennial census); and

(B) the total population of all States (as reported in the most recent decennial census).

(5) RELATIVE LOCAL POPULATION PROPORTION DEFINED.—In this section, the term ''relative local population proportion'' means, with respect to a unit of general local government within a State, the amount equal to the quotient of—

(A) the population of such unit of general local government (as reported in the most recent decennial census); and

(B) the total population of the State (as reported in the most recent decennial census).

(e) APPROPRIATION.—There is authorized to be appropriated and is appropriated for making payments under this section, $30,000,000,000 for fiscal year 2003. Amounts appropriated under this subsection shall remain available for expenditure through December 31, 2004.

(f) TEMPORARY INCREASE OF MEDICAID FMAP.—

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FIRST 3 QUARTERS OF FISCAL YEAR 2004.—Subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for the first, second, and third calendar quarters of fiscal year 2004, before the application of this subsection.

(3) GENERAL 3.73 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FIRST 3 CALENDAR QUARTERS OF FISCAL YEAR 2004.—Subject to paragraphs (5) and (6), for each State for the third and fourth calendar quarters of fiscal year 2003 and for the first, second, and third calendar quarters of fiscal year 2004, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 3.73 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to paragraph (6), with respect to the third and fourth calendar quarters of fiscal year 2003 and the first, second, and third calendar quarters of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 7.56 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) FUNDING.—Notwithstanding subsection (e), from the amounts appropriated in such section for fiscal year 2003, $15,000,000,000 of such amount is hereby transferred and made available for the purpose of increasing the FMAP for States in accordance with this subsection. Amounts transferred under this paragraph shall remain available for expenditure through September 30, 2004.

(8) DEFINITIONS.—In this subsection:

(A) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(9) REPEAL OF FMAP INCREASE.—Effective as of October 1, 2004, this subsection is repealed.

(g) REPEAL OF OTHER PROVISIONS.—Effective as of January 1, 2005, subsections (a) through (e) of this section are repealed.

(h) REVISION OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—

(1) IN GENERAL.—Section 116(a)(2)(B), as added by section 201 of this Act, is amended by striking ''2007'' and inserting ''2010''.

(2) CONFORMING AMENDMENTS.—Sections 531(a) and 541(a), as amended by section 201 of this Act, are each amended by striking ''2007'' and inserting ''2010''.

(3) APPLICATION OF SUNSET.—Section 601(a) of this Act shall apply to the amendments made by paragraphs (1) and (2).

SA 601. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of end of subtitle C of title V add the following:

SEC. ___. LONG-TERM CARE INCENTIVES.

(a) DEDUCTION FOR PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new subsection:

''SEC. 223. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year by the taxpayer for coverage for the taxpayer and the spouse and dependents of the taxpayer.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2003, 2004, and 2005	25
2006 and 2007	30
2008 and 2009	35
2010 and 2011	40
2012 and thereafter	50.

''(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—No deduction shall be allowed under subsection (a) to any taxpayer if the modified adjusted gross income of such taxpayer for the taxable year exceeds $60,000 ($120,000 in the case of a joint return).

''(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of paragraph (1), the term 'modified adjusted gross income' means adjusted gross income determined—

''(A) without regard to this section and sections 911, 931, and 933, and

''(B) after application of sections 86, 135, 137, 219, 221, 222, and 469.

''(d) LIMITATION BASED ON SUBSIDIZED COVERAGE.—

''(1) IN GENERAL.—Subsection (a) shall not apply to premiums paid for coverage of any individual for any calendar month if—

''(A) for such month such individual is covered by any insurance which is advertised, marketed, or offered as long-term care insurance under any health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, and

''(B) 50 percent or more of the cost of any such coverage (determined under section 4980B) for such month is paid or incurred by the employer.

''(2) PLANS MAINTAINED BY CERTAIN EMPLOYERS.—A health plan which is not otherwise described in paragraph (1)(A) shall be treated as described in such paragraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

''(e) COORDINATION WITH OTHER DEDUCTIONS.—Any amount taken into account under subsection (a) shall not be taken into account in computing the amount allowable as a deduction under section 162(l) or 213(a).

''(f) MARRIED COUPLES MUST FILE JOINT RETURN.—

''(1) IN GENERAL.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(2) MARITAL STATUS.—For purposes of paragraph (1), marital status shall be determined in accordance with section 7703.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.''.

(2) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES.—Subsection (a) of section 62 is amended by inserting after paragraph (18) the following new item:

''(19) PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The deduction allowed by section 223.''.

(3) CONFORMING AMENDMENTS.—

(A) Sections 86(b)(2)(A), 135(c)(4)(A), 137(b)(3)(A), 219(g)(3)(A)(ii), and 221(b)(2)(C)(i) are each amended by inserting ''223,'' after ''222,''.

(B) Section 222(b)(2)(C)(i) is amended by inserting ''223,'' before ''911''.

(C) Section 469(i)(3)(F)(iii) is amended by striking ''and 222'' and inserting ''222, and 223''.

(4) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

''Sec. 223. Premiums on qualified long-term care insurance contracts.

''Sec. 224. Cross reference.''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) ADDITIONAL PERSONAL EXEMPTION FOR DEPENDENTS WITH LONG-TERM CARE NEEDS IN TAXPAYER'S HOME.—

(1) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

''(d) ADDITIONAL EXEMPTION FOR DEPENDENTS WITH LONG-TERM CARE NEEDS IN TAXPAYER'S HOME.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an exemption of the exemption amount for each qualified family member of the taxpayer.

''(2) PHASE-IN.—In the case of taxable years beginning in calendar years before 2012, the amount of the exemption provided under paragraph (1) shall not exceed the applicable limitation amount determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable limitation amount is—**
2003 and 2004	$500
2005 and 2006	1,000
2007 and 2008	1,500
2009 and 2010	2,000
2011	2,500.

''(3) QUALIFIED FAMILY MEMBER.—For purposes of this subsection, the term 'qualified family member' means, with respect to any taxable year, any individual—

''(A) who is—

''(i) the spouse of the taxpayer, or

''(ii) a dependent of the taxpayer with respect to whom the taxpayer is entitled to an exemption under subsection (c),

''(B) who is an individual with long-term care needs during any portion of the taxable year, and

''(C) other than an individual described in section 152(a)(9), who, for more than half of such year, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

''(4) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—For purposes of this subsection, the term 'individual with long-term care needs' means, with respect to any taxable year, an individual who has been certified, during the 39½-month period ending on the due date (without extensions) for filing the return of tax for the taxable year (or such other period as the Secretary prescribes), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being, for a period which is at least 180 consecutive days—

''(A) an individual who is unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

''(B) an individual who requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(5) IDENTIFICATION REQUIREMENT.—No exemption shall be allowed under this subsection to a taxpayer with respect to any qualified family member unless the taxpayer includes, on the return of tax for the taxable year, the name and taxpayer identification of the physician certifying such member. In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

''(6) SPECIAL RULES.—Rules similar to the rules of paragraphs (2), (3), and (4) of section

21(e) shall apply for purposes of this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1(f)(6)(A) is amended by striking ''151(d)(4)'' and inserting ''151(e)(4)''.

(B) Section 1(f)(6)(B) is amended by striking ''151(d)(4)(A)'' and inserting ''151(e)(4)(A)''.

(C) Section 3402(f)(1)(A) is amended by striking ''151(d)(2)'' and inserting ''151(e)(2)''.

(D) Section 3402(r)(2)(B) is amended by striking ''151(d)'' and inserting ''151(e)''.

(E) Section 6012(a)(1)(D)(ii) is amended—

(i) by striking ''151(d)'' and inserting ''151(e)'', and

(ii) by striking ''151(d)(2)'' and inserting ''151(e)(2)''.

(F) Section 6013(b)(3)(A) is amended by striking ''151(d)'' and inserting ''151(e)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(c) ADDITIONAL CONSUMER PROTECTIONS FOR LONG-TERM CARE INSURANCE.—

(1) IN GENERAL.—Subparagraphs (A) and (B) of section 7702B(g)(2) (relating to requirements of model regulation and Act) are amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to any contract if such contract meets—

''(i) MODEL REGULATION.—The following requirements of the model regulation:

''(I) Section 6A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 6A.

''(II) Section 6B (relating to prohibitions on limitations and exclusions).

''(III) Section 6C (relating to extension of benefits).

''(IV) Section 6D (relating to continuation or conversion of coverage).

''(V) Section 6E (relating to discontinuance and replacement of policies).

''(VI) Section 7 (relating to unintentional lapse).

''(VII) Section 8 (relating to disclosure), other than section 8F thereof.

''(VIII) Section 11 (relating to prohibitions against post-claims underwriting).

''(IX) Section 12 (relating to minimum standards).

''(X) Section 13 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

''(XI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

''(XII) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

''(ii) MODEL ACT.—The following requirements of the model Act:

''(I) Section 6C (relating to preexisting conditions).

''(II) Section 6D (relating to prior hospitalization).

''(III) The provisions of section 8 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' means the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000).

''(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

''(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.''.

(2) EXCISE TAX.—Paragraph (1) of section 4980C(c) (relating to requirements of model provisions) is amended to read as follows:

''(1) REQUIREMENTS OF MODEL PROVISIONS.—

''(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

''(i) Section 9 (relating to required disclosure of rating practices to consumer).

''(ii) Section 14 (relating to application forms and replacement coverage).

''(iii) Section 15 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

''(iv) Section 22 (relating to filing requirements for advertising).

''(v) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C, except that—

''(I) in addition to such requirements, no person shall, in selling or offering to sell a qualified long-term care insurance contract, misrepresent a material fact; and

''(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

''(vi) Section 24 (relating to suitability).

''(vii) Section 29 (relating to standard format outline of coverage).

''(viii) Section 30 (relating to requirement to deliver shopper's guide).

The requirements referred to in clause (vi) shall not include those portions of the personal worksheet described in Appendix B of the model regulation relating to consumer protection requirements not imposed by section 4980C or 7702B.

''(B) MODEL ACT.—The following requirements of the model Act must be met:

''(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

''(ii) Section 6G (relating to outline of coverage).

''(iii) Section 6H (relating to requirements for certificates under group plans).

''(iv) Section 6J (relating to policy summary).

''(v) Section 6K (relating to monthly reports on accelerated death benefits).

''(vi) Section 7 (relating to incontestability period).

''(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such term by section 7702B(g)(2)(B).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to policies issued after December 31, 2003.

(d) REVISION OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—Section 116(a)(2)(B) of the Internal Revenue Code of 1986, as added by section 201 of this Act, is amended by striking ''2007'' and inserting ''2009''.

SA 602. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 190, line 4, strike all through page 195, line 3.

SA 603. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 22, between lines 21 and 22, insert the following:

''(7) SMALL BUSINESS RETIREMENT PLANS.—For purposes of small business plans, defined as any qualified plan maintained by an employer with fewer than 25 employees, the cost basis for the employees' retirement plan accounts would be adjusted by the amount of dividends received by the underlying investments in the account that would otherwise be excluded from taxable income if held individually.''

SA 604. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. ___. REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS AND ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES AND ESTABLISHMENT OF UNINSURED RESERVE FUND.

(a) REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS.—Section 201 of this Act, and the amendments made by such section, are repealed.

(b) ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004 and 2005, 37.6%.

(c) UNINSURED RESERVE FUND.—There is hereby established in the Treasury of the United States a reserve fund to provide health care coverage for the uninsured to which is appropriated the revenues resulting from the enactment and application of subsections (a) and (b).

SA 605. Ms. MIKULSKI, (for herself, Mr. KENNEDY, Mr. SARBANES, Mr. JOHNSON, Mrs. CLINTON, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, insert the following:

SEC. ___. LONG-TERM CARE CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 24(a) (relating to allowance of child tax credit) is amended to read as follows:

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(A) the per child amount multiplied by the number of qualifying children of the taxpayer, plus

''(B) the sum of the eligible expenses of the taxpayer for each applicable individual with respect to whom the taxpayer is an eligible caregiver for the taxable year.''.

(2) LIMITATION.—Section 24(b) is amended by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and by inserting before paragraph (2) (as redesignated by this paragraph) the following new paragraph:

''(1) IN GENERAL.—The credit allowed under subsection (a)(1)(B) shall not exceed $5,000 for any taxable year.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 24(d)(1) is amended by striking ''subsection (b)(3)'' each place it appears and inserting ''subsection (b)(4)''.

(B) The heading for section 24 is amended to read as follows:

''SEC. 24. FAMILY CARE CREDIT.''.

(C) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 24 and inserting the following new item:

''Sec. 24. Family care credit.''.

(b) ELIGIBLE EXPENSES.—

(1) IN GENERAL.—Section 24 is amended by redesignating subsections (b) through (f) as subsections (c) through (g), respectively, and by inserting after subsection (a) the following new subsection:

''(b) ELIGIBLE EXPENSES.—For the purposes of this section—

''(1) IN GENERAL.—The term 'eligible expenses' means expenses incurred by the taxpayer for—

''(A) medical care (as defined in section 213(d)(1) without regard to subparagraph (D) thereof),

''(B) lodging away from home in accordance with section 213(d)(2),

''(C) adult day care,

''(D) custodial care,

''(E) respite care, and

''(F) other specialized services for children, including day care for children with special needs.

Such term shall not include any expense for which the taxpayer is reimbursed by another person.

''(2) ADULT DAY CARE.—The term 'adult day care' means care provided for adults with functional or cognitive impairments through a structured, community-based group program which provides health, social, and other related support services on a less than 24-hour per day basis.

''(3) CUSTODIAL CARE.—The term 'custodial care' means reasonable personal care services provided to assist with daily living and which do not require the skills of qualified technical or professional personnel.

''(4) RESPITE CARE.—The term 'respite care' means planned or emergency care provided to an applicable individual in order to provide temporary relief to an eligible caregiver.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 24(e)(1) (relating to portion of credit refundable), as redesignated by paragraph (1) and as amended by subsection (a)(3)(A), is amended by striking ''subsection (b)(4)'' each place it appears and inserting ''subsection (c)(4)''.

(B) Section 501(c)(26) is amended by striking ''section 24(c)'' and inserting ''section 24(d)''.

(C) Section 6211(b)(4)(A) is amended by striking ''section 24(d)'' and inserting ''section 24(e)''.

(D) Section 6213(g)(2)(I) is amended by striking ''section 24(e)'' and inserting ''section 24(f)''.

(c) DEFINITIONS.—Subsection (d) of section 24, as redesignated by subsection (b)(1), is amended to read as follows:

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

''(1) QUALIFYING CHILD.—

''(A) IN GENERAL.—The term 'qualifying child' means any individual if—

''(i) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(ii) such individual has not attained the age of 17 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(iii) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

''(B) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(2) APPLICABLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'applicable individual' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

''(i) which is at least 180 consecutive days, and

''(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

''(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

''(i) The individual is at least 18 years of age and—

''(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

''(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(ii) The individual is at least 6 but not 18 years of age and—

''(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity,

''(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities,

''(III) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

''(IV) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

''(iii) The individual is at least 2 but not 6 years of age and—

''(I) is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility,

''(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

''(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

''(iv) The individual is under 2 years of age and—

''(I) requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent,

''(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

''(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

''(v) The individual has 5 or more chronic conditions (as defined in subparagraph (C)) and is unable to perform (without substantial assistance from another individual) at least 1 activity of daily living (as so defined) due to a loss of functional capacity.

''(C) CHRONIC CONDITION.—For purposes of this paragraph, the term 'chronic condition' means a condition that lasts for at least 6 consecutive months and requires ongoing medical care.

''(3) ELIGIBLE CAREGIVER.—

''(A) IN GENERAL.—A taxpayer shall be treated as an eligible caregiver for any taxable year with respect to the following individuals:

''(i) The taxpayer.

''(ii) The taxpayer's spouse.

''(iii) An individual with respect to whom the taxpayer is allowed a deduction under section 151 for the taxable year.

''(iv) An individual who would be described in clause (iii) for the taxable year if section 151(c)(1)(A) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

''(v) An individual who would be described in clause (iii) for the taxable year if—

''(I) the requirements of clause (iv) are met with respect to the individual, and

''(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(a).

''(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as such individual's principal place of abode the home of the taxpayer and—

''(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

''(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

''(C) SPECIAL RULES WHERE MORE THAN 1 ELIGIBLE CAREGIVER.—

''(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

''(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5)) shall be treated as the eligible caregiver.

''(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).''.

(d) IDENTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 24(f) (relating to identification requirement), as redesignated by subsection(b)(1), is amended by adding at the end the following new sentence: ''No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.''.

(2) ASSESSMENT.—Section 6213(g)(2)(I) is amended—

(A) by inserting ''or physician identification'' after ''correct TIN'', and

(B) by striking ''child tax'' and inserting ''family care''.

(e) DENIAL OF DOUBLE BENEFIT.—

(1) IN GENERAL.—Section 213(e) (relating to exclusion of amounts allowed for care of certain dependents) is amended by inserting ''or section 24'' after ''section 21''.

(2) CONFORMING AMENDMENT.—The heading of section 213(e) is amended by inserting ''LONG-TERM CARE OR'' after ''FOR''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the later of December 31, 2003, or the date of the enactment of this Act.

SEC. ___. ADDITIONAL LIMITATION ON EXCLUSION OF DIVIDENDS.

(a) IN GENERAL.—Paragraph (2) of section 116(a) (relating to partial exclusion of dividends received by individual), as amended by section 201 of this Act, is amended by striking ''the sum of'' and all that follows and inserting ''$500 ($250 in the case of a married individual filing a separate return).''.

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

SA 606. Ms. MIKULSKI (for herself, Mr. KENNEDY, Mr. SARBANES, Mr. JOHNSON, Mrs. CLINTON, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 281, between lines 2 and 3, insert the following:

SEC. ___. LONG-TERM CARE CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 24(a) (relating to allowance of child tax credit) is amended to read as follows:

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(A) the per child amount multiplied by the number of qualifying children of the taxpayer, plus

''(B) the sum of the eligible expenses of the taxpayer for each applicable individual with respect to whom the taxpayer is an eligible caregiver for the taxable year.''.

(2) LIMITATION.—Section 24(b) is amended by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and by inserting before paragraph (2) (as redesignated by this paragraph) the following new paragraph:

''(1) IN GENERAL.—The credit allowed under subsection (a)(1)(B) shall not exceed $5,000 for any taxable year.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 24(d)(1) is amended by striking ''subsection (b)(3)'' each place it appears and inserting ''subsection (b)(4)''.

(B) The heading for section 24 is amended to read as follows:

''SEC. 24. FAMILY CARE CREDIT.''.

(C) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 24 and inserting the following new item:

''Sec. 24. Family care credit.''.

(b) ELIGIBLE EXPENSES.—

(1) IN GENERAL.—Section 24 is amended by redesignating subsections (b) through (f) as subsections (c) through (g), respectively, and by inserting after subsection (a) the following new subsection:

''(b) ELIGIBLE EXPENSES.—For the purposes of this section—

''(1) IN GENERAL.—The term 'eligible expenses' means expenses incurred by the taxpayer for—

''(A) medical care (as defined in section 213(d)(1) without regard to subparagraph (D) thereof),

''(B) lodging away from home in accordance with section 213(d)(2),

''(C) adult day care,

''(D) custodial care,

''(E) respite care, and

''(F) other specialized services for children, including day care for children with special needs.

Such term shall not include any expense for which the taxpayer is reimbursed by another person.

''(2) ADULT DAY CARE.—The term 'adult day care' means care provided for adults with functional or cognitive impairments through a structured, community-based group program which provides health, social, and other related support services on a less than 24-hour per day basis.

''(3) CUSTODIAL CARE.—The term 'custodial care' means reasonable personal care services provided to assist with daily living and which do not require the skills of qualified technical or professional personnel.

''(4) RESPITE CARE.—The term 'respite care' means planned or emergency care provided to an applicable individual in order to provide temporary relief to an eligible caregiver.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 24(e)(1) (relating to portion of credit refundable), as redesignated by paragraph (1) and as amended by subsection (a)(3)(A), is amended by striking ''subsection (b)(4)'' each place it appears and inserting ''subsection (c)(4)''.

(B) Section 501(c)(26) is amended by striking ''section 24(c)'' and inserting ''section 24(d)''.

(C) Section 6211(b)(4)(A) is amended by striking ''section 24(d)'' and inserting ''section 24(e)''.

(D) Section 6213(g)(2)(I) is amended by striking ''section 24(e)'' and inserting ''section 24(f)''.

(c) DEFINITIONS.—Subsection (d) of section 24, as redesignated by subsection (b)(1), is amended to read as follows:

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

''(1) QUALIFYING CHILD.—

''(A) IN GENERAL.—The term 'qualifying child' means any individual if—

''(i) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(ii) such individual has not attained the age of 17 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(iii) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

''(B) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(2) APPLICABLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'applicable individual' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

''(i) which is at least 180 consecutive days, and

''(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

''(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

''(i) The individual is at least 18 years of age and—

''(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

''(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(ii) The individual is at least 6 but not 18 years of age and—

''(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity,

''(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1

activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities,

''(III) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

''(IV) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

''(iii) The individual is at least 2 but not 6 years of age and—

''(I) is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility,

''(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

''(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

''(iv) The individual is under 2 years of age and—

''(I) requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent,

''(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

''(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

''(v) The individual has 5 or more chronic conditions (as defined in subparagraph (C)) and is unable to perform (without substantial assistance from another individual) at least 1 activity of daily living (as so defined) due to a loss of functional capacity.

''(C) CHRONIC CONDITION.—For purposes of this paragraph, the term 'chronic condition' means a condition that lasts for at least 6 consecutive months and requires ongoing medical care.

''(3) ELIGIBLE CAREGIVER.—

''(A) IN GENERAL.—A taxpayer shall be treated as an eligible caregiver for any taxable year with respect to the following individuals:

''(i) The taxpayer.

''(ii) The taxpayer's spouse.

''(iii) An individual with respect to whom the taxpayer is allowed a deduction under section 151 for the taxable year.

''(iv) An individual who would be described in clause (iii) for the taxable year if section 151(c)(1)(A) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

''(v) An individual who would be described in clause (iii) for the taxable year if—

''(I) the requirements of clause (iv) are met with respect to the individual, and

''(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(a).

''(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as such individual's principal place of abode the home of the taxpayer and—

''(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

''(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

''(C) SPECIAL RULES WHERE MORE THAN 1 ELIGIBLE CAREGIVER.—

''(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

''(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5)) shall be treated as the eligible caregiver.

''(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).''.

(d) IDENTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 24(f) (relating to identification requirement), as redesignated by subsection(b)(1), is amended by adding at the end the following new sentence: ''No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.''.

(2) ASSESSMENT.—Section 6213(g)(2)(I) is amended—

(A) by inserting ''or physician identification'' after ''correct TIN'', and

(B) by striking ''child tax'' and inserting ''family care''.

(e) DENIAL OF DOUBLE BENEFIT.—

(1) IN GENERAL.—Section 213(e) (relating to exclusion of amounts allowed for care of certain dependents) is amended by inserting ''or section 24'' after ''section 21''.

(2) CONFORMING AMENDMENT.—The heading of section 213(e) is amended by inserting ''LONG-TERM CARE OR'' after ''FOR''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the later of December 31, 2003, or the date of the enactment of this Act.

Strike the first table on page 8 and insert the following:

''In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39 .1%
2002	27.0%	30.0%	35.0%	38 .6%
2003	25.0%	28.0%	33.0%	38 .6%
2004	25.0%	28.0%	33.0%	37 .6%
2005	25.0%	28.0%	33.0%	37 .6%
2006 and thereafter	25.0%	28.0%	33.0%	35 .0%''.

SA 607. Mr. HOLLINGS (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike titles I, II, IV, and V.

Strike section 601 and insert the following:

SEC. 601. SUNSET.

Except as otherwise provided, the provisions of, and amendments made, by section 362 shall not apply to taxable years beginning after December 31, 2012, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such amendments had never been enacted.

SA 608. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. HEALTH CARE COVERAGE FOR CAREGIVERS

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXIX—HEALTH CARE COVERAGE FOR CAREGIVERS

''SEC. 2901. PURPOSE; STATE PLANS.

''(a) PURPOSE.—The purpose of this title is to provide funds to States to enable them to—

''(1) expand the availability of health insurance coverage to those individuals involved in providing care for children, the disabled, and the elderly; and

(2) provide incentives to attract and retain quality caregivers.

''(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 2905 unless the State has submitted to the Secretary under section 2906 a plan that—

''(1) sets forth how the State intends to use the funds provided under this title to provide health insurance or health care assistance through title XIX of the Social Security Act, or other State or local health care assistance or insurance programs, or to provide assistance through the Federal Employees Health Benefits Program if permitted under law, to eligible caregivers consistent with the provisions of this title, and

''(2) has been approved under section 2906.

''(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under section 2904.

''(d) EFFECTIVE DATE.—No State is eligible for payments under section 2905 for health care assistance for coverage provided for periods beginning before October 1, 2003.

''SEC. 2902. GENERAL CONTENTS OF STATE PLAN; ELIGIBILITY; OUTREACH.

''(a) GENERAL BACKGROUND AND DESCRIPTION.—A State plan shall include a description, consistent with the requirements of this title, of—

''(1) the extent to which, and manner in which, eligible caregivers in the State, currently have creditable health coverage (as defined in section 2910(c)(2));

''(2) current State efforts to provide or obtain creditable health coverage for eligible caregivers, including the steps the State is taking to identify and enroll all such caregivers who are eligible to participate in public health insurance programs and health insurance programs that involve public-private partnerships;

''(3) how the plan is designed to be coordinated with such efforts to increase coverage of such caregivers under creditable health coverage;

''(4) the health care assistance provided under the plan for eligible caregivers and the dependent children of such caregivers, including the proposed methods of delivery, and utilization control systems;

''(5) eligibility standards consistent with subsection (b);

''(6) outreach activities consistent with subsection (c); and

''(7) methods (including monitoring) used—

''(A) to assure the quality and appropriateness of care provided under the plan, and

''(B) to assure access to covered services, including emergency services.

''(b) GENERAL DESCRIPTION OF ELIGIBILITY STANDARDS AND METHODOLOGY.—

''(1) ELIGIBILITY STANDARDS.—

''(A) IN GENERAL.—The plan shall include a description of the standards used to determine the eligibility of caregivers for health care assistance under the plan. Such standards may include (to the extent consistent with this title) those relating to the geographic areas to be served by the plan, age, income and resources (including any standards relating to spenddowns and disposition of resources), residency, disability status (so long as any standard relating to such status does not restrict eligibility), access to or coverage under other health coverage, and duration of eligibility. Such standards may not discriminate on the basis of diagnosis.

''(B) LIMITATIONS ON ELIGIBILITY STANDARDS.—Such eligibility standards—

''(i) shall, within any defined group of covered eligible caregivers, not cover such caregivers with a higher family income without covering caregivers with a lower family income, and

''(ii) may not deny eligibility based on a caregiver having a preexisting medical condition.

''(2) METHODOLOGY.—The plan shall include a description of methods of establishing and continuing eligibility and enrollment.

''(3) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE PROGRAMS.—The plan shall include a description of procedures to be used to ensure—

''(A) through both intake and followup screening, that only eligible caregivers are furnished health care assistance under the State plan;

''(B) that eligible caregivers found through the screening to be eligible for medical assistance under the State medicaid plan under title XIX of the Social Security Act are enrolled for such assistance under such plan;

''(C) that the insurance provided under the State plan does not substitute for coverage under group health plans;

''(D) the provision of health care assistance to eligible caregivers in the State who are Indians (as defined in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1603(c))); and

''(E) coordination with other public and private programs providing creditable coverage for eligible caregivers.

''(4) NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to health care assistance under a State plan.

''(c) OUTREACH AND COORDINATION.—A State plan shall include a description of the procedures to be used by the State to accomplish the following:

''(1) OUTREACH.—Outreach to caregivers likely to be eligible for health care assistance under the plan or under other public or private health coverage programs to inform such care givers of the availability of, and to assist them in enrolling in, such a program.

''(2) COORDINATION WITH OTHER HEALTH INSURANCE PROGRAMS.—Coordination of the administration of the State program under this title with other public and private health insurance programs.

''(d) PAYMENT OR PREMIUMS.—Nothing in this title shall be construed to prohibit a State from paying the eligible caregiver's share of premiums required for health care assistance provided to the caregiver under the State plan.

''SEC. 2903. COVERAGE REQUIREMENTS FOR HEALTH CARE ASSISTANCE.

''The health care assistance provided to an eligible caregiver under the plan in the form described in paragraph (1) of section 2901(a) shall consist of any of the types of coverage, the benchmark benefit packages, the categories of services, existing programs, the cost sharing requirements, and the preexisting condition limitations described in section 2103 of the Social Security Act, and shall provide coverage for the dependent children of the eligible caregiver.

''SEC. 2904. ALLOTMENTS.

''(a) APPROPRIATION.—For purpose of enabling States to provide assistance under this title, there is appropriated, out of any money in the Treasury not otherwise appropriated, $3,500,000,000 for each of fiscal years 2004 through 2011.

''(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF COLUMBIA.—

''(1) IN GENERAL.—Of the amount available for allotment under subsection (a) for a fiscal year, reduced by the amount of allotments made under subsection (c) for such fiscal year, the Secretary shall allot to each State an amount the bears that same ratio to such available amount as the population of the State in such fiscal year bears to the total populations of all States in such fiscal year.

''(5) ADJUSTMENT FOR GEOGRAPHIC VARIATIONS IN HEALTH COSTS.—In making allotments under this subsection, the Secretary shall adjust a State's allotment based on section 2104(b)(3) of the Social Security Act to reflect the geographic variations in health costs.

''(c) ALLOTMENTS TO TERRITORIES.—

''(1) IN GENERAL.—Of the amount available for allotment under subsection (a) for a fiscal year, the Secretary shall allot 0.25 percent among each of the commonwealths and territories described in paragraph (3) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

''(2) PERCENTAGE.—The percentage specified in this paragraph for—

''(A) Puerto Rico is 91.6 percent,

''(B) Guam is 3.5 percent,

''(C) the Virgin Islands is 2.6 percent,

''(D) American Samoa is 1.2 percent, and

''(E) the Northern Mariana Islands is 1.1 percent.

''(3) COMMONWEALTHS AND TERRITORIES.—A commonwealth or territory described in this paragraph is any of the following if it has a State plan approved under this title:

''(A) Puerto Rico.

''(B) Guam.

''(C) The Virgin Islands.

''(D) American Samoa.

''(E) The Northern Mariana Islands.

''(d) 3-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this section for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year; except that amounts reallotted to a State under subsection (e) shall be available for expenditure by the State through the end of the fiscal year in which they are reallotted.

''(e) PROCEDURE FOR REDISTRIBUTION OF UNUSED ALLOTMENTS.—The Secretary shall determine an appropriate procedure for redistribution of allotments from States that were provided allotments under this section for a fiscal year but that do not expend all of the amount of such allotments during the period in which such allotments are available for expenditure under subsection (d), to States that have fully expended the amount of their allotments under this section.

''SEC. 2905. PAYMENTS TO STATES.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan approved under this title, from its allotment for a fiscal year under section 2904, an amount for each quarter equal to the enhanced FMAP of expenditures in the quarter—

''(1) for health care assistance under the plan for eligible caregivers in the form of providing health benefits coverage that meets the requirements of section 2903; and

''(2) only to the extent permitted consistent with subsection (c)—

''(A) for payment for other health care assistance for such caregivers;

''(B) for expenditures for health services initiatives under the plan for improving the health of such caregivers;

''(C) for expenditures for outreach activities as provided in section 2902(c)(1) under the plan; and

''(D) for other reasonable costs incurred by the State to administer the plan.

''(b) ENHANCED FMAP.—For purposes of subsection (a), the 'enhanced FMAP', for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b) of the Social Security Act) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the State, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a State exceed 85 percent.

''(c) LIMITATION ON CERTAIN PAYMENTS FOR CERTAIN EXPENDITURES.—

''(1) GENERAL LIMITATIONS.—Funds provided to a State under this title shall only be used to carry out the purposes of this title (as described in section 2901).

''(2) USE OF NON-FEDERAL FUNDS FOR STATE MATCHING REQUIREMENT.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of non-Federal contributions required under subsection (a).

''(3) OFFSET OF RECEIPTS ATTRIBUTABLE TO PREMIUMS AND OTHER COST-SHARING.—For

purposes of subsection (a), the amount of the expenditures under the plan shall be reduced by the amount of any premiums and other cost-sharing received by the State.

''(4) PREVENTION OF DUPLICATIVE PAYMENTS.—

''(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for health care assistance provided for an eligible caregiver under its plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided health care assistance under the plan.

''(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as otherwise provided by law, no payment shall be made to a State under this section for expenditures for health care assistance provided for an eligible caregiver under its plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) of the Social Security Act shall apply.

''(d) MAINTENANCE OF EFFORT.—

''(1) IN MEDICAID ELIGIBILITY STANDARDS.—No payment may be made under subsection (a) with respect to health care assistance provided under a State plan if the State adopts income and resource standards and methodologies for purposes of determining a caregiver's eligibility for medical assistance under the State plan under title XIX of the Social Security Act that are more restrictive than those applied as of June 1, 1997.

''(2) IN AMOUNTS OF PAYMENT EXPENDED FOR CERTAIN STATE-FUNDED HEALTH INSURANCE PROGRAMS.—

''(A) IN GENERAL.—The amount of the allotment for a State in a fiscal year (beginning with fiscal year 2004) shall be reduced by the amount by which—

''(i) the total of the State health insurance expenditures for caregivers in the preceding fiscal year, is less than

''(ii) the total of such expenditures in fiscal year 2003.

''(B) STATE HEALTH INSURANCE EXPENDITURES FOR CAREGIVERS.—The term 'State health insurance expenditures for caregivers' means the following:

''(i) The State share of expenditures under this title.

''(ii) The State share of expenditures under title XIX of the Social Security Act that are attributable to an enhanced FMAP under section 1905(u) of such Act.

''(iii) State expenditures under health benefits coverage under an existing comprehensive State-based program.

''(e) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this section for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and may reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

''(f) FLEXIBILITY IN SUBMITTAL OF CLAIMS.—Nothing in this section or subsections (d) and (e) of section 2904 shall be construed as preventing a State from claiming as expenditures in the quarter expenditures that were incurred in a previous quarter.

''SEC. 2906. PROCESS FOR SUBMISSION, APPROVAL, AND AMENDMENT OF STATE PLANS.

''(a) INITIAL PLAN.—

''(1) IN GENERAL.—As a condition of receiving payment under section 2905, a State shall submit to the Secretary a State plan that meets the applicable requirements of this title.

''(2) APPROVAL.—Except as the Secretary may provide under subsection (e), a State plan submitted under paragraph (1)—

''(A) shall be approved for purposes of this title, and

''(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than October 1, 2003.

''(b) PLAN AMENDMENTS.—The provisions of section 2106(b) of the Social Security Act shall apply with respect to the amendment of a State plan under this title.

''(c) DISAPPROVAL OF PLANS AND PLAN AMENDMENTS.—

''(1) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review State plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this title.

''(2) 90-DAY APPROVAL DEADLINES.—A State plan or plan amendment is considered approved unless the Secretary notifies the State in writing, within 90 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for disapproval) or that specified additional information is needed.

''(3) CORRECTION.—In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such disapproval.

''(d) PROGRAM OPERATION.—

''(1) IN GENERAL.—The State shall conduct the program in accordance with the plan (and any amendments) approved under subsection (c) and with the requirements of this title.

''(2) VIOLATIONS.—The Secretary shall establish a process for enforcing requirements under this title. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State under this paragraph, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such an action.

''(e) CONTINUED APPROVAL.—An approved State caregivers health plan shall continue in effect unless and until the State amends the plan under subsection (b) or the Secretary finds, under subsection (d), substantial noncompliance of the plan with the requirements of this title.

''SEC. 2907. STRATEGIC OBJECTIVES AND PERFORMANCE GOALS; PLAN ADMINISTRATION.

''(a) STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.—

''(1) DESCRIPTION.—A State plan shall include a description of—

''(A) the strategic objectives,

''(B) the performance goals, and

''(C) the performance measures,

the State has established for providing health care assistance to eligible caregivers under the plan and otherwise for maximizing health benefits coverage for other caregivers generally in the State.

''(2) STRATEGIC OBJECTIVES.—Such plan shall identify specific strategic objectives relating to increasing the extent of creditable health coverage among eligible caregivers.

''(3) PERFORMANCE GOALS.—Such plan shall specify 1 or more performance goals for each such strategic objective so identified.

''(4) PERFORMANCE MEASURES.—Such plan shall describe how performance under the plan will be—

''(A) measured through objective, independently verifiable means, and

''(B) compared against performance goals, in order to determine the State's performance under this title.

''(b) RECORDS, REPORTS, AUDITS, AND EVALUATION.—

''(1) DATA COLLECTION, RECORDS, AND REPORTS.—A State plan shall include an assurance that the State will collect the data, maintain the records, and furnish the reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor State program administration and compliance and to evaluate and compare the effectiveness of State plans under this title.

''(2) STATE ASSESSMENT AND STUDY.—A State plan shall include a description of the State's plan for the annual assessments and reports under section 2908(a) and the evaluation required by section 2908(b).

''(3) AUDITS.—A State plan shall include an assurance that the State will afford the Secretary access to any records or information relating to the plan for the purposes of review or audit.

''(c) PROGRAM DEVELOPMENT PROCESS.—A State plan shall include a description of the process used to involve the public in the design and implementation of the plan and the method for ensuring ongoing public involvement.

''(d) PROGRAM BUDGET.—A State plan shall include a description of the budget for the plan. The description shall be updated periodically as necessary and shall include details on the planned use of funds and the sources of the non-Federal share of plan expenditures, including any requirements for cost-sharing by beneficiaries.

''(e) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of the Social Security Act shall apply to States under this title in the same manner as they apply to a State under title XIX or title XI of such Act, as appropriate:

''(1) TITLE XIX PROVISIONS.—

''(A) Section 1902(a)(4)(C) (relating to conflict of interest standards).

''(B) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

''(C) Section 1903(w) (relating to limitations on provider taxes and donations).

''(2) TITLE XI PROVISIONS.—

''(A) Section 1115 (relating to waiver authority).

''(B) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

''(C) Section 1124 (relating to disclosure of ownership and related information).

''(D) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(E) Section 1128A (relating to civil monetary penalties).

''(F) Section 1128B(d) (relating to criminal penalties for certain additional charges).

''(G) Section 1132 (relating to periods within which claims must be filed).

''SEC. 2908. ANNUAL REPORTS; EVALUATIONS.

''(a) ANNUAL REPORT.—The State shall—

''(1) assess the operation of the State plan under this title in each fiscal year, including the progress made in reducing the number of uncovered eligible caregivers; and

''(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

''(b) STATE EVALUATIONS.—

''(1) IN GENERAL.—By March 31, 2005, each State that has a State plan shall submit to the Secretary an evaluation that includes each of the following:

''(A) An assessment of the effectiveness of the State plan in increasing the number of caregivers with creditable health coverage.

''(B) A description and analysis of the effectiveness of elements of the State plan, including—

''(i) the characteristics of the caregivers assisted under the State plan including family income, and the assisted caregiver's access to or coverage by other health insurance prior to the State plan and after eligibility for the State plan ends,

''(ii) the quality of health coverage provided including the types of benefits provided,

''(iii) the amount and level (including payment of part or all of any premium) of assistance provided by the State,

''(iv) the service area of the State plan,

''(v) the time limits for coverage of a caregiver under the State plan,

''(vi) the State's choice of health benefits coverage and other methods used for providing health care assistance, and

''(vii) the sources of non-Federal funding used in the State plan.

''(C) An assessment of the effectiveness of other public and private programs in the State in increasing the availability of affordable quality individual and family health insurance for caregivers.

''(D) A review and assessment of State activities to coordinate the plan under this title with other public and private programs providing health care and health care financing, including medicaid and maternal and child health services.

''(E) An analysis of changes and trends in the State that affect the provision of accessible, affordable, quality health insurance and health care to caregivers.

''(F) A description of any plans the State has for improving the availability of health insurance and health care for caregivers.

''(G) Recommendations for improving the program under this title.

''(H) Any other matters the State and the Secretary consider appropriate.

''(2) REPORT OF THE SECRETARY.—The Secretary shall submit to Congress and make available to the public by December 31, 2005, a report based on the evaluations submitted by States under paragraph (1), containing any conclusions and recommendations the Secretary considers appropriate.

''SEC. 2909. MISCELLANEOUS PROVISIONS.

''(a) HIPAA.—Health benefits coverage provided under section 2901(a)(1) shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

''(b) ERISA.—Nothing in this title shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 with respect to a group health plan (as defined in section 2791(a)(1) of this Act.

''(c) LIMITATION ON ENTITIES.—Notwithstanding any other provision of this title, a State may limit the application of this title to eligible caregivers who are employed by entities that provide services to a specific percentage of individuals who receive assistance under, or through, Federal or State assistance programs.

''SEC. 2910. DEFINITIONS.

(a) HEALTH CARE ASSISTANCE.—For purposes of this title, the term 'health care assistance' means payment for part or all of the cost of health benefits coverage for eligible caregivers (and the dependent children of such caregivers) that includes any of the following (and includes, in the case described in section 2905(a)(2)(A), payment for part or all of the cost of providing any of the following), as specified under the State plan:

''(1) Inpatient hospital services.

''(2) Outpatient hospital services.

''(3) Physician services.

''(4) Surgical services.

''(5) Clinic services (including health center services) and other ambulatory health care services.

''(6) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

''(7) Over-the-counter medications.

''(8) Laboratory and radiological services.

''(9) Prenatal care and prepregnancy family planning services and supplies.

''(10) Inpatient mental health services, other than services described in paragraph (18) but including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services.

''(11) Outpatient mental health services, other than services described in paragraph (19) but including services furnished in a State-operated mental hospital and including community-based services.

''(12) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

''(13) Disposable medical supplies.

''(14) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

''(15) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

''(16) Dental services.

''(17) Inpatient substance abuse treatment services and residential substance abuse treatment services.

''(18) Outpatient substance abuse treatment services.

''(19) Case management services.

''(20) Care coordination services.

''(21) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

''(22) Hospice care.

''(23) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—

''(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

''(B) performed under the general supervision or at the direction of a physician, or

''(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

''(24) Premiums for private health care insurance coverage.

''(25) Medical transportation.

''(26) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

''(27) Any other health care services or items specified by the Secretary and not excluded under this section.

''(b) ELIGIBLE CAREGIVER DEFINED.—For purposes of this title, the term 'eligible caregiver' means an individual—

''(1) who has been determined eligible by the State under this title for assistance under the State plan;

''(2) who—

''(A) subject to section 2909(c)—

''(i) is employed as a child care provider, an adult day care provider, a personal attendant for disabled individuals, a nursing home aide, a home health aide, or in any other caregiving position determined appropriate by the State, with an entity that is licensed or certified under State law, or is otherwise providing services under a State license or certification; and

''(ii) is certified by, or enrolled in, an accredited program recognized by the State as having received training necessary in order to be employed in a position described in subparagraph (A); or

''(B)(i) is providing caregiver services on a full-time basis for a relative; and

''(ii) does not otherwise have access to employer-sponsored health insurance coverage;

''(3) who is not found to be eligible for medical assistance under title XIX of the Social Security Act or covered under a group health plan or under health insurance coverage (as such terms are defined in section 2791 of this Act); and

''(4) who meets any other criteria determined appropriate by the State.

''(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

''(1) CREDITABLE HEALTH COVERAGE.—The term 'creditable health coverage' has the meaning given the term 'creditable coverage' under section 2701(c) of this Act and includes coverage that meets the requirements of section 2903 provided to an eligible caregiver under this title.

''(2) GROUP HEALTH PLAN; HEALTH INSURANCE COVERAGE; ETC.—The terms 'group health plan', 'group health insurance coverage', and 'health insurance coverage' have the meanings given such terms in section 2791 of this Act.

''(3) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(4) PREEXISTING CONDITION EXCLUSION.—The term 'preexisting condition exclusion' has the meaning given such term in section 2701(b)(1)(A) of this Act.

''(5) STATE PLAN; PLAN.—Unless the context otherwise requires, the terms 'State plan' and 'plan' mean a State plan approved under section 2906.''.

(b) ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004 and 2005, 37.6%.

SA 609. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201

of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 281, between lines 2 and 3, insert the following:

SEC. ___. EXTENSION OF MINIMUM TAX RELIEF.

(a) EXTENSION OF MINIMUM TAX RELIEF.—

(1) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount for taxpayers other than corporations), as amended by section 103 of this Act, is amended—

(A) in the table in subparagraph (A)—

(i) by striking ''In 2003, 2004, and 2005'' and inserting ''After 2002'', and

(ii) by striking the last row (relating to the exemption amount in taxable years beginning after 2005) and inserting a period after ''$61,000'', and

(B) in the table in subparagraph (B)—

(i) by striking ''In 2003, 2004, and 2005'' and inserting ''After 2002'', and

(ii) by striking the last row (relating to the exemption amount in taxable years beginning after 2005) and inserting a period after ''$41,750''.

(2) INFLATION ADJUSTMENTS.—Subsection (d) of section 55 is amended by inserting at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2005, the $61,000 amount in paragraph (1)(A) and the $41,750 amount in paragraph (1)(B) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for calendar year '1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002 and before January 1, 2010.

(b) FREEZE OF TOP INCOME RATE.—

(1) IN GENERAL.—The table in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001), as amended by section 102 of this Act, is amended by striking ''35.0%'' in the last column and inserting ''38.6%''.

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

(c) REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—The amendments made by section 201 of this Act are repealed.

(d) APPLICATION OF EGTRRA.—The amendments made by subsections (a) and (b) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 610. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of end of subtitle C of title V, add the following:

SEC. ___. CREDIT FOR EMPLOYEE HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a small employer, the employee health insurance expenses credit determined under this section is an amount equal to the sum of—

''(1) the expense amount described in subsection (b), and

''(2) the expense amount described in subsection (c),

paid by the taxpayer during the taxable year.

''(b) SUBSECTION (b) EXPENSE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The expense amount described in this subsection is the applicable percentage of the amount of qualified employee health insurance expenses of each qualified employee.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is equal to—

''(A) 25 percent in the case of self-only coverage, and

''(B) 35 percent in the case of family coverage (as defined in section 220(c)(5)).

''(3) PER EMPLOYEE DOLLAR LIMITATION.—The amount of qualified employee health insurance expenses taken into account under paragraph (1) with respect to any qualified employee for any taxable year shall not exceed—

''(A) $750 in the case of self-only coverage, and

''(B) $2,450 in the case of family coverage (as so defined).

''(c) SUBSECTION (c) EXPENSE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The expense amount described in this subsection is, with respect to any taxable year during which a small employer pays qualified employee health insurance expenses for the applicable coverage percentage of the eligible qualified employees of the small employer, the applicable percentage of the amount of qualified employee health insurance expenses of each qualified employee.

''(2) APPLICABLE COVERAGE PERCENTAGE; APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable coverage percentage and applicable percentage shall be determined under the following table:

''Applicable coverage percentage:	**Applicable percentage:**
At least 70 but not more than 80 percent	10 percent
At least 80 but not more than 90 percent	15 percent
At least 90 percent	20 percent

''(3) ELIGIBLE QUALIFIED EMPLOYEE.—For purposes of paragraph (1), the term 'eligible qualified employee' means any qualified employee who is not provided health insurance coverage during the taxable year under—

''(A) a health plan of the employee's spouse,

''(B) title XVIII, XIX, or XXI of the Social Security Act,

''(C) chapter 17 of title 38, United States Code,

''(D) chapter 55 of title 10, United States Code,

''(E) chapter 89 of title 5, United States Code,

''(F) the Indian Health Care Improvement Act, or

''(G) any other provision of law.

''(d) LIMITATION BASED ON WAGES.—

''(1) IN GENERAL.—The percentage which would (but for this subsection) be taken into account as the applicable percentage for purposes of subsection (b)(2) or (c)(2) for the taxable year shall be reduced (but not below zero) by the percentage determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The percentage determined under this paragraph is the percentage which bears the same ratio to the percentage which would be so taken into account as—

''(A) the excess of—

''(i) the qualified employee's wages at an annual rate during such taxable year, over

''(ii) $20,000, bears to

''(B) $5,000.

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

''(1) SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of 25 or fewer employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

''(3) QUALIFIED EMPLOYEE.—

''(A) IN GENERAL.—The term 'qualified employee' means, with respect to any period, an employee of an employer if the total amount of wages paid or incurred by such employer to such employee at an annual rate during the taxable year exceeds $5,000 but does not exceed $25,000.

''(B) TREATMENT OF CERTAIN EMPLOYEES.—For purposes of subparagraph (A), the term 'employee'—

''(i) shall not include an employee within the meaning of section 401(c)(1), and

''(ii) shall include a leased employee within the meaning of section 414(n).

''(C) WAGES.—The term 'wages' has the meaning given such term by section 3121(a) (determined without regard to any dollar limitation contained in such section).

''(D) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003, the $25,000 amount contained in subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which

the taxable year begins, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any increase determined under clause (i) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

''(f) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(g) DENIAL OF DOUBLE BENEFIT.—No deduction or other credit under any other provision of this chapter shall be allowed for that portion of the qualified employee health insurance expenses paid for the taxable year which is equal to the credit determined under subsection (a).''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the employee health insurance expenses credit determined under section 45G.''.

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

''(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45G. Employee health insurance expenses.''.

(e) DELAY IN ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar year 2003, ''38.6%'' shall be substituted for ''35%'' and for taxable years beginning during calendar year 2004, ''37.6%'' shall be substituted for ''35%''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

(2) SUBSECTION (e).—Subsection (e) shall apply to taxable years beginning after December 31, 2002.

SA 611. Mr. CONRAD proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Strike page 14, line 8 through page 15, line 11, and insert the following:

''(d) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

''Sec. 6429. Advance payment of portion of increased child credit for 2003.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTIONS (a) AND (c).—

(A) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

(B) The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

Strike the first table on page 8 and insert the following:

''In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003	25.0%	28.0%	33.0%	38.6%
2004	25.0%	28.0%	33.0%	37.6%
2005	25.0%	28.0%	33.0%	35.0%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%''.

SA 612. Mr. BAUCUS (for Mr. MCCAIN (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the appropriate place, insert the following:

TITLE VI—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 600. SHORT TITLE.

This title may be cited as the ''Armed Forces Tax Fairness Act of 2003''.

SEC. 601. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

''(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

''(iv) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 602. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS.

(a) IN GENERAL.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 603. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'', and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection) to offset the adverse effects on housing values as a result of a military base realignment or closure.

''(2) LIMITATION.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all of such payments related to such property exceeds the maximum amount described in clause (1) of subsection (c) of such section (as in effect on such date).''.

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

SEC. 604. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting ", or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law" after "section 112",

(2) by inserting in the first sentence "or at any time during the period of such contingency operation" after "for purposes of such section",

(3) by inserting "or operation" after "such an area", and

(4) by inserting "or operation" after "such area".

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting "or contingency operation" after "area".

(2) The heading for section 7508 is amended by inserting "**OR CONTINGENCY OPERATION**" after "**COMBAT ZONE**".

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting "or contingency operation" after "combat zone".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 605. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking "or widowers" and inserting ", widowers, ancestors, or lineal descendants".

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

SEC. 606. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

"(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).".

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A), as amended by section 102, is amended by inserting "and paragraph (4)" after "subparagraphs (B) and (C)".

(2) Section 3121(a)(18) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(3) Section 3306(b)(13) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(4) Section 3401(a)(18) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

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

(d) NO INFERENCE.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2003.

SEC. 607. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking "or" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or".

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

SEC. 608. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

"(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

"(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

"(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

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

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

"(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

"(ii) such Executive order refers to this subsection.

"(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

"(A) begins on the later of—

"(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

"(ii) the date of the enactment of this subsection, and

"(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

"(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

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

"(6) ERRONEOUS DESIGNATION.—

"(A) IN GENERAL.—If—

"(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

"(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

"(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

"(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

"(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.".

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

SEC. 609. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

"(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or

business for any period during which such individual is away from home in connection with such service.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 610. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF SPACE SHUTTLE COLUMBIA HEROES.

(a) INCOME TAX RELIEF.—

(1) IN GENERAL.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

''(5) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(b)(1) is amended by inserting '', **ASTRONAUTS**,'' after ''**FORCES**''.

(B) Section 6013(f)(2)(B) is amended by inserting '', astronauts,'' after ''Forces''.

(3) CLERICAL AMENDMENTS.—

(A) The heading of section 692 is amended by inserting '', astronauts,'' after ''forces''.

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting '', astronauts,'' after ''Forces''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) DEATH BENEFIT RELIEF.—

(1) IN GENERAL.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

''(4) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty.''.

(2) CLERICAL AMENDMENT.—The heading for subsection (i) of section 101 is amended by inserting ''OR ASTRONAUTS'' after ''VICTIMS''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) ESTATE TAX RELIEF.—

(1) IN GENERAL.—Section 2201(b) (defining qualified decedent) is amended by striking ''and'' at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) any astronaut whose death occurs in the line of duty.''.

(2) CLERICAL AMENDMENTS.—

(A) The heading of section 2201 is amended by inserting ''**, deaths of astronauts,**'' after ''**forces**''.

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting '', deaths of astronauts,'' after ''Forces''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

SEC. 611. SLOWDOWN IN ACCELERATION OF REDUCTION IN TOP TAX RATE TO OFFSET ANY REVENUE LOSS.

(a) IN GENERAL.—The table contained in section 1(i)(2), as amended by section 102 of this Act, is amended to read as follows:

''In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003, 2004, and 2005	25.0%	28.0%	33.0%	35.3%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of section 102 of this Act and section 108 of this Act shall apply to such amendment as if so included.

SA 613. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1054 to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

On page 281, between lines 2 and 3, insert the following:

SEC. ___. CLARIFICATION OF CONTRIBUTION IN AID OF CONSTRUCTION FOR WATER AND SEWERAGE DISPOSAL UTILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 118(c)(3) (relating to definitions) is amended to read as follows:

''(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term—

''(i) shall include amounts paid as customer connection fees (including amounts paid to connect the customer's water service line or sewer lateral line to the utility's distribution or collection system or extend a main water or sewer line to provide service to a customer), and

''(ii) shall not include amounts paid as service charges for starting or stopping services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

SA 614. Ms. STABENOW proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end of end of subtitle C of title V, add the following:

SEC. ___. ENSURING ENACTMENT OF A MEDICARE PRESCRIPTION DRUG BENEFIT.

(a) TRIGGER.—Notwithstanding any other provision of this Act, the provisions as described in subsection (b) shall not take effect except as provided in subsection (c).

(b) PROVISION DESCRIBED.—A provision described in this subsection is—

(1) section 102 of this Act to the extent such section accelerates the scheduled phase down of the top tax rate of 38.6 percent to 37.6 percent in 2004 and to 35 percent in 2006; and

(2) section 116(a)(2)(B) of the Internal Revenue Code of 1986, as added by section 201 of this Act.

(c) DELAY UNTIL ENACTMENT OF A MEDICARE PRESCRIPTION DRUG BENEFIT.—The provisions described in subsection (b) shall apply to taxable years beginning in or after the calendar year in which a prescription drug benefit under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is enacted that is—

(1) available to all beneficiaries under such program; and

(2) actuarially equivalent to the Blue Cross and Blue Shield benefit offered through the Federal employees health benefits program.

SA 615. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Jobs and Growth Reconciliation Tax Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; references; table of contents.

TITLE I—MODIFICATION AND ACCELERATION OF CERTAIN PREVIOUSLY ENACTED TAX REDUCTIONS

Sec. 101. Tripling the 10-percent individual income tax rate bracket expansion.

Sec. 102. Acceleration of increase in standard deduction for married taxpayers filing joint returns.

Sec. 103. Acceleration of 15-percent individual income tax rate bracket expansion for married taxpayers filing joint returns.

Sec. 104. Acceleration of increase in, and refundability of, child tax credit.

TITLE II—APPLICATION OF SUNSET

Sec. 201. Application of EGTRRA sunset to title I.

TITLE III—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 301. Clarification of economic substance doctrine.

Sec. 302. Penalty for failing to disclose reportable transaction.

Sec. 303. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.

Sec. 304. Penalty for understatements attributable to transactions lacking economic substance, etc.

Sec. 305. Modifications of substantial understatement penalty for nonreportable transactions.

Sec. 306. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 307. Disclosure of reportable transactions.
Sec. 308. Modifications to penalty for failure to register tax shelters.
Sec. 309. Modification of penalty for failure to maintain lists of investors.
Sec. 310. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 311. Understatement of taxpayer's liability by income tax return preparer.
Sec. 312. Penalty on failure to report interests in foreign financial accounts.
Sec. 313. Frivolous tax submissions.
Sec. 314. Penalty on promoters of tax shelters.
Sec. 315. Statute of limitations for taxable years for which listed transactions not reported.
Sec. 316. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.

Subtitle B—Enron-Related Tax Shelter Provisions

Sec. 321. Limitation on transfer or importation of built-in losses.
Sec. 322. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 323. Repeal of special rules for FASITs.
Sec. 324. Expanded disallowance of deduction for interest on convertible debt.
Sec. 325. Expanded authority to disallow tax benefits under section 269.
Sec. 326. Modifications of certain rules relating to controlled foreign corporations.
Sec. 327. Controlled entities ineligible for REIT status.

Subtitle C—Other Corporate Governance Provisions

PART I—GENERAL PROVISIONS

Sec. 331. Affirmation of consolidated return regulation authority.
Sec. 332. Signing of corporate tax returns by chief executive officer.
Sec. 333. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 334. Disallowance of deduction for punitive damages.

PART II—EXECUTIVE COMPENSATION REFORM

Sec. 335. Treatment of nonqualified deferred compensation funded with assets located outside the United States.
Sec. 336. Inclusion in gross income of funded deferred compensation of corporate insiders.
Sec. 337. Prohibition on deferral of gain from the exercise of stock options and restricted stock gains through deferred compensation arrangements.
Sec. 338. Increase in withholding from supplemental wage payments in excess of $1,000,000.

Subtitle D—International Provisions

PART I—PROVISIONS TO DISCOURAGE EXPATRIATION

Sec. 340. Revision of tax rules on expatriation.
Sec. 341. Tax treatment of inverted corporate entities.
Sec. 342. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 343. Reinsurance of United States risks in foreign jurisdictions.

PART II—OTHER PROVISIONS

Sec. 344. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.
Sec. 345. Effectively connected income to include certain foreign source income.
Sec. 346. Determination of basis of amounts paid from foreign pension plans.
Sec. 347. Recapture of overall foreign losses on sale of controlled foreign corporation.
Sec. 348. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.
Sec. 349. Sale of gasoline and diesel fuel at duty-free sales enterprises.
Sec. 350. Repeal of earned income exclusion of citizens or residents living abroad.

Subtitle E—Other Revenue Provisions

Sec. 352. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 353. Disallowance of certain partnership loss transfers.
Sec. 354. Treatment of stripped interests in bond and preferred stock funds, etc.
Sec. 355. Reporting of taxable mergers and acquisitions.
Sec. 356. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.
Sec. 357. Qualified tax collection contracts.
Sec. 358. Extension of customs user fees.
Sec. 359. Clarification of exemption from tax for small property and casualty insurance companies.
Sec. 360. Partial payment of tax liability in installment agreements.
Sec. 361. Extension of amortization of intangibles to sports franchises.
Sec. 362. Deposits made to suspend running of interest on potential underpayments.
Sec. 363. Clarification of rules for payment of estimated tax for certain deemed asset sales.
Sec. 364. Limitation on deduction for charitable contributions of patents and similar property.
Sec. 365. Extension of provision permitting qualified transfers of excess pension assets to retiree health accounts.
Sec. 366. Proration rules for life insurance business of property and casualty insurance companies.
Sec. 367. Modification of treatment of transfers to creditors in divisive reorganizations.

Subtitle F—Other Provisions

Sec. 371. Review of State agency blindness and disability determinations.
Sec. 372. Prohibition on use of SCHIP funds to provide coverage for childless adults.

TITLE IV—APPLICATION OF SUNSET

Sec. 401. Application of sunset to title III.

TITLE V—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

Sec. 501. Extension of the Temporary Extended Unemployment Compensation Act of 2002.
Sec. 502. Entitlement to additional weeks of temporary extended unemployment compensation.

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

Sec. 511. Federal-state agreements.
Sec. 512. Payments to States having agreements under this title.
Sec. 513. Financing provisions.
Sec. 514. Definitions.
Sec. 515. Applicability.
Sec. 516. Coordination with the Temporary Extended Unemployment Compensation Act of 2002.

TITLE I—MODIFICATION AND ACCELERATION OF CERTAIN PREVIOUSLY ENACTED TAX REDUCTIONS

SEC. 101. TRIPLING OF THE 10-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET EXPANSION.

(a) IN GENERAL.—Clause (i) of section 1(i)(1)(B) (relating to the initial bracket amount) is amended by striking ''$14,000 ($12,000 in the case of taxable years beginning before January 1, 2008)'' and inserting ''$36,000''.

(b) INFLATION ADJUSTMENT BEGINNING IN 2004.—Subparagraph (C) of section 1(i)(1) (relating to inflation adjustment) is amended to read as follows:

''(C) INFLATION ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2003—

''(i) the cost-of-living adjustment used in making adjustments to the initial bracket amount shall be determined under subsection (f)(3) by substituting '2002' for '1992' in subparagraph (B) thereof, and

''(ii) such adjustment shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.

(c) FREEZE OF HIGHEST INCOME TAX RATE AT 38.6 PERCENT.—The last column in the table contained in section 1(i)(2) (relating to reductions in rates after June 30, 2001) is amended by striking ''37.6%'' and ''35.0%'' and inserting ''38.6%''.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2003.

(3) TABLES FOR 2003.—The Secretary of the Treasury shall modify each table which has been prescribed for taxable years beginning in 2003 and which relates to the amendment made by subsection (a) to reflect each such amendment.

SEC. 102. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:

''(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

''(A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—

''(i) a joint return, or

''(ii) a surviving spouse (as defined in section 2(a)),

''(B) $4,400 in the case of a head of household (as defined in section 2(b)), or

''(C) $3,000 in any other case.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 63(c)(4) is amended by striking ''(2)(D)'' each place it occurs and inserting ''(2)(C)''.

(2) Section 63(c) is amended by striking paragraph (7).

(3) Section 301(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2002''.

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

SEC. 103. ACCELERATION OF 15-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET EXPANSION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (8) of section 1(f) (relating to phaseout of marriage penalty in 15-percent bracket) is amended to read as follows:

''(8) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—With respect to taxable years beginning after December 31, 2002, in prescribing the tables under paragraph (1)—

''(A) the maximum taxable income in the 15 percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and

''(B) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under subparagraph (A).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (f) of section 1 is amended by striking ''PHASEOUT'' and inserting ''ELIMINATION''.

(2) Section 302(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2002''.

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

SEC. 104. ACCELERATION OF INCREASE IN, AND REFUNDABILITY OF, CHILD TAX CREDIT.

(a) ACCELERATION OF INCREASE IN CREDIT.—Subsection (a) of section 24 (relating to child tax credit) is amended to read as follows:

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to $1,000.''.

(b) EXPANSION OF CREDIT REFUNDABILITY.—Section 24(d)(1)(B)(i) (relating to portion of credit refundable) is amended by striking ''(10 percent in the case of taxable years beginning before January 1, 2005)''.

(c) ADVANCE PAYMENT OF PORTION OF INCREASED CREDIT IN 2003.—

(1) IN GENERAL.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end the following new section:

''SEC. 6429. ADVANCE PAYMENT OF PORTION OF INCREASED CHILD CREDIT FOR 2003.

''(a) IN GENERAL.—Each taxpayer who claimed a credit under section 24 on the return for the taxpayer's first taxable year beginning in 2002 shall be treated as having made a payment against the tax imposed by chapter 1 for such taxable year in an amount equal to the child tax credit refund amount (if any) for such taxable year.

''(b) CHILD TAX CREDIT REFUND AMOUNT.—For purposes of this section, the child tax credit refund amount is the amount by which the aggregate credits allowed under part IV of subchapter A of chapter 1 for such first taxable year would have been increased if—

''(1) the per child amount under section 24(a)(2) for such year were $1,000,

''(2) only qualifying children (as defined in section 24(c)) of the taxpayer for such year who had not attained age 17 as of December 31, 2003, were taken into account, and

''(3) section 24(d)(1)(B)(ii) did not apply.

''(c) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this section, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible and, to the extent practicable, before October 1, 2003. No refund or credit shall be made or allowed under this section after December 31, 2003.

''(d) COORDINATION WITH CHILD TAX CREDIT.—

''(1) IN GENERAL.—The amount of credit which would (but for this subsection and section 26) be allowed under section 24 for the taxpayer's first taxable year beginning in 2003 shall be reduced (but not below zero) by the payments made to the taxpayer under this section. Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

''(2) JOINT RETURNS.—In the case of a payment under this section with respect to a joint return, half of such payment shall be treated as having been made to each individual filing such return.

''(e) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

''Sec. 6429. Advance payment of portion of increased child credit for 2003.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 105. MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—So much of paragraph (1) of section 55(d) (relating to exemption amount for taxpayers other than corporations) as precedes subparagraph (C) thereof is amended to read as follows:

''(1) EXEMPTION AMOUNT FOR TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the term 'exemption amount' means as follows:

''(A) JOINT RETURN AND SURVIVING SPOUSE.—In the case of a joint return or a surviving spouse, the amount under the following table:

''In the case of taxable years beginning:	**The exemption amount is:**
Before 2001	$45,000
In 2001 and 2002	$49,000
In 2003, 2004, and 2005	$57,000
After 2005	$45,000.

''(B) INDIVIDUAL NOT MARRIED AND NOT A SURVIVING SPOUSE.—In the case of an individual who is not a married individual and is not a surviving spouse, the amount under the following table:

''In the case of taxable years beginning:	**The exemption amount is:**
Before 2001	$33,750
In 2001 and 2002	$35,750
In 2003, 2004, and 2005	$39,750
After 2005	$33,750.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 55(d)(1)(C) is amended—

(A) by striking '', and'' and inserting a period, and

(B) by striking ''50 percent'' and inserting ''MARRIED INDIVIDUAL FILING A SEPARATE RETURN.—50 percent''.

(2) Section 55(d)(1)(D) is amended by striking ''$22,500'' and inserting ''ESTATE AND TRUST.—$22,500''.

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

TITLE II—APPLICATION OF SUNSET

SEC. 201. APPLICATION OF EGTRRA SUNSET TO TITLE I.

Each amendment made by title I shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE III—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 301. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

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

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction

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

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—A lessor of tangible property subject to a lease shall be treated as satisfying the requirements of paragraph (1)(B)(ii) with respect to the leased property if such lease satisfies such requirements as provided by the Secretary.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into on or after May 8, 2003.

SEC. 302. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

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

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

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

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

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

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

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

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 303. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard

to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

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

SEC. 304. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant

facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements 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).''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into on or after May 8, 2003.

SEC. 305. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''.

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

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

SEC. 306. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 307. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

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

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

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

SEC. 308. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 309. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

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

SEC. 310. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''.

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 311. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

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

SEC. 312. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 313. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person

with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 314. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

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

SEC. 315. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 316. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''.

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

Subtitle B—Enron-Related Tax Shelter Provisions

SEC. 321. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

''(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.''.

''(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

''(A) IN GENERAL.—If—

''(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 322. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 323. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking '', and any regular interest in a FASIT,''.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding ''and'' at the end of clause (ix), by striking '', and'' at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 324. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking ''or a related party'' and inserting ''or equity held by the issuer (or any related party) in any other person''.

(b) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

''(4) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.''.

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 325. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

''(a) IN GENERAL.—If—

''(1)(A) any person acquires stock in a corporation, or

''(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 326. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

SEC. 327. CONTROLLED ENTITIES INELIGIBLE FOR REIT STATUS.

(a) IN GENERAL.—Subsection (a) of section 856 (relating to definition of real estate investment trust) is amended by striking ''and'' at the end of paragraph (6), by redesignating paragraph (7) as paragraph (8), and by inserting after paragraph (6) the following new paragraph:

''(7) which is not a controlled entity (as defined in subsection (l)); and''.

(b) CONTROLLED ENTITY.—Section 856 is amended by adding at the end the following new subsection:

''(l) CONTROLLED ENTITY.—

''(1) IN GENERAL.—For purposes of subsection (a)(7), an entity is a controlled entity if, at any time during the taxable year, one person (other than a qualified entity)—

''(A) in the case of a corporation, owns stock—

''(i) possessing at least 50 percent of the total voting power of the stock of such corporation, or

''(ii) having a value equal to at least 50 percent of the total value of the stock of such corporation, or

''(B) in the case of a trust, owns beneficial interests in the trust which would meet the requirements of subparagraph (A) if such interests were stock.

''(2) QUALIFIED ENTITY.—For purposes of paragraph (1), the term 'qualified entity' means—

''(A) any real estate investment trust, and

''(B) any partnership in which one real estate investment trust owns at least 50 percent of the capital and profits interests in the partnership.

''(3) ATTRIBUTION RULES.—For purposes of this paragraphs (1) and (2)—

''(A) IN GENERAL.—Rules similar to the rules of subsections (d)(5) and (h)(3) shall apply; except that section 318(a)(3)(C) shall not be applied under such rules to treat stock owned by a qualified entity as being owned by a person which is not a qualified entity.

''(B) STAPLED ENTITIES.—A group of entities which are stapled entities (as defined in section 269B(c)(2)) shall be treated as one person.

''(4) EXCEPTION FOR CERTAIN NEW REITS.—

''(A) IN GENERAL.—The term 'controlled entity' shall not include an incubator REIT.

''(B) INCUBATOR REIT.—A corporation shall be treated as an incubator REIT for any taxable year during the eligibility period if it meets all the following requirements for such year:

''(i) The corporation elects to be treated as an incubator REIT.

''(ii) The corporation has only voting common stock outstanding.

''(iii) Not more than 50 percent of the corporation's real estate assets consist of mortgages.

''(iv) From not later than the beginning of the last half of the second taxable year, at least 10 percent of the corporation's capital is provided by lenders or equity investors who are unrelated to the corporation's largest shareholder.

''(v) The corporation annually increases the value of its real estate assets by at least 10 percent.

''(vi) The directors of the corporation adopt a resolution setting forth an intent to engage in a going public transaction.

No election may be made with respect to any REIT if an election under this subsection was in effect for any predecessor of such REIT.

''(C) ELIGIBILITY PERIOD.—

''(i) IN GENERAL.—The eligibility period (for which an incubator REIT election can be made) begins with the REIT's second taxable year and ends at the close of the REIT's third taxable year, except that the REIT may, subject to clauses (ii), (iii), and (iv), elect to extend such period for an additional 2 taxable years.

''(ii) GOING PUBLIC TRANSACTION.—A REIT may not elect to extend the eligibility period under clause (i) unless it enters into an agreement with the Secretary that if it does not engage in a going public transaction by the end of the extended eligibility period, it shall pay Federal income taxes for the 2 years of the extended eligibility period as if it had not made an incubator REIT election and had ceased to qualify as a REIT for those 2 taxable years.

''(iii) RETURNS, INTEREST, AND NOTICE.—

''(I) RETURNS.—In the event the corporation ceases to be treated as a REIT by operation of clause (ii), the corporation shall file any appropriate amended returns reflecting the change in status within 3 months of the close of the extended eligibility period.

''(II) INTEREST.—Interest shall be payable on any tax imposed by reason of clause (ii) for any taxable year but, unless there was a finding under subparagraph (D), no substantial underpayment penalties shall be imposed.

''(III) NOTICE.—The corporation shall, at the same time it files its returns under subclause (I), notify its shareholders and any other persons whose tax position is, or may reasonably be expected to be, affected by the change in status so they also may file any appropriate amended returns to conform their tax treatment consistent with the corporation's loss of REIT status.

''(IV) REGULATIONS.—The Secretary shall provide appropriate regulations setting forth transferee liability and other provisions to ensure collection of tax and the proper administration of this provision.

''(iv) Clauses (ii) and (iii) shall not apply if the corporation allows its incubator REIT status to lapse at the end of the initial 2-year eligibility period without engaging in a going public transaction if the corporation is not a controlled entity as of the beginning of its fourth taxable year. In such a case, the corporation's directors may still be liable for the penalties described in subparagraph (D) during the eligibility period.

''(D) SPECIAL PENALTIES.—If the Secretary determines that an incubator REIT election was filed for a principal purpose other than as part of a reasonable plan to undertake a going public transaction, an excise tax of $20,000 shall be imposed on each of the corporation's directors for each taxable year for which an election was in effect.

''(E) GOING PUBLIC TRANSACTION.—For purposes of this paragraph, a going public transaction means—

''(i) a public offering of shares of the stock of the incubator REIT;

''(ii) a transaction, or series of transactions, that results in the stock of the incubator REIT being regularly traded on an established securities market and that results in at least 50 percent of such stock being held by shareholders who are unrelated to persons who held such stock before it began to be so regularly traded; or

''(iii) any transaction resulting in ownership of the REIT by 200 or more persons (excluding the largest single shareholder) who in the aggregate own at least 50 percent of the stock of the REIT.

For the purposes of this subparagraph, the rules of paragraph (3) shall apply in determining the ownership of stock.

''(F) DEFINITIONS.—The term 'established securities market' shall have the meaning set forth in the regulations under section 897.''.

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 856(h) is amended by striking ''and (6)'' each place it appears and inserting '', (6), and (7)''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after May 8, 2003.

(2) EXCEPTION FOR EXISTING CONTROLLED ENTITIES.—The amendments made by this section shall not apply to any entity which is a controlled entity (as defined in section 856(l) of the Internal Revenue Code of 1986, as added by this section) as of May 8, 2003, which is a real estate investment trust for the taxable year which includes such date, and which has significant business assets or activities as of such date. For purposes of the preceding sentence, an entity shall be treated as such a controlled entity on May 8, 2003, if it becomes such an entity after such date in a transaction—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter, or

(B) described on or before such date in a filing with the Securities and Exchange Commission required solely by reason of the transaction.

Subtitle C—Other Corporate Governance Provisions

PART I—GENERAL PROVISIONS

SEC. 331. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''.

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 332. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 333. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (3) in relation to the violation of any law or the investigation or inquiry into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 334. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

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

PART II—EXECUTIVE COMPENSATION REFORM

SEC. 335. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION FUNDED WITH ASSETS LOCATED OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Section 83(c) (relating to special rules for property transferred in connection with performance of services) is amended by adding at the end the following new paragraph:

''(4) FOREIGN ASSETS FUNDING NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.—

''(A) IN GENERAL.—In determining whether there is a transfer of property for purposes of subsection (a), if assets are—

''(i) designated or otherwise available for the payment of nonqualified deferred compensation, and

''(ii) located outside the United States,

such assets shall not be treated as subject to the claims of creditors.

''(B) COMPENSATION FOR SERVICES PERFORMED IN FOREIGN JURISDICTION.—Subparagraph (A) shall not apply to assets located in a foreign jurisdiction if substantially all of the services to which the nonqualified deferred compensation relates are performed in such jurisdiction.

''(C) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this paragraph, including regulations to exempt arrangements from the application of this paragraph if—

''(i) the arrangement will not result in an improper deferral of United States tax, and

''(ii) the assets involved in the arrangement will be readily accessible in any insolvency or bankruptcy proceeding.''.

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

SEC. 336. INCLUSION IN GROSS INCOME OF FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 is amended by adding at the end the following new section:

''SEC. 409A. INCLUSION IN GROSS INCOME OF FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS.

''(a) IN GENERAL.—If an employer maintains a funded deferred compensation plan—

''(1) compensation of any disqualified individual which is deferred under such funded deferred compensation plan shall be included in the gross income of the disqualified individual or beneficiary for the 1st taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

''(2) the tax treatment of any amount made available under the plan to a disqualified individual or beneficiary shall be determined under section 72 (relating to annuities, etc.).

''(b) FUNDED DEFERRED COMPENSATION PLAN.—For purposes of this section—

''(1) IN GENERAL.—The term 'funded deferred compensation plan' means any plan providing for the deferral of compensation unless—

''(A) the employee's rights to the compensation deferred under the plan are no greater than the rights of a general creditor of the employer, and

''(B) all amounts set aside (directly or indirectly) for purposes of paying the deferred compensation, and all income attributable to such amounts, remain (until made available to the participant or other beneficiary) solely the property of the employer (without being restricted to the provision of benefits under the plan),

''(C) the amounts referred to in subparagraph (B) are available to satisfy the claims of the employer's general creditors at all times (not merely after bankruptcy or insolvency), and

''(D) the investment options which a participant may elect under the plan are the same as the investment options which a participant may elect under the qualified employer plan of the employer which has the fewest investment options.

Such term shall not include a qualified employer plan.

''(2) SPECIAL RULES.—

''(A) EMPLOYEE'S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(A) unless—

''(i) the compensation deferred under the plan is payable only upon separation from service, death, disability (within the meaning of section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3))), or at a specified time (or pursuant to a fixed schedule), and

''(ii) the plan does not permit the acceleration of the time such deferred compensation is payable by reason of any event.

If the employer and employee agree to a modification of the plan that accelerates the time for payment of any deferred compensation, then all compensation previously deferred under the plan shall be includible in gross income for the taxable year during which such modification takes effect and the taxpayer shall pay interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income on the earliest date that there is no substantial risk of forfeiture of the rights to such compensation.

''(B) CREDITOR'S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(B) with respect to amounts set aside in a trust unless—

''(i) the employee has no beneficial interest in the trust,

''(ii) assets in the trust are available to satisfy claims of general creditors at all times (not merely after bankruptcy or insolvency), and

''(iii) there is no factor that would make it more difficult for general creditors to reach the assets in the trust than it would be if the trust assets were held directly by the employer in the United States.

Except as provided in regulations prescribed by the Secretary, such a factor shall include the location of the trust outside the United States unless substantially all of the services to which the nonqualified deferred compensation relates are performed outside the United States. Such regulations may exempt any such trust if the trust will not result in an improper deferral of United States tax, and the assets involved in the trust will be readily accessible in any insolvency or bankruptcy proceeding.

''(c) DISQUALIFIED INDIVIDUAL.—For purposes of this section, the term 'disqualified individual' means, with respect to a corporation, any individual—

''(1) who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

''(2) who would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

''(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5), and

''(B) any other plan of an organization exempt from tax under subtitle A.

''(2) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement.

''(3) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

''(4) TREATMENT OF EARNINGS.—References to deferred compensation shall be treated as including references to income attributable to such compensation or such income.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end the following new item:

''Sec. 409A. Inclusion in gross income of funded deferred compensation of corporate insiders.''.

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

SEC. 337. PROHIBITION ON DEFERRAL OF GAIN FROM THE EXERCISE OF STOCK OPTIONS AND RESTRICTED STOCK GAINS THROUGH DEFERRED COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 83 (relating to property transferred in connection with performance of services) is amending by adding at the end the following new subsection:

''(i) PROHIBITION ON ADDITIONAL DEFERRAL THROUGH DEFERRED COMPENSATION ARRANGEMENTS.—If a taxpayer elects to exchange an option to purchase employer securities—

''(1) to which subsection (a) applies, or

''(2) which is described in subsection (e)(3), or any other compensation based on employer securities, for a right to receive future payments, then, notwithstanding any other provision of this title, there shall be included in gross income for the taxable year of the exchange an amount equal to the present value of such right (or such other amount as the Secretary may by regulations specify). For purposes of this subsection, the term 'employer securities' has the meaning given such term by section 409(l).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any exchange after December 31, 2003.

SEC. 338. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS IN EXCESS OF $1,000,000.

(a) IN GENERAL.—If an employer elects under Treasury Regulation 31.3402(g)–1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent (or the corresponding rate in effect under section 1(i)(2) of the Internal Revenue Code of 1986 for taxable years beginning in the calendar year in which the payment is made).

(b) SPECIAL RULE FOR LARGE PAYMENTS.—

(1) IN GENERAL.—Notwithstanding subsection (a), if the supplemental wage payment, when added to all such payments previously made by the employer to the employee during the calendar year, exceeds $1,000,000, the rate used with respect to such excess shall be equal to the maximum rate of tax in effect under section 1 of such Code for taxable years beginning in such calendar year.

(2) AGGREGATION.—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subsection.

(c) CONFORMING AMENDMENT.—Section 13273 of the Revenue Reconciliation Act of 1993 (Public Law 103–66) is repealed.

(d) EFFECTIVE DATE.—The provisions of, and the amendment made by, this section shall apply to payments made after December 31, 2003.

Subtitle D—International Provisions

PART I—PROVISIONS TO DISCOURAGE EXPATRIATION

SEC. 340. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2003, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

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

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

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

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

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

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

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

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

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

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

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

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

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

''(4) SECURITY.—

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

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

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

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

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

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

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

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

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

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

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

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

''(A) the individual—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(1) EXPATRIATE.—The term 'expatriate' means—

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

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

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

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 5, 2003.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 5, 2003.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 5, 2003, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 341. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group. Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

''(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

''(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

''(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

''(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

''(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

''(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

''(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

''(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

''(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

''(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

''(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

''(E) TAX COURT REVIEW.—

''(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

''(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

''(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking ''and'' at the end of subparagraph (C), by inserting ''and'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,''.

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking ''or (D)'' and inserting '', (D), or (E)''.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(e) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 342. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

''(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

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

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

''(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 343. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

PART II—OTHER PROVISIONS

SEC. 344. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in the Department of the Treasury's Offshore Voluntary Compliance Initiative did not participate in such initiative, and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which such initiative applied or to any underpayment of Federal income tax attributable to items arising in connection with such arrangement,

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term ''Voluntary Offshore Compliance Initiative'' means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest penalties, additions to tax, and fines with respect to any taxable year if as of May 8, 2003, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 345. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) IN GENERAL.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

''Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.''.

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

SEC. 346. DETERMINATION OF BASIS OF AMOUNTS PAID FROM FOREIGN PENSION PLANS.

(a) IN GENERAL.—Section 72 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (w) as subsection (x) by inserting subsection (v) the following new subsection:

''(w) DETERMINATION OF BASIS OF FOREIGN PENSION PLANS.—Notwithstanding any other provision of this section, for purposes of determining the portion of any distribution from a foreign pension plan which is includible in gross income of the distributee, the investment in the contract with respect to the plan shall not include employer or employee contributions to the plan (or any earnings on such contributions) unless such contributions or earnings were subject to taxation by the United States or any foreign government.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after the date of the enactment of this Act.

SEC. 347. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

''(D) APPLICATION TO DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS.—In the case of any disposition by a taxpayer of any share of stock in a controlled foreign corporation (as defined in section 957), this paragraph shall apply to such disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.''.

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

SEC. 348. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—Notwithstanding subparagraph (A) (and any regulations thereunder), in the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year only to the extent such original issue discount is included during such taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation. For purposes of this subparagraph, the determination as to the proper allocation of the original issue discount to shareholders shall be made in such manner as the Secretary may prescribe.''.

(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—Section 267(a)(3) is amended—

(1) by striking ''The Secretary'' and inserting:

''(A) IN GENERAL.—The Secretary'', and

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

''(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—Notwithstanding any regulations issued under subparagraph (A), in the case of any amount payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year only to the extent such amount is included during such taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation. For purposes of this subparagraph, the determination as to the proper allocation of such amount to shareholders shall be made in such manner as the Secretary may prescribe.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments accrued on or after May 8, 2003.

SEC. 349. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.''.

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 350. REPEAL OF EARNED INCOME EXCLUSION OF CITIZENS OR RESIDENTS LIVING ABROAD.

(a) REPEAL.—Section 911 (relating to citizens or residents living abroad) is amended by adding at the end the following new subsection:

''(g) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2003.''.

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

Subtitle E—Other Revenue Provisions

SEC. 352. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''May 8, 2003''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 353. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) if any property so contributed has a built-in loss—

''(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

''(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution.''.

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period ''or unless the partnership has a substantial built-in loss immediately after such transfer''.

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting ''or with respect to which there is a substantial built-in loss immediately after such transfer'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BUILT-IN LOSS.—

''(1) IN GENERAL.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the basis of such partner's interest in the partnership.

''(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes.''.

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

''SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS.''.

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

''Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.''.

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period ''or unless there is a substantial basis reduction''.

(2) ADJUSTMENT.—Subsection (b) of section 734 is amended by inserting ''or unless there is a substantial basis reduction'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds $250,000.

''(2) REGULATIONS.—

''For regulations to carry out this subsection, see section 743(d)(2).''.

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 is amended to read as follows:

''SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION.''.

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

''Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction.''.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

SEC. 354. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.''.

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

''(7) CROSS REFERENCE.—

''For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 355. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

''SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

''(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

''(1) a description of the acquisition,

''(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

''(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

''(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

''(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

''(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

''(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return,

''(2) the information required to be shown on such return with respect to such shareholder, and

''(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.''.

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ii) through (xvii) as clauses (iii) through (xviii), respectively, and by inserting after clause (i) the following new clause:

''(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),''.

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (F) through (AA) as subparagraphs (G) through (BB), respectively, and by inserting after subparagraph (E) the following new subparagraph:

''(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

''Sec. 6043A. Returns relating to taxable mergers and acquisitions.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

SEC. 356. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

''(l) MINIMUM HOLDING PERIOD FOR WITHHOLDING TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS ETC.—

''(1) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

''(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

''(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

''(2) EXCEPTION FOR TAXES PAID BY DEALERS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

''(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

''(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

''(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

''(C) DEALER.—For purposes of subparagraph (A), the term 'dealer' means—

''(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

''(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

''(D) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

''(3) EXCEPTIONS.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

''(5) DETERMINATION OF HOLDING PERIOD.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.''.

(b) CONFORMING AMENDMENT.—The heading of subsection (k) of section 901 is amended by inserting ''ON DIVIDENDS'' after ''TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

SEC. 357. QUALIFIED TAX COLLECTION CONTRACTS.

(a) CONTRACT REQUIREMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

''SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

''(a) IN GENERAL.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

''(b) QUALIFIED TAX COLLECTION CONTRACT.—For purposes of this section, the term 'qualified tax collection contract' means any contract which—

''(1) is for the services of any person (other than an officer or employee of the Treasury Department) to locate and contact any taxpayer specified by the Secretary, to request payment from such taxpayer of an amount of Federal tax specified by the Secretary, and to obtain financial information specified by the Secretary with respect to such taxpayer, and

''(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services.

''(c) FEES.—The Secretary may retain and use an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

''(d) NO FEDERAL LIABILITY.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

''(e) APPLICATION OF FAIR DEBT COLLECTION PRACTICES ACT.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by any provision of this title.

''(f) CROSS REFERENCES.—

''(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

''(2) For application of Taxpayer Assistance Orders to persons performing services

under a qualified tax collection contract, see section 7811(a)(4).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 7809(a) is amended by inserting ''6306,'' before ''7651''.

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

''Sec. 6306. Qualified Tax Collection Contracts.''.

(b) CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

''SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

''(a) IN GENERAL.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

''(b) MODIFICATIONS.—For purposes of subsection (a)—

''(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

''(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

''(3) Such civil action shall not be an exclusive remedy with respect to such person.

''(4) Subsections (c) and (d)(1) of section 7433 shall not apply.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

''Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.''.

(c) APPLICATION OF TAXPAYER ASSISTANCE ORDERS TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

''(g) APPLICATION TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.''.

(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MISCONDUCT TO PERFORM UNDER CONTRACT.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

''(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.— An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.''.

(e) EFFECTIVE DATE.—The amendments made to this section shall take effect on the date of the enactment of this Act.

SEC. 358. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2013''.

SEC. 359. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15)(A) is amended to read as follows:

''(A) Insurance companies or associations other than life (including interinsurers and reciprocal underwriters) if—

''(i) the gross receipts for the taxable year do not exceed $600,000, and

''(ii) more than 50 percent of such gross receipts consist of premiums.''.

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) is amended by inserting '', except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded'' before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) is amended by striking ''exceed $350,000 but''.

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

SEC. 360. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

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

SEC. 361. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

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

SEC. 362. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

''SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

''(d) PAYMENT OF INTEREST.—

''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

''(2) DISPUTABLE TAX.—

''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

''(i) has a reasonable basis for its treatment of such item, and

''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

''(e) USE OF DEPOSITS.—

''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

''(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is

amended by adding at the end the following new item:

''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 363. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) IN GENERAL.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: ''The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 364. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) IN GENERAL.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property,''.

(b) ANTI-ABUSE RULES.—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after May 7, 2003.

SEC. 365. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Paragraph (5) of section 420(b) (relating to expiration) is amended by striking ''December 31, 2005'' and inserting ''December 31, 2013''.

(b) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''Tax Relief Extension Act of 1999'' and inserting ''Jobs and Growth Reconciliation Tax Act of 2003''.

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''Tax Relief Extension Act of 1999'' and inserting ''Jobs and Growth Reconciliation Tax Act of 2003''.

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking ''January 1, 2006'' and inserting ''January 1, 2014'', and

(B) by striking ''Tax Relief Extension Act of 1999'' and inserting ''Jobs and Growth Reconciliation Tax Act of 2003''.

SEC. 366. PRORATION RULES FOR LIFE INSURANCE BUSINESS OF PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 832(b)(4) (defining premiums earned) is amended—

(1) by inserting '', except that any deduction attributable to such reserves shall be reduced in the same manner as the deductions provided by sections 243, 244, and 245 for a life insurance company are reduced under section 805(a)(4)'' before the period at the end of the first sentence following subparagraph (C), and

(2) by adding at the end the following new sentence: ''In applying section 812(d) for purposes of the reduction under the third preceding sentence, only gross investment income attributable to the reserves described in such sentence shall be taken into account.''.

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

SEC. 367. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: ''In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the money or other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.''.

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting ''with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355'' after ''section 368(a)(1)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

Subtitle F—Other Provisions

SEC. 371. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

''(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

''(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

''(i) at least 25 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2004; and

''(ii) at least 50 percent of all such determinations that are made in fiscal year 2005 or thereafter.

''(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.''.

SEC. 372. PROHIBITION ON USE OF SCHIP FUNDS TO PROVIDE COVERAGE FOR CHILDLESS ADULTS.

(a) GENERAL LIMITATIONS ON PAYMENTS.—Section 2105(c)(1) of the Social Security Act (42 U.S.C. 1397ee(c)(1)) is amended by inserting before the period the following: ''and may not include coverage of a childless adult unless the childless adult is a pregnant woman. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.''.

(b) LIMITATION ON WAIVER AUTHORITY.—Section 2107 of the Social Security Act (42 U.S.C. 1397gg) is amended by adding at the end the following:

''(f) LIMITATION OF WAIVER AUTHORITY.—Notwithstanding subsection (e)(2)(A) and section 1115(a), the Secretary may not approve a waiver, experimental, pilot, or demonstration project, or an amendment to such a project that has been approved as of the date of enactment of this subsection, that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a childless adult, other than a childless adult who is a pregnant woman. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act and apply to proposals to conduct a waiver, experimental, pilot, or demonstration project affecting the State children's health insurance program under title XXI of such Act, and to any proposals to amend such a project, that are approved or extended on or after such date of enactment.

(d) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to—

(1) authorize the waiver of any provision of title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) that is not otherwise authorized to be waived under such title or under title XI of such Act (42 U.S.C. 1301 et seq.) as of the date of enactment of this Act; or

(2) imply congressional approval of any waiver, experimental, pilot, or demonstration project affecting the State children's health insurance program under title XXI of such Act that has been approved as of such date of enactment.

TITLE IV—APPLICATION OF SUNSET

SEC. 401. APPLICATION OF SUNSET TO TITLE III.

The amendments made by section 362 shall not apply to taxable years beginning after December 31, 2012, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such amendments had never been enacted.

TITLE V—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

SEC. 501. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3), is amended—

(1) in subsection (a)(2), by striking ''before June 1'' and inserting ''on or before November 30'';

(2) in subsection (b)(1), by striking ''May 31, 2003'' and inserting ''November 30, 2003'';

(3) in subsection (b)(2)—

(A) in the heading, by striking ''MAY 31, 2003'' and inserting ''NOVEMBER 30, 2003''; and

(B) by striking ''May 31, 2003'' and inserting ''November 30, 2003''; and

(4) in subsection (b)(3), by striking ''August 30, 2003'' and inserting ''February 28, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. 502. ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) ENTITLEMENT TO ADDITIONAL WEEKS.—

(1) IN GENERAL.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(A) in subparagraph (A), by striking ''50 percent'' and inserting ''100 percent''; and

(B) in subparagraph (B), by striking ''13 times'' and inserting ''26 times''.

(2) REPEAL OF RESTRICTION ON AUGMENTATION DURING TRANSITIONAL PERIOD.—Section 208(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 501(a), is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''; and

(ii) by inserting before the period at the end the following: '', including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) EXTENSION OF TRANSITION LIMITATION.—Section 208(b)(2) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 501(a)(4) and as redesignated by paragraph (2), is amended by striking ''February 28, 2004'' and inserting ''May 29, 2004''.

(4) CONFORMING AMENDMENT FOR AUGMENTED BENEFITS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by striking ''the amount originally established in such account (as determined under subsection (b)(1))'' and inserting ''7 times the individual's average weekly benefit amount for the benefit year''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendments made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ''TEUC–X amounts'') prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as ''TEUC amounts'').

(3) APPLICATION TO EXHAUSTEES AND CURRENT BENEFICIARIES.—

(A) EXHAUSTEES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account) before such date,

such individual's eligibility for any additional weeks of temporary extended unemployment compensation by reason of the amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(B) CURRENT BENEFICIARIES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) as to whom the condition described in subparagraph (A)(ii) does not apply,

such individual shall be eligible for temporary extended unemployment compensation (in accordance with the provisions of the Temporary Extended Unemployment Compensation Act of 2002, as amended by subsection (a)) with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(4) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM SUCH A DETERMINATION WAS MADE PRIOR TO THE DATE OF ENACTMENT.—Any determination of whether the individual's State is in an extended benefit period under section 203(c) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) made prior to the date of enactment of this Act shall be disregarded and the determination under such section shall be made as follows:

(A) INDIVIDUALS WHO EXHAUSTED ALL TEUC AND TEUC–X AMOUNTS PRIOR TO THE DATE OF ENACTMENT.—In the case of an individual whose temporary extended unemployment account has, prior to the date of enactment of this Act, been both augmented under such section 203(c) and exhausted of all amounts by which it was so augmented, the determination shall be made as of such date of enactment.

(B) ALL OTHER INDIVIDUALS.—In the case of an individual who is not described in subparagraph (A), the determination shall be made at the time that the individual's account established under such section 203, as amended by subsection (a), is exhausted.

(5) NO EFFECT ON PROVISIONS RELATED TO DISPLACED AIRLINE RELATED WORKERS.—The amendments made by this section and section 501 shall have no effect on the provisions of section 4002 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11).

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

SEC. 511. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Subject to paragraph (3), any agreement under subsection (a) shall provide that the State agency of the State, in addition to any amounts of regular compensation to which an individual may be entitled under the State law, shall make payments of temporary enhanced regular unemployment compensation to an individual in an amount and to the extent that the individual would be entitled to regular compensation if the State law were applied with the modifications described in paragraph (2).

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) In the case of an individual who is not eligible for regular compensation under the State law because of the use of a definition of base period that does not count wages earned in the most recently completed calendar quarter, then eligibility for compensation shall be determined by applying a base period ending at the close of the most recently completed calendar quarter.

(B) In the case of an individual who is not eligible for regular compensation under the State law because such individual does not meet requirements relating to availability for work, active search for work, or refusal to accept work, because such individual is seeking, or is available for, less than full-time work, then compensation shall not be denied by such State to an otherwise eligible individual who seeks less than full-time work or fails to accept full-time work.

(3) REDUCTION OF AMOUNTS OF REGULAR COMPENSATION AVAILABLE FOR INDIVIDUALS WHO SOUGHT PART-TIME WORK OR FAILED TO ACCEPT FULL-TIME WORK.—Any agreement under subsection (a) shall provide that the State agency of the State shall reduce the amount of regular compensation available to an individual who has received temporary enhanced regular unemployment compensation as a result of the application of the modification described in paragraph (2)(B) by the amount of such temporary enhanced regular unemployment compensation.

(c) COORDINATION RULE.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

SEC. 512. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any temporary enhanced regular unemployment compensation; and

(2) 100 percent of any regular compensation which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in subparagraphs (A) and (B) of section 511(b)(2), but only to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 511(b)(1), have been reimbursable under paragraph (1).

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by

reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 513. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (as so established), or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 502(a)) and certified by the Secretary to the Secretary of the Treasury.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 514. DEFINITIONS.

For purposes of this title, the terms ''compensation'', ''base period'', ''regular compensation'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. 515. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before July 1, 2004.

(b) PHASE-OUT OF TERUC.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual who has established eligibility for temporary enhanced regular unemployment compensation, but who has not exhausted all rights to such compensation, as of the last day of the week ending before July 1, 2004, such compensation shall continue to be payable to such individual for any week beginning after such date for which the individual meets the eligibility requirements of this title.

(2) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after December 31, 2004.

SEC. 516. COORDINATION WITH THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—The Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended—

(1) in section 202(b)(1), by inserting '', and who have exhausted all rights to temporary enhanced regular unemployment compensation'' before the semicolon at the end;

(2) in section 202(b)(2), by inserting '', temporary enhanced regular unemployment compensation,'' after ''regular compensation'';

(3) in section 202(c), by inserting ''(or, as the case may be, such individual's rights to temporary enhanced regular unemployment compensation)'' after ''State law'' in the matter preceding paragraph (1);

(4) in section 202(c)(1), by inserting ''and no payments of temporary enhanced regular unemployment compensation can be made'' after ''under such law'';

(5) in section 202(d)(1), by inserting ''or the amount of any temporary enhanced regular unemployment compensation (including dependents' allowances) payable to such individual for such a week,'' after ''total unemployment'';

(6) in section 202(d)(2)(A), by inserting '', or, as the case may be, to temporary enhanced regular unemployment compensation,'' after ''State law'';

(7) in section 203(b)(1)(A), by inserting ''plus the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''under such law''; and

(8) in section 203(b)(2), by inserting ''or the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''total unemployment''.

(b) AMOUNT OF TEUC OFFSET BY AMOUNT OF TERUC.—Section 203(b)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting a comma; and

(2) by adding at the end the following:

''minus the number of weeks in which the individual was entitled to temporary enhanced regular unemployment compensation as a result of the application of the modification described in section 511(b)(2)(A) of the Jobs and Growth Reconciliation Tax Act of 2003 (relating to the alternative base period) multiplied by the individual's average weekly benefit amount for the benefit year.''.

(c) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION DEFINED.—Section 207 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

''SEC. 207. DEFINITIONS.

''In this title:

''(1) GENERAL DEFINITIONS.—The terms 'compensation', 'regular compensation', 'extended compensation', 'additional compensation', 'benefit year', 'base period', 'State', 'State agency', 'State law', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(2) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION.—The term 'temporary enhanced regular unemployment compensation' means temporary enhanced regular unemployment benefits payable under title VI of the Jobs and Growth Reconciliation Tax Act of 2003.''.

SA 616. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1054 to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V add the following:

SEC. ___. PROHIBITION ON THE CONSIDERATION OF ANY LONG-TERM PHASEIN OF ANY REVENUE-REDUCING MEASURE.

(a) IN GENERAL.—Title III of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following:

''PROHIBITION ON THE CONSIDERATION OF ANY LONG-TERM PHASEIN OF ANY REVENUE-REDUCING MEASURE

''SEC. 316. (a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, that phases in a revenue-reducing measure for a period longer than the 1-taxable year period beginning after the date of the enactment of such measure.

''(b) REVENUE-REDUCING MEASURE.—The term 'revenue-reducing measure' means any change in any rate of tax, deduction, exemption, credit, exclusion, or similar change to the Internal Revenue Code of 1986 that will result in a reduction in revenues to the United States Treasury.''.

(b) SUPERMAJORITY POINT OF ORDER.—Subsections (c)(1) and (d)(2) of section 904 of the Congressional Budget and Impoundment Control Act of 1974 are amended by inserting ''316,'' after ''313,''.

(c) CONFORMING AMENDMENT.—The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 315 the following:

''Sec. 316. Prohibition on the consideration of any long-term phasein of any revenue-reducing measure.''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2004.

SA 617. Mr. GRAHAM of Florida proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Strike all after the enacting clause and insert the following:

(a) SHORT TITLE.—This Act may be cited as the ''Family Paycheck Tax Relief Economic Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in

this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—TAX RELIEF

Sec. 101. Refundable wage credit.
Sec. 102. Modifications to expensing under section 179.

TITLE II—STATE FISCAL RELIEF

Sec. 201. Temporary increase of medicaid FMAP.

TITLE III—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

Sec. 301. Extension of the Temporary Extended Unemployment Compensation Act of 2002.
Sec. 302. Entitlement to additional weeks of temporary extended unemployment compensation.

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

Sec. 311. Federal-State agreements.
Sec. 312. Payments to States having agreements under this title.
Sec. 313. Financing provisions.
Sec. 314. Definitions.
Sec. 315. Applicability.
Sec. 316. Coordination with the Temporary Extended Unemployment Compensation Act of 2002.

TITLE IV—REVENUE PROVISIONS

Subtitle A—General Provisons

Sec. 401. Suspension of income tax rate reductions for highest income taxpayers.
Sec. 402. Suspension of elimination of PEP and Pease phaseouts.
Sec. 403. Suspension of reductions in estate tax after 2006.
Sec. 404. Application of EGTRRA sunset to this subtitle.

Subtitle B—Provisions Designed To Curtail Tax Shelters

Sec. 411. Clarification of economic substance doctrine.
Sec. 412. Penalty for failing to disclose reportable transaction.
Sec. 413. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 414. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 415. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 416. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 417. Disclosure of reportable transactions.
Sec. 418. Modifications to penalty for failure to register tax shelters.
Sec. 419. Modification of penalty for failure to maintain lists of investors.
Sec. 420. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 421. Understatement of taxpayer's liability by income tax return preparer.
Sec. 422. Penalty on failure to report interests in foreign financial accounts.
Sec. 423. Frivolous tax submissions.
Sec. 424. Penalty on promoters of tax shelters.
Sec. 425. Statute of limitations for taxable years for which listed transactions not reported.
Sec. 426. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.

Subtitle C—Other Corporate Governance Provisions

Sec. 431. Affirmation of consolidated return regulation authority.
Sec. 432. Signing of corporate tax returns by chief executive officer.
Sec. 433. Securities civil enforcement provisions.

Subtitle D—Reversing the Expatriation of Profits Offshore

Sec. 440. Revision of tax rules on expatriation.
Sec. 441. Tax treatment of inverted corporate entities.
Sec. 442. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 443. Reinsurance of United States risks in foreign jurisdictions.

Subtitle E—Additional Provisions

Sec. 451. Treatment on nonqualified deferred compensation plans.
Sec. 452. Extension of customs user fees.

TITLE I—TAX RELIEF

SEC. 101. REFUNDABLE WAGE CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. WAGE CREDIT.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxpayer's first taxable year beginning in 2003 or 2004 an amount equal to 7.65 percent of so much of the taxpayer's wages (as defined in section 3401(a)) as does not exceed $10,000.

''(b) COORDINATION WITH ADVANCE REFUNDS OF CREDIT.—

''(1) IN GENERAL.—The amount of credit which would (but for this paragraph) be allowable under subsection (a) shall be reduced (but not below zero) by the aggregate adjustments taken unto account under subsection (c). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

''(2) JOINT RETURNS.—In the case of an adjustment taken into account under subsection (c) with respect to a joint return, half of such credit shall be treated as having been made or allowed to each individual filing such return.

''(c) CREDIT PAID THROUGH ADJUSTMENT OF WAGE WITHHOLDING TABLES.—The Secretary shall adjust the wage withholding tables prescribed under section 3402(a)(1), as soon as practicable, to take into account the credit allowed under under subsection (a).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 36. Wage credit.

''Sec. 37. Overpayments of tax.''.

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

SEC. 102. MODIFICATIONS TO EXPENSING UNDER SECTION 179.

(a) INCREASE OF AMOUNT WHICH MAY BE EXPENSED.—

(1) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $25,000 ($100,000 in the case of section 179 property placed in service after June 30, 2003, and before January 1, 2005).''

(2) INCREASE IN PHASEOUT THRESHOLD.—Paragraph (2) of section 179(b) is amended by striking ''$200,000'' and inserting ''$200,000 ($400,000 in the case of section 179 property placed in service after June 30, 2003, and before January 1, 2005)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 2003.

TITLE II—STATE FISCAL RELIEF

SEC. 201. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FIRST 2 CALENDAR QUARTERS OF FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for the first and second calendar quarters of fiscal year 2004, before the application of this section.

(c) GENERAL 15.1 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FIRST 2 CALENDAR QUARTERS OF FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), for each State for the third and fourth calendar quarters of fiscal year 2003 and the first and second calendar quarters of fiscal year 2004, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 15.1 percentage points.

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to subsection (f), with respect to the third and fourth calendar quarters of fiscal year 2003 and the first and second calendar quarters of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 30.2 percent of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(f) STATE ELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) REPEAL.—Effective as of April 1, 2004, this section is repealed.

TITLE III—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

SEC. 301. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3), is amended—

(1) in subsection (a)(2), by striking ''before June 1'' and inserting ''on or before November 30'';

(2) in subsection (b)(1), by striking ''May 31, 2003'' and inserting ''November 30, 2003'';

(3) in subsection (b)(2)—

(A) in the heading, by striking ''MAY 31, 2003'' and inserting ''NOVEMBER 30, 2003''; and

(B) by striking ''May 31, 2003'' and inserting ''November 30, 2003''; and

(4) in subsection (b)(3), by striking ''August 30, 2003'' and inserting ''February 28, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. 302. ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) ENTITLEMENT TO ADDITIONAL WEEKS.—

(1) IN GENERAL.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(A) in subparagraph (A), by striking ''50 percent'' and inserting ''100 percent''; and

(B) in subparagraph (B), by striking ''13 times'' and inserting ''26 times''.

(2) REPEAL OF RESTRICTION ON AUGMENTATION DURING TRANSITIONAL PERIOD.—Section 208(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 301(a), is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''; and

(ii) by inserting before the period at the end the following: '', including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) EXTENSION OF TRANSITION LIMITATION.—Section 208(b)(2) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 301(a)(4) and as redesignated by paragraph (2), is amended by striking ''February 28, 2004'' and inserting ''May 29, 2004''.

(4) CONFORMING AMENDMENT FOR AUGMENTED BENEFITS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by striking ''the amount originally established in such account (as determined under subsection (b)(1))'' and inserting ''7 times the individual's average weekly benefit amount for the benefit year''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendments made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ''TEUC–X amounts'') prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as ''TEUC amounts'').

(3) APPLICATION TO EXHAUSTEES AND CURRENT BENEFICIARIES.—

(A) EXHAUSTEES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account) before such date,

such individual's eligibility for any additional weeks of temporary extended unemployment compensation by reason of the amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(B) CURRENT BENEFICIARIES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) as to whom the condition described in subparagraph (A)(ii) does not apply,

such individual shall be eligible for temporary extended unemployment compensation (in accordance with the provisions of the Temporary Extended Unemployment Compensation Act of 2002, as amended by subsection (a)) with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(4) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM SUCH A DETERMINATION WAS MADE PRIOR TO THE DATE OF ENACTMENT.—Any determination of whether the individual's State is in an extended benefit period under section 203(c) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) made prior to the date of enactment of this Act shall be disregarded and the determination under such section shall be made as follows:

(A) INDIVIDUALS WHO EXHAUSTED ALL TEUC AND TEUC–X AMOUNTS PRIOR TO THE DATE OF ENACTMENT.—In the case of an individual whose temporary extended unemployment account has, prior to the date of enactment of this Act, been both augmented under such section 203(c) and exhausted of all amounts by which it was so augmented, the determination shall be made as of such date of enactment.

(B) ALL OTHER INDIVIDUALS.—In the case of an individual who is not described in subparagraph (A), the determination shall be made at the time that the individual's account established under such section 203, as amended by subsection (a), is exhausted.

(5) NO EFFECT ON PROVISIONS RELATED TO DISPLACED AIRLINE RELATED WORKERS.—The amendments made by this section and section 301 shall have no effect on the provisions of section 4002 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11).

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

SEC. 311. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Subject to paragraph (3), any agreement under subsection (a) shall provide that the State agency of the State, in addition to any amounts of regular compensation to which an individual may be entitled under the State law, shall make payments of temporary enhanced regular unemployment compensation to an individual in an amount and to the extent that the individual would be entitled to regular compensation if the State law were applied with the modifications described in paragraph (2).

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) In the case of an individual who is not eligible for regular compensation under the State law because of the use of a definition of base period that does not count wages earned in the most recently completed calendar quarter, then eligibility for compensation shall be determined by applying a base period ending at the close of the most recently completed calendar quarter.

(B) In the case of an individual who is not eligible for regular compensation under the State law because such individual does not meet requirements relating to availability for work, active search for work, or refusal to accept work, because such individual is seeking, or is available for, less than full-time work, then compensation shall not be denied by such State to an otherwise eligible individual who seeks less than full-time work or fails to accept full-time work.

(3) REDUCTION OF AMOUNTS OF REGULAR COMPENSATION AVAILABLE FOR INDIVIDUALS WHO SOUGHT PART-TIME WORK OR FAILED TO ACCEPT FULL-TIME WORK.—Any agreement under subsection (a) shall provide that the State agency of the State shall reduce the amount of regular compensation available to an individual who has received temporary enhanced regular unemployment compensation as a result of the application of the modification described in paragraph (2)(B) by the amount of such temporary enhanced regular unemployment compensation.

(c) COORDINATION RULE.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

SEC. 312. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any temporary enhanced regular unemployment compensation; and

(2) 100 percent of any regular compensation which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in subparagraphs (A) and (B) of section 311(b)(2), but only to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 311(b)(1), have been reimbursable under paragraph (1).

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 313. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (as so established), or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 502(a)) and certified by the Secretary to the Secretary of the Treasury.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 314. DEFINITIONS.

For purposes of this title, the terms ''compensation'', ''base period'', ''regular compensation'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. 315. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before July 1, 2004.

(b) PHASE-OUT OF TERUC.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual who has established eligibility for temporary enhanced regular unemployment compensation, but who has not exhausted all rights to such compensation, as of the last day of the week ending before July 1, 2004, such compensation shall continue to be payable to such individual for any week beginning after such date for which the individual meets the eligibility requirements of this title.

(2) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after December 31, 2004.

SEC. 316. COORDINATION WITH THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—The Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended—

(1) in section 202(b)(1), by inserting '', and who have exhausted all rights to temporary enhanced regular unemployment compensation'' before the semicolon at the end;

(2) in section 202(b)(2), by inserting '', temporary enhanced regular unemployment compensation,'' after ''regular compensation'';

(3) in section 202(c), by inserting ''(or, as the case may be, such individual's rights to temporary enhanced regular unemployment compensation)'' after ''State law'' in the matter preceding paragraph (1);

(4) in section 202(c)(1), by inserting ''and no payments of temporary enhanced regular unemployment compensation can be made'' after ''under such law'';

(5) in section 202(d)(1), by inserting ''or the amount of any temporary enhanced regular unemployment compensation (including dependents' allowances) payable to such individual for such a week,'' after ''total unemployment'';

(6) in section 202(d)(2)(A), by inserting '', or, as the case may be, to temporary enhanced regular unemployment compensation,'' after ''State law'';

(7) in section 203(b)(1)(A), by inserting ''plus the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''under such law''; and

(8) in section 203(b)(2), by inserting ''or the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''total unemployment''.

(b) AMOUNT OF TEUC OFFSET BY AMOUNT OF TERUC.—Section 203(b)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting a comma; and

(2) by adding at the end the following:

''minus the number of weeks in which the individual was entitled to temporary enhanced regular unemployment compensation as a result of the application of the modification described in section 311(b)(2)(A) of the Family Paycheck Tax Relief Act of 2003 (relating to the alternative base period) multiplied by the individual's average weekly benefit amount for the benefit year.''.

(c) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION DEFINED.—Section 207 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

''SEC. 207. DEFINITIONS.

''In this title:

''(1) GENERAL DEFINITIONS.—The terms 'compensation', 'regular compensation', 'extended compensation', 'additional compensation', 'benefit year', 'base period', 'State', 'State agency', 'State law', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(2) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION.—The term 'temporary enhanced regular unemployment compensation' means temporary enhanced regular unemployment benefits payable under title III of the Family Paycheck Tax Relief Act of 2003.''.

TITLE IV—REVENUE PROVISIONS

Subtitle A—General Provisons

SEC. 401. SUSPENSION OF INCOME TAX RATE REDUCTIONS FOR HIGHEST INCOME TAXPAYERS.

(a) IN GENERAL.—The table contained in section 1(i)(2) of the Internal Revenue Code of 1986 (relating to reductions in rates after June 30, 2001) is amended—

(1) in the second column, by striking ''29.0%'' and inserting ''30.0%'',

(2) in the second column, by striking ''28.9%'' and inserting ''30.0%'',

(3) in the third column, by striking ''34.0%'' and inserting ''35.0%'',

(4) in the third column, by striking ''33.0%'' and inserting ''35.0%'',

(5) in the last column, by striking ''37.6%'' and inserting ''38.6%'', and

(6) in the last column, by striking ''35.0%'' and inserting ''38.6%''.

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

SEC. 402. SUSPENSION OF ELIMINATION OF PEP AND PEASE PHASEOUTS.

(a) PEP.—Section 151(d)(3) (relating to phaseout) is amended by striking subparagraphs (E) and (F).

(b) PEASE.—Section 68 (relating to overall limitation on itemized deductions) is amended by striking subsections (f) and (g).

SEC. 403. SUSPENSION OF REDUCTIONS IN ESTATE TAX AFTER 2006.

(a) ELIMINATION OF ESTATE TAX REPEAL.—Subtitle A of title V, sections 511(d), 511(e), and 521(b)(2), and subtitle E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001 are repealed.

(b) CONFORMING AMENDMENTS.—The table contained in section 2001(c)(2)(B) of the Internal Revenue Code of 1986 is amended—

(1) by striking the item relating to 2007, 2008, and 2009, and

(2) by striking ''2006'' and inserting ''2006, 2007, 2008, and 2009''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2006.

SEC. 404. APPLICATION OF EGTRRA SUNSET TO THIS SUBTITLE.

Each amendment made by this subtitle shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Subtitle B—Provisions Designed To Curtail Tax Shelters

SEC. 411. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701, as amended by this Act, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there is any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

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

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''

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

SEC. 412. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

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

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

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

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

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

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—The term 'high net worth individual' means, with respect to a transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

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

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall

place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 413. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''

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

SEC. 414. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A applies.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements 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).''

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''

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

SEC. 415. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''

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

SEC. 416. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 417. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

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

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''

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

SEC. 418. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 419. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''

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

SEC. 420. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 421. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

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

SEC. 422. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 423. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 424. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''

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

SEC. 425. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 426. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''

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

Subtitle C—Other Corporate Governance Provisions

SEC. 431. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 432. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 433. SECURITIES CIVIL ENFORCEMENT PROVISIONS.

(a) AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.—

(1) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

''(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

''(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

''(3) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether the penalty is in the public interest. Such evidence may relate to the extent of the person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of that person and the amount of the assets of that person.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(A) in paragraph (4), by striking ''supervision;'' and all that follows through the end of the subsection and inserting ''supervision.'';

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(1) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(3) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(A) in subparagraph (C), by striking ''therein;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(4) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(A) in subparagraph (D), by striking ''supervision;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(B) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(b) INCREASED MAXIMUM CIVIL MONEY PENALTIES.—

(1) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by striking ''$5,000'' and inserting ''$100,000''; and

(ii) by striking ''$50,000'' and inserting ''$250,000'';

(B) in subparagraph (B)(i)—

(i) by striking ''$50,000'' and inserting ''$500,000''; and

(ii) by striking ''$250,000'' and inserting ''$1,000,000''; and

(C) in subparagraph (C)(i)—

(i) by striking ''$100,000'' and inserting ''$1,000,000''; and

(ii) by striking ''$500,000'' and inserting ''$2,000,000''.

(2) SECURITIES EXCHANGE ACT OF 1934.—

(A) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(i) in subsection (b), by striking ''$100'' and inserting ''$10,000''; and

(ii) in subsection (c)—

(I) in paragraph (1)(B), by striking ''$10,000'' and inserting ''$500,000''; and

(II) in paragraph (2)(B), by striking ''$10,000'' and inserting ''$500,000''.

(B) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is amended by striking ''$1,000,000'' and inserting ''$2,000,000''.

(C) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(i) in paragraph (1)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in paragraph (2)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in paragraph (3)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(D) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(i) in clause (i)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in clause (ii)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in clause (iii)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(3) INVESTMENT COMPANY ACT OF 1940.—

(A) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(B) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(4) INVESTMENT ADVISERS ACT OF 1940.—

(A) REGISTRATION.—Section 203(i)(2) of the Investment advisers Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(B) ENFORCEMENT OF INVESTMENT ADVISERS ACT.—Section 209(e)(2) of the Investment advisers Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking ''$5,000'' and inserting ''$100,000''; and

(II) by striking ''$50,000'' and inserting ''$250,000'';

(ii) in subparagraph (B)—

(I) by striking ''$50,000'' and inserting ''$500,000''; and

(II) by striking ''$250,000'' and inserting ''$1,000,000''; and

(iii) in subparagraph (C)—

(I) by striking ''$100,000'' and inserting ''$1,000,000''; and

(II) by striking ''$500,000'' and inserting ''$2,000,000''.

(c) AUTHORITY TO OBTAIN FINANCIAL RECORDS.—Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking ''(9)(A)'' and all that follows through ''(B) The'' and inserting ''(3) The'';

(3) by inserting after paragraph (1), the following:

''(2) ACCESS TO FINANCIAL RECORDS.—

''(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

''(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

''(i) result in the transfer of assets or records outside the territorial limits of the United States;

''(ii) result in improper conversion of investor assets;

''(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

''(iv) endanger the life or physical safety of an individual;

''(v) result in flight from prosecution;

''(vi) result in destruction of or tampering with evidence;

''(vii) result in intimidation of potential witnesses; or

''(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.

''(C) TRANSFER OF RECORDS TO GOVERNMENT AUTHORITIES.—The Commission may transfer financial records or the information contained therein to any government authority, if the Commission proceeds as a transferring agency in accordance with section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412), except that a customer notice shall not be required under subsection (b) or (c) of that section 1112, if the Commission determines that there is reason to believe that such notification may result in or lead to any of the factors identified under clauses (i) through (viii) of subparagraph (B) of this paragraph.'';

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

Subtitle D—Reversing the Expatriation of Profits Offshore

SEC. 440. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2003, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

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

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

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

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

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

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

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

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

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

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

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

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

such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

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

''(4) SECURITY.—

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

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

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

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

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

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

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

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

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

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

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

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

''(A) the individual—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(1) EXPATRIATE.—The term 'expatriate' means—

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

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

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

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under

section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance

with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 5, 2003.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 5, 2003.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 5, 2003, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any

income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

''(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

''(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

''(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

''(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

''(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

''(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

''(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

''(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

''(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

''(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

''(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

''(E) TAX COURT REVIEW.—

''(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

''(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

''(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking ''and'' at the end of subparagraph (C), by inserting ''and'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,''.

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking ''or (D)'' and inserting '', (D), or (E)''.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(e) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 442. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

''(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

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

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

''(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A). Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and

(e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 443. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle E—Additional Provisions

SEC. 451. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION PLANS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 is amended by adding at the end the following new section:

''SEC. 409A. INCLUSION IN GROSS INCOME OF DEFERRED COMPENSATION UNDER NONQUALIFIED DEFERRED COMPENSATION PLANS.

''(a) RULES RELATING TO CONSTRUCTIVE RECEIPT.—

''(1) IN GENERAL.—

''(A) GROSS INCOME INCLUSION.—In the case of a nonqualified deferred compensation plan, all compensation deferred under the plan for all taxable years (to the extent not previously included in gross income) shall be includible in gross income for the taxable year unless at all times during the taxable year the plan meets the requirements of paragraphs (2), (3), and (4) and is operated in accordance with such requirements.

''(B) INTEREST ON TAX LIABILITY PAYABLE WITH RESPECT TO PREVIOUSLY DEFERRED COMPENSATION.—

''(i) IN GENERAL.—If compensation is required to be included in gross income under subparagraph (A) for a taxable year, the tax imposed by this chapter for such taxable year shall be increased by the amount of interest determined under clause (ii).

''(ii) INTEREST.—For purposes of clause (i), the interest determined under this clause for any taxable year is the amount of interest at the underpayment rate plus 1 percentage point on the underpayments that would have occurred had the deferred compensation been includible in gross income for the taxable year in which first deferred.

''(2) DISTRIBUTIONS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that compensation deferred under the plan may not be distributed earlier than—

''(i) separation from service (except as provided in subparagraph (B)(i)),

''(ii) disability (as defined by section 223(d) of the Social Security Act),

''(iii) death,

''(iv) a specified time (or pursuant to a fixed schedule) specified under the plan as of the date of the deferral of such compensation,

''(v) to the extent provided by the Secretary, a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation, or

''(vi) the occurrence of an unforeseeable emergency.

''(B) SPECIAL RULES.—

''(i) SPECIFIED EMPLOYEES.—In the case of specified employees, the requirement of subparagraph (A)(i) is met only if distributions may not be made earlier than 6 months after the date of separation from service. For purposes of the preceding sentence, a specified employee is a disqualified individual (as defined in section 280G(c)) with respect to a corporation the stock in which is publicly traded on an established securities market or otherwise.

''(ii) UNFORESEEABLE EMERGENCY.—For purposes of subparagraph (A)(vi)—

''(I) IN GENERAL.—The term 'unforeseeable emergency' means a severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant or of a dependent (as defined in section 152(a)) of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

''(II) LIMITATION ON DISTRIBUTIONS.—The requirement of subparagraph (A)(vi) is met only if, as determined under regulations of the Secretary, the amounts distributed with respect to an emergency do not exceed the amounts necessary to satisfy such emergency plus amounts necessary to pay taxes reasonably anticipated as a result of the distribution, after taking into account the extent to which such hardship is or may be relieved through reimbursement or compensation by insurance or otherwise or by liquidation of the participant's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship).

''(3) ACCELERATION OF BENEFITS.—The requirements of this paragraph are met if the plan does not permit the acceleration of the time or schedule under paragraph (2)(A)(iv).

''(4) ELECTIONS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the requirements of subparagraphs (B) and (C) are met.

''(B) INITIAL DEFERRAL DECISION.—The requirements of this subparagraph are met if the plan provides that compensation earned during a taxable year may be deferred at the employee's election only if the election to defer such compensation is made during the preceding taxable year or at such other time as provided in regulations. In the case of the first year in which an employee becomes eligible to participate in the plan, such election may be made with respect to services to be performed subsequent to the election within 30 days after the date the employee becomes eligible to participate in such plan.

''(C) CHANGES IN TIME AND FORM OF DISTRIBUTION.—The requirements of this subparagraph are met if, in the case of a plan which permits under a subsequent election a delay in a payment distributable under paragraph (2)(A)(iv) or a change in the form of payment—

''(i) such election may not be made less than 12 months prior to the date of the first scheduled payment under paragraph (2)(A)(iv),

''(ii) the plan requires that payments with respect to which such election is made be deferred for a period of not less than 5 years from the date of such election, and

''(iii) an employee may make such election only once.

''(b) RULES RELATING TO FUNDING.—

''(1) OFFSHORE PROPERTY IN A TRUST.—In the case of property set aside (directly or indirectly) in a trust (or other arrangement determined by the Secretary) for purposes of paying deferred compensation under a nonqualified deferred compensation plan, such property shall be treated as transferred for purposes of section 83 whether or not such property is available to satisfy claims of general creditors—

''(A) at the time set aside if such property is located outside of the United States, or

''(B) at the time transferred if such property is subsequently transferred outside of the United States.

''(2) EMPLOYER'S FINANCIAL HEALTH.—In the case of a nonqualified deferred compensation plan, there is a transfer of property within the meaning of section 83 as of the earlier of—

''(A) the date on which the plan first provides that assets will become restricted to the provision of benefits under the plan in connection with a change in the employer's financial health, or

''(B) the date on which assets are so restricted.

''(3) INCOME INCLUSION FOR OFFSHORE TRUSTS AND EMPLOYER'S FINANCIAL HEALTH.—For each taxable year that assets treated as transferred under this subsection remain set aside in a trust or other arrangement subject to paragraph (1) or (2), any increase in value in, or earnings with respect to, such assets shall be treated as an additional transfer of property under this subsection (to the extent not previously included in income).

''(4) INTEREST ON TAX LIABILITY PAYABLE WITH RESPECT TO TRANSFERRED PROPERTY.—

''(A) IN GENERAL.—If amounts are required to be included in gross income by reason of paragraph (1) or (2) for a taxable year, the tax imposed by this chapter for such taxable year shall be increased by the amount of interest determined under subparagraph (B).

''(B) INTEREST.—The interest determined under this subparagraph for any taxable year is the amount of interest at the underpayment rate plus 1 percentage point on the underpayments that would have occurred had the amounts so required to be included in gross income by paragraph (1) or (2) been includible in gross income for the taxable year in which such assets were first set aside (directly or indirectly) in a trust (or other arrangement determined by the Secretary) for purposes of the nonqualified deferred compensation plan.

''(c) NO INFERENCE ON EARLIER INCOME INCLUSION.—Nothing in this section shall be construed to prevent the inclusion of amounts in gross income under any other provision of this chapter or any other rule of law earlier than the time provided in this section.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) NONQUALIFIED DEFERRED COMPENSATION PLAN.—The term 'nonqualified deferred compensation plan' means any plan that provides for the deferral of compensation other than a qualified employer plan.

''(2) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

''(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5), and

''(B) any eligible deferred compensation plan (within the meaning of section 457(b)) of an employer described in section 457(e)(1)(A).

''(3) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement, including an agreement or arrangement that includes one person.

''(4) TREATMENT OF EARNINGS.—References to deferred compensation shall be treated as including references to income (whether actual or notional) attributable to such compensation or such income.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) providing for the determination of amounts of deferral in the case of a nonqualified deferred compensation plan which is a defined benefit plan,

''(2) relating to changes in the ownership and control of a corporation or assets of a corporation for purposes of subsection (a)(2)(A)(v),

''(3) exempting arrangements from the application of subsection (b) if such arrangements will not result in an improper deferral of United States tax and will not result in assets being effectively beyond the reach of creditors, and

''(4) defining financial health for purposes of subsection (b)(2).''.

(b) W–2 FORMS.—

(1) IN GENERAL.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking ''and'', by striking the period at the end of paragraph (11) and inserting '', and'', and by inserting after paragraph (11) the following new paragraph:

''(12) the total amount of deferrals under a nonqualified deferred compensation plan (within the meaning of section 409A(d)).''.

(2) THRESHOLD.—Subsection (a) of section 6051 is amended by adding at the end the following: ''In the case of the amounts required to be shown by paragraph (12), the Secretary may (by regulation) establish a minimum amount of deferrals below which paragraph (12) does not apply.''.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 414(b) is amended by inserting ''409A,'' after ''408(p),''.

(2) Section 414(c) is amended by inserting ''409A,'' after ''408(p),''.

(3) The table of sections for such subpart A is amended by adding at the end the following new item:

''Sec. 409A. Inclusion in gross income of deferred compensation under nonqualified deferred compensation plans.''.

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

SEC. 452. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2013''.

SA 618. Mr. ROCKEFELLER (for himself, Mr. DASCHLE, Mr. BINGAMAN, Mr. HARKIN, Mr. KENNEDY, Mr. PRYOR, Mrs. MURRAY, Mr. KERRY, Mr. REID, Mr. JOHNSON, Mr. LEVIN, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 281, between lines 2 and 3, insert the following:

Subtitle D—Public School Modernization

SEC. 531. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

''Subchapter Z—Public School Modernization Provisions

''Sec. 1400M. Credit to holders of qualified public school modernization bonds.

''Sec. 1400N. Qualified school construction bonds.

''Sec. 1400O. Qualified zone academy bonds.

''Sec. 1400P. Qualified tribal school modernization bonds.

''SEC. 1400M. CREDIT TO HOLDERS OF QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified public school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified public school modernization bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified public school modernization bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of issuance of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

''(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND; CREDIT ALLOWANCE DATE.—For purposes of this section—

''(1) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND.—The term 'qualified public school modernization bond' means—

''(A) a qualified zone academy bond,

''(B) a qualified school construction bond, and

''(C) a qualified tribal school modernization bond.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(e) OTHER DEFINITIONS.—For purposes of this subchapter—

''(1) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given to such term by section 9101 of the Elementary and Secondary Education Act of 1965. Such term includes the local educational agency that serves the District of Columbia but does not include any other State agency.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

''(4) PUBLIC SCHOOL FACILITY.—The term 'public school facility' shall not include—

''(A) any stadium or other facility primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public, or

''(B) any facility which is not owned by a State or local government or any agency or instrumentality of a State or local government.

''(f) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(g) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

''(1) IN GENERAL.—If any bond which when issued purported to be a qualified public school modernization bond ceases to be a qualified public school modernization bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

''(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

''(2) FAILURE TO PAY.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this part, or

''(ii) the amount of the tax imposed by section 55.

''(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified public school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified public school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified public school modernization bond as if it were a stripped bond and to the credit

under this section as if it were a stripped coupon.

''(j) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified public school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

''(k) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

''(l) REPORTING.—Issuers of qualified public school modernization bonds shall submit reports similar to the reports required under section 149(e).

''(m) TERMINATION.—This section shall not apply to any bond issued after September 30, 2007 (December 31, 2012, in the case of any qualified tribal school modernization bond).

''SEC. 1400N. QUALIFIED SCHOOL CONSTRUCTION BONDS.

''(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this subchapter, the term 'qualified school construction bond' means any bond issued as part of an issue if—

''(1) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

''(2) the bond is issued by a State or local government within the jurisdiction of which such school is located,

''(3) the issuer designates such bond for purposes of this section, and

''(4) the term of each bond which is part of such issue does not exceed 15 years.

''(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under subsection (d) for such calendar year to such issuer.

''(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified school construction bond limitation for each calendar year. Such limitation is—

''(1) $11,000,000,000 for 2004,

''(2) $11,000,000,000 for 2005, and

''(3) except as provided in subsection (f), zero after 2005.

''(d) LIMITATION ALLOCATED AMONG STATES.—

''(1) IN GENERAL.—The limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective amounts each such State received for basic grants under section 1124 of the Elementary and Secondary Education Act of 1965 for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State to issuers within such State.

''(2) MINIMUM ALLOCATIONS TO STATES.—

''(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the amount allocated to such State under this subsection for such year is not less than an amount equal to such State's minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

''(B) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 1124(d) of the Elementary and Secondary Education Act of 1965 for such State for the most recent fiscal year ending before such calendar year.

''(3) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

''(e) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(1) the amount allocated under subsection (d) to any State, exceeds

''(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (d)(4).

''(f) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—A bond shall not be treated as failing to meet the requirement of subsection (a)(1) solely by reason of the fact that the proceeds of the issue of which such bond is a part are invested for a temporary period (but not more than 36 months) until such proceeds are needed for the purpose for which such issue was issued.

''(2) BINDING COMMITMENT REQUIREMENT.—Paragraph (1) shall apply to an issue only if, as of the date of issuance, there is a reasonable expectation that—

''(A) at least 10 percent of the proceeds of the issue will be spent within the 6-month period beginning on such date for the purpose for which such issue was issued, and

''(B) the remaining proceeds of the issue will be spent with due diligence for such purpose.

''(3) EARNINGS ON PROCEEDS.—Any earnings on proceeds during the temporary period shall be treated as proceeds of the issue for purposes of applying subsection (a)(1) and paragraph (1) of this subsection.

''SEC. 1400O. QUALIFIED ZONE ACADEMY BONDS.

''(a) QUALIFIED ZONE ACADEMY BOND.—For purposes of this subchapter—

''(1) IN GENERAL.—The term 'qualified zone academy bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by a local educational agency,

''(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

''(C) the issuer—

''(i) designates such bond for purposes of this section,

''(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

''(iii) certifies that it has the written approval of the local educational agency for such bond issuance, and

''(D) the term of each bond which is part of such issue does not exceed 15 years.

Rules similar to the rules of section 1400N(f) shall apply for purposes of paragraph (1).

''(2) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the local educational agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

''(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the local educational agency) of—

''(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

''(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

''(iii) services of employees as volunteer mentors,

''(iv) internships, field trips, or other educational opportunities outside the academy for students, or

''(v) any other property or service specified by the local educational agency.

''(3) QUALIFIED ZONE ACADEMY.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of a local educational agency to provide education or training below the postsecondary level if—

''(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

''(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the local educational agency,

''(C) the comprehensive education plan of such public school or program is approved by the local educational agency, and

''(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

''(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act.

''(4) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

''(A) constructing, rehabilitating, or repairing the public school facility in which the academy is established,

''(B) acquiring the land on which such facility is to be constructed with part of the proceeds of such issue,

''(C) providing equipment for use at such academy,

''(D) developing course materials for education to be provided at such academy, and

''(E) training teachers and other school personnel in such academy.

''(b) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—There is a national zone academy bond limitation for each calendar year. Such limitation is—

''(A) $400,000,000 for 1998,

''(B) $400,000,000 for 1999,

''(C) $400,000,000 for 2000,

''(D) $400,000,000 for 2001,

''(E) $400,000,000 for 2002,

''(F) $400,000,000 for 2003,

''(G) $1,400,000,000 for 2004,

''(H) $1,400,000,000 for 2005, and

''(I) except as provided in paragraph (3), zero after 2005.

''(2) ALLOCATION OF LIMITATION.—

''(A) ALLOCATION AMONG STATES.—

''(i) 1998, 1999, 2000, 2001, 2002, AND 2003 LIMITATIONS.—The national zone academy bond limitations for calendar years 1998, 1999, 2000, 2001, 2002, and 2003 shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget).

''(ii) LIMITATION AFTER 2003.—The national zone academy bond limitation for any calendar year after 2003 shall be allocated by the Secretary among the States in proportion to the respective amounts each such State received for basic grants under section 1124 of the Elementary and Secondary Education Act of 1965 for the most recent fiscal year ending before such calendar year.

''(B) ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—The limitation amount allocated to a State under subparagraph (A) shall be allocated by the State to qualified zone academies within such State.

''(C) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under subparagraph (B) for such calendar year.

''(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(A) the limitation amount under this subsection for any State, exceeds

''(B) the amount of bonds issued during such year which are designated under subsection (a) (or the corresponding provisions of prior law) with respect to qualified zone academies within such State,

the limitation amount under this subsection for such State for the following calendar year shall be increased by the amount of such excess.

''SEC. 1400P. QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

''(a) QUALIFIED TRIBAL SCHOOL MODERNIZATION BOND.—For purposes of this subchapter—

''(1) IN GENERAL.—The term 'qualified tribal school modernization bond' means, subject to paragraph (2), any bond issued as part of an issue under section 532(c) of the Jobs and Growth Tax Relief Reconciliation Act of 2003, as in effect on the date of the enactment of this section, if—

''(A) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a school facility funded by the Bureau of Indian Affairs of the Department of the Interior or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

''(B) the bond is issued by an Indian tribe,

''(C) the issuer designates such bond for purposes of this section, and

''(D) the term of each bond which is part of such issue does not exceed 15 years.

''(2) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(A) NATIONAL LIMITATION.—There is a national qualified tribal school modernization bond limitation for each calendar year. Such limitation is—

''(i) $200,000,000 for 2004,

''(ii) $200,000,000 for 2005, and

''(iii) zero after 2005.

''(B) ALLOCATION OF LIMITATION.—The national qualified tribal school modernization bond limitation shall be allocated to Indian tribes by the Secretary of the Interior subject to the provisions of section 532 of the Jobs and Growth Tax Relief Reconciliation Act of 2003, as in effect on the date of the enactment of this section.

''(C) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under paragraph (1) with respect to any Indian tribe shall not exceed the limitation amount allocated to such government under subparagraph (B) for such calendar year.

''(D) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(i) the limitation amount under this paragraph, exceeds

''(ii) the amount of qualified tribal school modernization bonds issued during such year,

the limitation amount under this paragraph for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2012.

''(b) TRIBE.—For purposes of this section, the term 'tribe' has the meaning given the term 'Indian tribal government' by section 7701(a)(40), including the application of section 7871(d). Such term includes any consortium of tribes approved by the Secretary of the Interior.''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 1400M(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 1400M(d)(2)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) Subchapter U of chapter 1 is amended by striking part IV, by redesignating part V as part IV, and by redesignating section 1397F as section 1397E.

(2) The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''Subchapter Z. Public school modernization provisions.''.

(3) The table of parts of subchapter U of chapter 1 is amended by striking the last 2 items and inserting the following new item:

''Part IV. Regulations.''.

(d) SOVEREIGN IMMUNITY.—This section and the amendments made by this section shall not be construed to impact, limit, or affect the sovereign immunity of the Federal Government or any State or tribal government.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 2003.

(2) REPEAL OF RESTRICTION ON ZONE ACADEMY BOND HOLDERS.—In the case of bonds to which section 1397E of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of this Act) applies, the limitation of such section to eligible taxpayers (as defined in subsection (d)(6) of such section) shall not apply after the date of the enactment of this Act.

SEC. 532. INDIAN SCHOOL CONSTRUCTION.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term ''Bureau'' means the Bureau of Indian Affairs of the Department.

(2) DEPARTMENT.—The term ''Department'' means the Department of the Interior.

(3) ESCROW ACCOUNT.—The term ''escrow account'' means the tribal school modernization escrow account established under subsection (b)(6)(B)(i).

(4) INDIAN.—The term ''Indian'' means any individual who is a member of an Indian tribe.

(5) INDIAN TRIBE.—

(A) IN GENERAL.—The term ''Indian tribe'' has the meaning given the term ''Indian tribal government'' by section 7701(a)(40) of the Internal Revenue Code of 1986 (including the application of section 7871(d) of that Code).

(B) INCLUSION.—The term ''Indian tribe'' includes a consortium of Indian tribes approved by the Secretary.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) TRIBAL SCHOOL.—The term ''tribal school'' means an elementary school, secondary school, or dormitory that—

(A) is operated by a tribal organization or the Bureau for the education of Indian children; and

(B) under a contract, a grant, or an agreement, or for a Bureau-operated school, receives financial assistance to pay the costs of operation from funds made available under—

(i) section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), 458d); or

(ii) the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.).

(b) ISSUANCE OF BONDS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program under which eligible Indian tribes may issue qualified tribal school modernization bonds to provide funding for the construction, rehabilitation, or repair of tribal schools (including the advance planning and design of tribal schools).

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to issue any qualified tribal school modernization bond under the program under paragraph (1), an Indian tribe shall—

(i) prepare and submit to the Secretary a plan of construction that meets the requirements of subparagraph (B);

(ii) provide for quarterly and final inspection of the project by the Bureau; and

(iii) pledge that the facilities financed by the bond will be used primarily for elementary and secondary educational purposes for not less than the period during which the bond remains outstanding.

(B) PLAN OF CONSTRUCTION.—A plan of construction referred to in subparagraph (A)(i) meets the requirements of this subparagraph if the plan—

(i) contains a description of the construction to be carried out with funding provided under a qualified tribal school modernization bond;

(ii) demonstrates that a comprehensive survey has been completed to determine the construction needs of the tribal school involved;

(iii) contains assurances that funding under the bond will be used only for the activities described in the plan;

(iv) contains a response to the evaluation criteria contained in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999; and

(v) contains any other reasonable and related information determined to be appropriate by the Secretary.

(C) PRIORITY.—In determining whether an Indian tribe is eligible to participate in the program under this subsection, the Secretary shall give priority to an Indian tribe that, as demonstrated by the relevant plans of construction, will fund projects—

(i) described in the Education Facilities Replacement Construction Priorities List, as of fiscal year 2000, of the Bureau (65 Fed. Reg. 4623);

(ii) described in any subsequent priorities list published in the Federal Register; or

(iii) that meet the criteria for ranking schools as described in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999.

(D) ADVANCE PLANNING AND DESIGN FUNDING.—

(i) IN GENERAL.—An Indian tribe may propose in the plan of construction of the Indian tribe to receive advance planning and design funding from the escrow account.

(ii) CONDITIONS ON ALLOCATION OF FUNDS.—As a condition to the allocation to an Indian tribe of advance planning and design funds from the escrow account under clause (i), the Indian tribe shall agree—

(I) to issue qualified tribal school modernization bonds after the date of receipt of the funds; and

(II) as a condition of each bond issuance, that the Indian tribe will deposit into the escrow account, or a fund managed by the trustee as described in paragraph (4)(C), an amount equal to the amount of funds received from the escrow account.

(3) PERMISSIBLE ACTIVITIES.—In addition to the use of funds permitted under paragraph (1), an Indian tribe may use amounts received through the issuance of a qualified tribal school modernization bond—

(A) to enter into and make payments under contracts with licensed and bonded architects, engineers, and construction firms—

(i) to determine the needs of the tribal school; and

(ii) for the design and engineering of the tribal school;

(B) enter into and make payments under contracts with financial advisers, underwriters, attorneys, trustees, and other professionals who would be able to provide assistance to the Indian tribe in issuing bonds; and

(C) carry out other activities determined to be appropriate by the Secretary.

(4) BOND TRUSTEE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any qualified tribal school modernization bond issued by an Indian tribe under this subsection shall be subject to a trust agreement between the Indian tribe and a trustee.

(B) TRUSTEE.—Any bank or trust company that meets requirements established by the Secretary may be designated as a trustee under subparagraph (A).

(C) CONTENT OF TRUST AGREEMENT.—A trust agreement entered into by an Indian tribe under this paragraph shall specify that the trustee, with respect to any bond issued under this subsection, shall—

(i) act as a repository for the proceeds of the bond;

(ii) make payments to bondholders;

(iii) receive, as a condition to the issuance of the bond, a transfer of funds from the escrow account, or from other funds furnished by or on behalf of the Indian tribe, in an amount that (including interest earnings from the investment of the funds in obligations of, or fully guaranteed by, the United States, or from other investments authorized by paragraph (10)) will produce funds sufficient to timely pay in full the entire principal amount of the bond on the stated maturity date of the bond;

(iv) invest the funds transferred under clause (iii) in an investment described in that clause; and

(v)(I) hold and invest the funds transferred under clause (iii) in a segregated fund or account under the agreement; and

(II) use the fund or account solely for payment of the costs of items described in paragraph (3).

(D) REQUIREMENTS FOR MAKING DIRECT PAYMENTS.—

(i) PAYMENTS.—

(I) IN GENERAL.—Notwithstanding any other provision of law, the trustee shall make any payment referred to in subparagraph (C)(v) in accordance with such requirements as the Indian tribe shall prescribe in the trust agreement entered into under subparagraph (C).

(II) INSPECTION.—Before making a payment for a project to a contractor under subparagraph (C)(v), to ensure completion of the project, the trustee shall require an inspection of the project by—

(aa) a local financial institution; or

(bb) an independent inspecting architect or engineer.

(ii) CONTRACTS.—Each contract referred to in paragraph (3) shall specify, or be renegotiated to specify, that payments under the contract shall be made in accordance with this paragraph.

(5) PAYMENTS OF PRINCIPAL AND INTEREST.—

(A) PRINCIPAL.—

(i) IN GENERAL.—No principal payment on any qualified tribal school modernization bond shall be required under this subsection until the final, stated date on which the bond reaches maturity.

(ii) MATURITY; OUTSTANDING PRINCIPAL.—With respect to a qualified tribal school modernization bond issued under this subsection—

(I) the bond shall reach maturity not later than 15 years after the date of issuance of the bond; and

(II) on the date on which the bond reaches maturity, the entire outstanding principal under the bond shall become due and payable.

(B) INTEREST.—There shall be awarded a tax credit under section 1400M of the Internal Revenue Code of 1986 in lieu of interest on a qualified tribal school modernization bond issued under this subsection.

(6) BOND GUARANTEES.—

(A) IN GENERAL.—Payment of the principal portion of a qualified tribal school modernization bond issued under this subsection shall be guaranteed solely by amounts deposited with each respective bond trustee as described in paragraph (4)(C)(iii).

(B) ESTABLISHMENT OF ACCOUNT.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may—

(I) establish a tribal school modernization escrow account; and

(II) beginning in fiscal year 2004, deposit such funds as may be appropriated for each fiscal year into the escrow account.

(ii) TRANSFERS OF EXCESS PROCEEDS.—Excess proceeds held under any trust agreement that are not needed for any of the purposes described in clauses (iii) and (v) of paragraph (4)(C) shall be transferred, from time to time, by the trustee for deposit into the escrow account.

(iii) PAYMENTS.—The Secretary shall use any amounts deposited in the escrow account under clauses (i) and (ii)—

(I) to make payments to trustees appointed and acting in accordance with paragraph (4); or

(II) to make payments described in paragraph (2)(D).

(7) LIMITATIONS.—

(A) OBLIGATION TO REPAY.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the principal amount on any qualified tribal school modernization bond issued under this subsection shall be repaid only to the extent of any escrowed funds provided under paragraph (4)(C)(iii).

(ii) NO GUARANTEE.—No qualified tribal school modernization bond issued by an Indian tribe under this subsection shall be an obligation of, and no payment of the principal of such a bond shall be guaranteed by—

(I) the United States;

(II) the Indian tribe; or

(III) the tribal school for which the bond was issued.

(B) LAND AND FACILITIES.—No land or facility purchased or improved with amounts derived from a qualified tribal school modernization bond issued under this subsection shall be mortgaged or used as collateral for the bond.

(8) SALE OF BONDS.—A qualified tribal school modernization bond may be sold at a purchase price equal to, in excess of, or at a discount from, the par amount of the bond.

(9) TREATMENT OF TRUST AGREEMENT EARNINGS.—No amount earned through the investment of funds under the control of a trustee under any trust agreement described in paragraph (4) shall be subject to Federal income taxation.

(10) INVESTMENT OF SINKING FUNDS.—A sinking fund established for the purpose of the payment of principal on a qualified tribal school modernization bond issued under this subsection shall be invested in—

(A) obligations issued by or guaranteed by the United States; or

(B) such other assets as the Secretary of the Treasury may by regulation allow.

SEC. 533. APPLICATION OF CERTAIN LABOR STANDARDS ON CONSTRUCTION PROJECTS FINANCED UNDER PUBLIC SCHOOL MODERNIZATION PROGRAM.

Section 439 of the General Education Provisions Act (20 U.S.C. 1232b) is amended—

(1) by inserting ''(a)'' before ''All laborers and mechanics'', and

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

''(b)(1) For purposes of this section, the term 'applicable program' also includes the qualified zone academy bond provisions enacted by section 226 of the Taxpayer Relief Act of 1997 and the program established by section 531 of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

''(2) A State or local government participating in a program described in paragraph (1) shall—

''(A) in the awarding of contracts, give priority to contractors with substantial numbers of employees residing in the local education area to be served by the school being constructed; and

''(B) include in the construction contract for such school a requirement that the contractor give priority in hiring new workers to individuals residing in such local education area.

''(3) In the case of a program described in paragraph (1), nothing in this subsection or subsection (a) shall be construed to deny any tax credit allowed under such program. If amounts are required to be withheld from contractors to pay wages to which workers are entitled, such amounts shall be treated as expended for construction purposes in determining whether the requirements of such program are met.''.

SEC. 534. EMPLOYMENT AND TRAINING ACTIVITIES RELATING TO CONSTRUCTION OR RECONSTRUCTION OF PUBLIC SCHOOL FACILITIES.

(a) IN GENERAL.—Section 134 of the Workforce Investment Act of 1998 (29 U.S.C. 2864)

is amended by adding at the end the following new subsection:

''(f) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES RELATING TO CONSTRUCTION OR RECONSTRUCTION OF PUBLIC SCHOOL FACILITIES.—

''(1) IN GENERAL.—In order to provide training services related to construction or reconstruction of public school facilities receiving funding assistance under an applicable program, each State shall establish a specialized program of training meeting the following requirements:

''(A) The specialized program provides training for jobs in the construction industry.

''(B) The program provides trained workers for projects for the construction or reconstruction of public school facilities receiving funding assistance under an applicable program.

''(C) The program ensures that skilled workers (residing in the area to be served by the school facilities) will be available for the construction or reconstruction work.

''(2) COORDINATION.—The specialized program established under paragraph (1) shall be integrated with other activities under this Act, with the activities carried out under the National Apprenticeship Act of 1937 by the State Apprenticeship Council or through the Bureau of Apprenticeship and Training in the Department of Labor, as appropriate, and with activities carried out under the Carl D. Perkins Vocational and Technical Education Act of 1998. Nothing in this subsection shall be construed to require services duplicative of those referred to in the preceding sentence.

''(3) APPLICABLE PROGRAM.—In this subsection, the term 'applicable program' has the meaning given the term in section 439(b) of the General Education Provisions Act (relating to labor standards).''.

(b) STATE PLAN.—Section 112(b)(17)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)(17)(A)) is amended—

(1) in clause (iii), by striking ''and'' at the end;

(2) by redesignating clause (iv) as clause (v); and

(3) by inserting after clause (iii) the following new clause:

''(iv) how the State will establish and carry out a specialized program of training under section 134(f); and''.

On page 19, line 13, strike ''2007'' and insert ''2009''.

On page 26, line 19, strike ''2007'' and insert ''2009''.

On page 26, line 22, strike ''2007'' and insert ''2009''.

SA 619. Ms. LANDRIEU (for herself, Mr. CORZINE, and Mr. SCHUMER) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Strike all after the enacting clause and insert the following

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Jobs and Growth Reconciliation Tax Relief Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; references; table of contents.

TITLE I—WAGE TAX RELIEF

Sec. 101. Refund of employee payroll taxes.
Sec. 102. Refund of employer payroll taxes on first $10,000 of wages per employee.

TITLE II—ASSISTANCE TO STATES

Sec. 201. Temporary increase of medicaid FMAP.
Sec. 202. One-time revenue grant to States and local governments.
Sec. 203. Additional advance refundings of certain governmental bonds.

TITLE III—TAX RELIEF FOR FAMILIES

Sec. 301. Acceleration of increase in standard deduction for married taxpayers filing joint returns.
Sec. 302. Acceleration of 15-percent individual income tax rate bracket expansion for married taxpayers filing joint returns.
Sec. 303. Acceleration of increase in child tax credit
Sec. 304. Application of EGTRRA sunset to this title.

TITLE IV—TAX RELIEF FOR BUSINESS

Sec. 401. Increased expensing for small business.
Sec. 402. Small business tax credit for 50 percent of health premiums.
Sec. 403. Ready Reserve-National Guard employee credit added to general business credit.
Sec. 404. Renewal community employers may qualify for employment credit by employing residents of certain other renewal communities.

TITLE V—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

Sec. 501. Extension of the Temporary Extended Unemployment Compensation Act of 2002.
Sec. 502. Entitlement to additional weeks of temporary extended unemployment compensation.

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

Sec. 511. Federal-State agreements.
Sec. 512. Payments to States having agreements under this title.
Sec. 513. Financing provisions.
Sec. 514. Definitions.
Sec. 515. Applicability.
Sec. 516. Coordination with the Temporary Extended Unemployment Compensation Act of 2002.

Subtitle C—Railroad Unemployment Insurance

Sec. 517. Temporary increase in extended unemployment benefits under the Railroad Unemployment Insurance Act.

TITLE VI—OTHER PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 601. Clarification of economic substance doctrine.
Sec. 602. Penalty for failing to disclose reportable transaction.
Sec. 603. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 604. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 605. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 606. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 607. Disclosure of reportable transactions.
Sec. 608. Modifications to penalty for failure to register tax shelters.
Sec. 609. Modification of penalty for failure to maintain lists of investors.
Sec. 610. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 611. Understatement of taxpayer's liability by income tax return preparer.
Sec. 612. Penalty on failure to report interests in foreign financial accounts.
Sec. 613. Frivolous tax submissions.
Sec. 614. Penalty on promoters of tax shelters.
Sec. 615. Statute of limitations for taxable years for which listed transactions not reported.
Sec. 616. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.

Subtitle B—Enron-Related Tax Shelter Provisions

Sec. 621. Limitation on transfer or importation of built-in losses.
Sec. 622. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 623. Repeal of special rules for FASITS.
Sec. 624. Expanded disallowance of deduction for interest on convertible debt.
Sec. 625. Expanded authority to disallow tax benefits under section 269.
Sec. 626. Modifications of certain rules relating to controlled foreign corporations.

Subtitle C—Provisions to Discourage Corporate Expatriation

Sec. 631. Tax treatment of inverted corporate entities.
Sec. 632. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 633. Reinsurance of United States risks in foreign jurisdictions.

Subtitle D—Imposition of Customs User Fees

Sec. 641. Customs user fees.

TITLE VII—SUNSET

Sec. 701. Sunset.

TITLE I—WAGE TAX RELIEF

SEC. 101. REFUND OF EMPLOYEE PAYROLL TAXES.

(a) PAYMENT OF REFUNDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to each individual an amount equal to the lesser of—

(A) $765, or

(B) the amount of the individual's social security taxes for 2001.

(2) PAYMENT IN INSTALLMENTS.—The Secretary of the Treasury shall make the payment under paragraph (1) in two equal installments—

(A) the first of which shall be paid on the date which is 2 months after the date of the enactment of this Act, and

(B) the second of which shall be paid on December 1, 2003.

The Secretary may, after notice to the Senate and House of Representatives, make adjustments in the timing of each installment to the extent the adjustments are administratively necessary.

(3) NO INTEREST.—No interest shall be allowed on any payment required by this subsection.

(4) CERTAIN INDIVIDUALS NOT ELIGIBLE.—No payment shall be made under this subsection to—

(A) any estate or trust,

(B) any nonresident alien, or

(C) any individual with respect to whom a deduction under section 151 of such Code is allowable to another taxpayer for a taxable year beginning in 2001.

(5) SOCIAL SECURITY TAXES.—For purposes of this subsection—

(A) IN GENERAL.—The term ''social security taxes'' has the meaning given such term by section 24(d)(2) of the Internal Revenue Code of 1986.

(B) STATE AND LOCAL EMPLOYEES NOT COVERED BY SOCIAL SECURITY SYSTEM.—In the case of any individual—

(i) whose service is not treated as employment by reason of section 3121(b)(7) of such Code (relating to exemption for State and local employees), and

(ii) who, without regard to this subparagraph, has no social security taxes for 2001,

the term ''social security taxes'' shall include the individual's employee contributions to a governmental pension plan by reason of the service described in clause (i).

(b) 2002 REFUND FOR INDIVIDUALS NOT RECEIVING FULL 2001 REFUND.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end the following new section:

''SEC. 6429. REFUND OF CERTAIN 2002 PAYROLL TAXES.

''(a) IN GENERAL.—Each eligible individual shall be treated as having made a payment against the tax imposed by chapter 1 for such individual's first taxable year beginning in 2002 in an amount equal to the payroll tax refund amount for such taxable year.

''(b) PAYROLL TAX REFUND AMOUNT.—For purposes of subsection (a), the payroll tax refund amount is the excess (if any) of—

''(1) the lesser of—

''(A) $765, or

''(B) the amount of the individual's social security taxes for 2002, over

''(2) the amount of the payment to the individual under section 101(a) of the Jobs and Growth Reconciliation Tax Relief Act of 2003.

''(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual other than—

''(1) any estate or trust,

''(2) any nonresident alien, or

''(3) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in 2002.

''(d) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this section, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible and, to the extent practicable, before December 31, 2003.

''(e) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.

''(f) SOCIAL SECURITY TAXES.—For purposes of this section, the term 'social security taxes' has the meaning given such term by section 101(a)(5) of the Jobs and Growth Reconciliation Tax Relief Act of 2003.''

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of such Code is amended by adding at the end the following new item:

''Sec. 6429. Refund of certain 2002 payroll taxes.''

SEC. 102. REFUND OF EMPLOYER PAYROLL TAXES ON FIRST $10,000 OF WAGES PER EMPLOYEE.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds), as amended by section 101, is amended by adding at the end the following:

''SEC. 6430. REFUND OF EMPLOYER PAYROLL TAXES ON FIRST $10,000 OF WAGES OF AN EMPLOYEE.

''(a) GENERAL RULE.—Each employer subject to tax under section 3111 or 3221(a) with respect to employment during the payroll tax holiday period shall be treated as having made a payment against the tax imposed by chapter 1 for each taxable year which includes any portion of such period in an amount equal to the sum of the payroll tax refund amounts determined for all employees of the employer for such taxable year.

''(b) PAYROLL TAX REFUND AMOUNT.—For purposes of this section, the term 'payroll tax refund amount' means, with respect to any employee for any taxable year of an employer, the excess (if any) of—

''(1) the lesser of—

''(A) $765, or

''(B) the amount of the employer's social security taxes paid or incurred with respect to employment of the employee during any portion of the payroll tax holiday period within the taxable year, over

''(2) the amount treated as paid by the employer under this section with respect to the employee for any preceding taxable year.

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

''(1) PAYROLL TAX HOLIDAY PERIOD.—The term 'payroll tax holiday period' means the 12-month period beginning with the first month following the date of the enactment of this section. The Secretary may, after notice to the Senate and House of Representatives, delay the beginning of such period if the Secretary determines such delay is administratively necessary to provide adequate notice of the provisions of this section to employers and employees.

''(2) EMPLOYER PAYROLL TAXES.—

''(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by sections 3111 and 3221(a).

''(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

''(3) EMPLOYMENT.—The term 'employment' includes services subject to tax under chapter 22 (relating to railroad retirement taxes).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) COMMON CONTROL.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

''(2) TRADE OR BUSINESS REQUIREMENT.—This section shall not apply to employer payroll taxes paid with respect to an employee unless more than one-half of the employee's remuneration is for services performed in a trade or business of the employer. Any determination under this subparagraph shall be made without regard to subsections (a) and (b) of section 52.''

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

''Sec. 6430. Refund of employer payroll taxes on first $10,000 of wages of an employee.''

TITLE II—ASSISTANCE TO STATES

SEC. 201. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2004, before the application of this section.

(c) GENERAL 2.45 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), for each State for the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 2.45 percentage points.

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to subsection (f), with respect to the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 4.90 percent of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(f) STATE ELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as

defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) REPEAL.—Effective as of October 1, 2004, this section is repealed.

SEC. 202. ONE-TIME REVENUE GRANT TO STATES AND LOCAL GOVERNMENTS.

(a) APPROPRIATION.—There is authorized to be appropriated and is appropriated to carry out this section $30,000,000,000 for fiscal year 2003.

(b) PAYMENTS TO STATES.—

(1) IN GENERAL.—From the amount appropriated under subsection (a) for fiscal year 2003, the Secretary of the Treasury shall, as soon as practicable after the date of the enactment of this Act, pay with respect to a State, the sum of the amounts determined for the State under paragraphs (2), (3), and (4).

(2) FUNDING TO MEET THE REQUIREMENTS OF THE NO CHILD LEFT BEHIND ACT.—$7,500,000,000 shall be paid to States in the same manner as allocations are made with respect to States under section 1122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6332).

(3) FUNDING FOR CHILD CARE FOR LOW-INCOME FAMILIES.—$3,000,000,000 shall be paid to States in the same manner as allocations are made with respect to States under section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m).

(4) FUNDING FOR OTHER STATE PRIORITIES.—

(A) 50 PERCENT BASED ON POPULATION.—$4,875,000,000 shall be allotted among such States on the basis of the relative population of each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(B) 50 PERCENT BASED ON CHANGE IN UNEMPLOYMENT RATE.—

(i) TIER 1.—$1,220,000,000 shall be allotted among such States which have experienced a tier 1 unemployment rate on the basis of the relative number of unemployed individuals for calendar year 2002 in each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(ii) TIER 2.—$3,655,000,000 shall be allotted among such States which have experienced a tier 2 unemployment rate on the basis of the relative number of unemployed individuals for calendar year 2002 in each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(C) GUIDELINES FOR USE OF FUNDS.—It is the sense of Congress that States should use funds paid under this paragraph for homeland security, public health, highway construction, and the prevention of additional property and other tax increases.

(c) PAYMENTS TO UNITS OF GENERAL LOCAL GOVERNMENT.—

(1) IN GENERAL.—From the amount appropriated under subsection (a) for fiscal year 2003, the Secretary of the Treasury shall, as soon as practicable after the date of the enactment of this Act, pay with respect to a unit of general local government, the sum of the amounts determined for the unit of general local government under paragraphs (2) and (3).

(2) PERCENT BASED ON POPULATION.—$4,875,000,000 shall be allotted among such States as determined under subsection (b)(4)(A) for distribution to the various units of general local government within such States on the basis of the relative population of each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(3) 50 PERCENT BASED ON CHANGE IN UNEMPLOYMENT RATE.—

(i) TIER 1.—$1,220,000,000 shall be allotted among such States which have experienced a tier 1 unemployment rate as determined under subsection (b)(4)(B)(i) for distribution to the various units of general local government within such States on the basis of the relative number of unemployed individuals for calendar year 2002 in each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(ii) TIER 2.—$3,655,000,000 shall be allotted among such States which have experienced a tier 2 unemployment rate as determined under subsection (b)(4)(B)(ii) for distribution to the various units of general local government within such States on the basis of the relative number of unemployed individuals for calendar year 2002 in each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(4) GUIDELINES FOR USE OF FUNDS.—It is the sense of Congress that units of general local government should use funds paid in accordance with this subsection for homeland security, public health, highway construction, and the prevention of additional property and other tax increases.

(d) DEFINITIONS.—For purposes of this section—

(1) STATE.—The term ''State'' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term ''unit of general local government'' means—

(i) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(ii) the District of Columbia, the Commonwealth of Puerto Rico, and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(B) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this section, the rules under section 6720(c) of title 31, United States Code, shall apply.

(3) UNEMPLOYMENT.—With respect to any State or unit of general local government—

(A) TIER 1 UNEMPLOYMENT RATE.—The term ''tier 1 unemployment rate'' means an unemployment rate for calendar year 2002 which was at least .4 but not more than 1.0 percentage point greater than such rate for calendar year 2000.

(B) TIER 2 UNEMPLOYMENT RATE.—The term ''tier 2 unemployment rate'' means an unemployment rate for calendar year 2002 which was more than 1.0 percentage point greater than such rate for calendar year 2000.

SEC. 203. ADDITIONAL ADVANCE REFUNDINGS OF CERTAIN GOVERNMENTAL BONDS.

(a) IN GENERAL.—Section 149(d)(3)(A)(i) (relating to advance refundings of other bonds) is amended—

(1) by striking ''or'' at the end of subclause (I),

(2) by adding ''or'' at the end of subclause (II), and

(3) by inserting after subclause (II) the following:

''(III) the 2nd advance refunding of the original bond if the original bond was issued after 1985 or the 3rd advance refunding of the original bond if the original bond was issued before 1986, if, in either case, the refunding bond is issued before the date which is 2 years after the date of the enactment of this subclause and the original bond was issued as part of an issue 90 percent or more of the net proceeds of which were used to finance governmental facilities used for 1 or more essential governmental functions (within the meaning of section 141(c)(2)),''.

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

TITLE III—TAX RELIEF FOR FAMILIES

SEC. 301. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:

''(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

''(A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—

''(i) a joint return, or

''(ii) a surviving spouse (as defined in section 2(a)),

''(B) $4,400 in the case of a head of household (as defined in section 2(b)), or

''(C) $3,000 in any other case.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 63(c)(4) is amended by striking ''(2)(D)'' each place it occurs and inserting ''(2)(C)''.

(2) Section 63(c) is amended by striking paragraph (7).

(3) Section 301(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2002''.

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

SEC. 302. ACCELERATION OF 15-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET EXPANSION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (8) of section 1(f) (relating to phaseout of marriage penalty in 15-percent bracket) is amended to read as follows:

''(8) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—With respect to taxable years beginning after December 31, 2002, in prescribing the tables under paragraph (1)—

''(A) the maximum taxable income in the 15 percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and

''(B) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under subparagraph (A).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (f) of section 1 is amended by striking ''PHASEOUT'' and inserting ''ELIMINATION''.

(2) Section 302(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2002''.

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

SEC. 303. ACCELERATION OF INCREASE IN CHILD TAX CREDIT

(a) IN GENERAL.—The table contained in section 24(a)(2) (relating to per child amount) is amended to read as follows:

''In the case of any taxable year beginning in—	**The per child amount is—**
2003, 2004, or 2005	800
2006 or thereafter	1,000.''.

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

SEC. 304. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE IV—TAX RELIEF FOR BUSINESS

SEC. 401. INCREASED EXPENSING FOR SMALL BUSINESS.

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2008).''.

(b) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) (relating to reduction in limitation) is amended by inserting ''($400,000 in the case of taxable years beginning after 2002 and before 2008)'' after ''$200,000''.

(c) OFF-THE-SHELF COMPUTER SOFTWARE.—Paragraph (1) of section 179(d) (defining section 179 property) is amended to read as follows:

''(1) SECTION 179 PROPERTY.—For purposes of this section, the term 'section 179 property' means property—

''(A) which is—

''(i) tangible property (to which section 168 applies), or

''(ii) computer software (as defined in section 197(e)(3)(B)) which is described in section 197(e)(3)(A)(i), to which section 167 applies, and which is placed in service in a taxable year beginning after 2002 and before 2008,

''(B) which is section 1245 property (as defined in section 1245(a)(3)), and

''(C) which is acquired by purchase for use in the active conduct of a trade or business. Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units.''.

(d) ADJUSTMENT OF DOLLAR LIMIT AND PHASEOUT THRESHOLD FOR INFLATION.—Subsection (b) of section 179 (relating to limitations) is amended by adding at the end the following new paragraph:

''(5) INFLATION ADJUSTMENTS.—

''(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003 and before 2008, the $100,000 and $400,000 amounts in paragraphs (1) and (2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—

''(i) DOLLAR LIMITATION.—If the amount in paragraph (1) as increased under subparagraph (A) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

''(ii) PHASEOUT AMOUNT.—If the amount in paragraph (2) as increased under subparagraph (A) is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(e) REVOCATION OF ELECTION.—Paragraph (2) of section 179(c) (relating to election irrevocable) is amended to read as follows:

''(2) REVOCATION OF ELECTION.—An election under paragraph (1) with respect to any taxable year beginning after 2002 and before 2008, and any specification contained in any such election, may be revoked by the taxpayer with respect to any property. Such revocation, once made, shall be irrevocable.''.

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

SEC. 402. SMALL BUSINESS TAX CREDIT FOR 50 PERCENT OF HEALTH PREMIUMS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified small employer, the employee health insurance expenses credit determined under this section is an amount equal to the applicable percentage of the amount paid by the taxpayer during the taxable year for qualified employee health insurance expenses.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is equal to—

''(1) 50 percent in the case of an employer with less than 26 qualified employees,

''(2) 40 percent in the case of an employer with more than 25 but less than 36 qualified employees, and

''(3) 30 percent in the case of an employer with more than 35 but less than 51 qualified employees.

''(c) PER EMPLOYEE DOLLAR LIMITATION.—The amount of qualified employee health insurance expenses taken into account under subsection (a) with respect to any qualified employee for any taxable year shall not exceed the maximum employer contribution for self-only coverage or family coverage (as applicable) determined under section 8906(a) of title 5, United States Code, for the calendar year in which such taxable year begins.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'qualified small employer' means any small employer which provides eligibility for health insurance coverage (after any waiting period (as defined in section 9801(b)(4)) to all qualified employees of the employer.

''(B) SMALL EMPLOYER.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of not less than 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under clause (i) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by paragraph (1) of section 9832(b) (determined by disregarding the last sentence of paragraph (2) of such section).

''(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an employee of an employer who, with respect to any period, is not provided health insurance coverage under—

''(A) a health plan of the employee's spouse,

''(B) title XVIII, XIX, or XXI of the Social Security Act,

''(C) chapter 17 of title 38, United States Code,

''(D) chapter 55 of title 10, United States Code,

''(E) chapter 89 of title 5, United States Code, or

''(F) any other provision of law.

''(4) EMPLOYEE—.The term 'employee'—

''(A) means any individual, with respect to any calendar year, who is reasonably expected to receive at least $5,000 of compensation from the employer during such year,

''(B) does not include an employee within the meaning of section 401(c)(1), and

''(C) includes a leased employee within the meaning of section 414(n).

''(5) COMPENSATION.—The term 'compensation' means amounts described in section 6051(a)(3).

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employee health insurance expenses taken into account under subsection (a).

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2003.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the employee health insurance expenses credit determined under section 45G.''.

(c) CREDIT ALLOWED AGAINST MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR EMPLOYEE HEALTH INSURANCE CREDIT.—

''(A) IN GENERAL.—In the case of the employee health insurance credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the employee health insurance credit).

''(B) EMPLOYEE HEALTH INSURANCE CREDIT.—For purposes of this subsection, the term 'employee health insurance credit' means the credit allowable under subsection (a) by reason of section 45G(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by striking ''(other'' and all that follows through ''credit)'' and inserting ''(other than the empowerment zone employment credit or the employee health insurance credit)''.

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

''(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45G. Employee health insurance expenses.''.

(f) EMPLOYER OUTREACH.—The Internal Revenue Service shall, in conjunction with the Small Business Administration, develop materials and implement an educational program to ensure that business personnel are aware of—

(1) the eligibility criteria for the tax credit provided under section 45G of the Internal Revenue Code of 1986 (as added by this section),

(2) the methods to be used in calculating such credit,

(3) the documentation needed in order to claim such credit, and

(4) any available health plan purchasing alliances established under title II,

so that the maximum number of eligible businesses may claim the tax credit.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 403. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 402, is amended by adding at the end the following:

''SEC. 45H. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—

''(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

''(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

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

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve or of the National Guard.

''(4) NATIONAL GUARD.—The term 'National Guard' has the meaning given such term by section 101(c)(1) of title 10, United States Code.

''(5) READY RESERVE.—The term 'Ready Reserve' has the meaning given such term by section 10142 of title 10, United States Code.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by section 403, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following:

''(17) the Ready Reserve-National Guard employee credit determined under section 45H(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 403, is amended by adding at the end the following:

''Sec. 45H. Ready Reserve-National Guard employee credit.''.

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

SEC. 404. RENEWAL COMMUNITY EMPLOYERS MAY QUALIFY FOR EMPLOYMENT CREDIT BY EMPLOYING RESIDENTS OF CERTAIN OTHER RENEWAL COMMUNITIES.

(a) IN GENERAL.—Section 1400H(b)(2) (relating to modification) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) subsection (d)(1)(B) thereof shall be applied by substituting 'such renewal community, an adjacent renewal community within the same State as such renewal community, or a renewal community within such State which is within 5 miles of any border of such renewal community' for 'such empowerment zone'.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 101(a) of the Community Renewal Tax Relief Act of 2000.

TITLE V—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

SEC. 501. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3), is amended—

(1) in subsection (a)(2), by striking ''before June 1'' and inserting ''on or before November 30'';

(2) in subsection (b)(1), by striking ''May 31, 2003'' and inserting ''November 30, 2003'';

(3) in subsection (b)(2)—

(A) in the heading, by striking ''MAY 31, 2003'' and inserting ''NOVEMBER 30, 2003''; and

(B) by striking ''May 31, 2003'' and inserting ''November 30, 2003''; and

(4) in subsection (b)(3), by striking ''August 30, 2003'' and inserting ''February 28, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. 502. ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) ENTITLEMENT TO ADDITIONAL WEEKS.—

(1) IN GENERAL.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(A) in subparagraph (A), by striking ''50 percent'' and inserting ''100 percent''; and

(B) in subparagraph (B), by striking ''13 times'' and inserting ''26 times''.

(2) REPEAL OF RESTRICTION ON AUGMENTATION DURING TRANSITIONAL PERIOD.—Section 208(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 301(a), is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''; and

(ii) by inserting before the period at the end the following: '', including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) EXTENSION OF TRANSITION LIMITATION.—Section 208(b)(2) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 301(a)(4) and as redesignated by paragraph (2), is amended by striking ''February 28, 2004'' and inserting ''May 29, 2004''.

(4) CONFORMING AMENDMENT FOR AUGMENTED BENEFITS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by striking ''the amount originally established in such account (as determined under subsection (b)(1))'' and inserting ''7 times the individual's average weekly benefit amount for the benefit year''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendments made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ''TEUC–X amounts'') prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as ''TEUC amounts'').

(3) APPLICATION TO EXHAUSTEES AND CURRENT BENEFICIARIES.—

(A) EXHAUSTEES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account) before such date,

such individual's eligibility for any additional weeks of temporary extended unemployment compensation by reason of the amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(B) CURRENT BENEFICIARIES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) as to whom the condition described in subparagraph (A)(ii) does not apply,

such individual shall be eligible for temporary extended unemployment compensation (in accordance with the provisions of the Temporary Extended Unemployment Compensation Act of 2002, as amended by subsection (a)) with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(4) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM SUCH A DETERMINATION WAS MADE PRIOR TO THE DATE OF ENACTMENT.—Any determination of whether the individual's State is in an extended benefit period under section 203(c) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) made prior to the date of enactment of this Act shall be disregarded and the determination under such section shall be made as follows:

(A) INDIVIDUALS WHO EXHAUSTED ALL TEUC AND TEUC–X AMOUNTS PRIOR TO THE DATE OF ENACTMENT.—In the case of an individual whose temporary extended unemployment account has, prior to the date of enactment of this Act, been both augmented under such section 203(c) and exhausted of all amounts by which it was so augmented, the determination shall be made as of such date of enactment.

(B) ALL OTHER INDIVIDUALS.—In the case of an individual who is not described in subparagraph (A), the determination shall be made at the time that the individual's account established under such section 203, as amended by subsection (a), is exhausted.

(5) NO EFFECT ON PROVISIONS RELATED TO DISPLACED AIRLINE RELATED WORKERS.—The amendments made by this section and section 301 shall have no effect on the provisions of section 4002 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11).

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

SEC. 511. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Subject to paragraph (3), any agreement under subsection (a) shall provide that the State agency of the State, in addition to any amounts of regular compensation to which an individual may be entitled under the State law, shall make payments of temporary enhanced regular unemployment compensation to an individual in an amount and to the extent that the individual would be entitled to regular compensation if the State law were applied with the modifications described in paragraph (2).

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) In the case of an individual who is not eligible for regular compensation under the State law because of the use of a definition of base period that does not count wages earned in the most recently completed calendar quarter, then eligibility for compensation shall be determined by applying a base period ending at the close of the most recently completed calendar quarter.

(B) In the case of an individual who is not eligible for regular compensation under the State law because such individual does not meet requirements relating to availability for work, active search for work, or refusal to accept work, because such individual is seeking, or is available for, less than full-time work, then compensation shall not be denied by such State to an otherwise eligible individual who seeks less than full-time work or fails to accept full-time work.

(3) REDUCTION OF AMOUNTS OF REGULAR COMPENSATION AVAILABLE FOR INDIVIDUALS WHO SOUGHT PART-TIME WORK OR FAILED TO ACCEPT FULL-TIME WORK.—Any agreement under subsection (a) shall provide that the State agency of the State shall reduce the amount of regular compensation available to an individual who has received temporary enhanced regular unemployment compensation as a result of the application of the modification described in paragraph (2)(B) by the amount of such temporary enhanced regular unemployment compensation.

(c) COORDINATION RULE.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

SEC. 512. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any temporary enhanced regular unemployment compensation; and

(2) 100 percent of any regular compensation which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in subparagraphs (A) and (B) of section 311(b)(2), but only to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 311(b)(1), have been reimbursable under paragraph (1).

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 513. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (as so established), or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 502(a)) and certified by the Secretary to the Secretary of the Treasury.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 514. DEFINITIONS.

For purposes of this title, the terms ''compensation'', ''base period'', ''regular compensation'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. 515. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before July 1, 2004.

(b) PHASE-OUT OF TERUC.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual who has established eligibility for temporary enhanced regular unemployment compensation, but who has not exhausted all rights to such compensation, as of the last day of the week ending before July 1, 2004, such compensation shall continue to be payable to such individual for any week beginning after such

date for which the individual meets the eligibility requirements of this title.

(2) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after December 31, 2004.

SEC. 516. COORDINATION WITH THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—The Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended—

(1) in section 202(b)(1), by inserting '', and who have exhausted all rights to temporary enhanced regular unemployment compensation'' before the semicolon at the end;

(2) in section 202(b)(2), by inserting '', temporary enhanced regular unemployment compensation,'' after ''regular compensation'';

(3) in section 202(c), by inserting ''(or, as the case may be, such individual's rights to temporary enhanced regular unemployment compensation)'' after ''State law'' in the matter preceding paragraph (1);

(4) in section 202(c)(1), by inserting ''and no payments of temporary enhanced regular unemployment compensation can be made'' after ''under such law'';

(5) in section 202(d)(1), by inserting ''or the amount of any temporary enhanced regular unemployment compensation (including dependents' allowances) payable to such individual for such a week,'' after ''total unemployment'';

(6) in section 202(d)(2)(A), by inserting '', or, as the case may be, to temporary enhanced regular unemployment compensation,'' after ''State law'';

(7) in section 203(b)(1)(A), by inserting ''plus the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''under such law''; and

(8) in section 203(b)(2), by inserting ''or the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''total unemployment''.

(b) AMOUNT OF TEUC OFFSET BY AMOUNT OF TERUC.—Section 203(b)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting a comma; and

(2) by adding at the end the following:

''minus the number of weeks in which the individual was entitled to temporary enhanced regular unemployment compensation as a result of the application of the modification described in section 511(b)(2)(A) of the Jobs and Growth Reconciliation Tax Relief Act of 2003 (relating to the alternative base period) multiplied by the individual's average weekly benefit amount for the benefit year.''.

(c) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION DEFINED.—Section 207 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

''SEC. 207. DEFINITIONS.

''In this title:

''(1) GENERAL DEFINITIONS.—The terms 'compensation', 'regular compensation', 'extended compensation', 'additional compensation', 'benefit year', 'base period', 'State', 'State agency', 'State law', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(2) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION.—The term 'temporary enhanced regular unemployment compensation' means temporary enhanced regular unemployment benefits payable under title V of the Jobs and Growth Reconciliation Tax Relief Act of 2003.''.

Subtitle C—Railroad Unemployment Insurance

SEC. 517. TEMPORARY INCREASE IN EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 2(c)(2) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)(2)) is amended by adding at the end the following:

''(D) TEMPORARY INCREASE IN EXTENDED UNEMPLOYMENT BENEFITS.—

''(i) EMPLOYEES WITH 10 OR MORE YEARS OF SERVICE.—Subject to clause (iii), in the case of an employee who has 10 or more years of service (as so defined), with respect to extended unemployment benefits—

''(I) subparagraph (A) shall be applied by substituting ''130 days of unemployment'' for ''65 days of unemployment''; and

''(II) subparagraph (B) shall be applied by inserting ''(or, in the case of unemployment benefits, 13 consecutive 14-day periods'' after ''7 consecutive 14-day periods''.

''(ii) EMPLOYEES WITH LESS THAN 10 YEARS OF SERVICE.—Subject to clause (iii), in the case of an employee who has less than 10 years of service (as so defined), with respect to extended unemployment benefits, this paragraph shall apply to such an employee in the same manner as this paragraph would apply to an employee described in clause (i) if such clause had not been enacted.

''(iii) APPLICATION.—The provisions of clauses (i) and (ii) shall apply to—

''(I) an employee who received normal benefits for days of unemployment under this Act during the period beginning on July 1, 2002, and ending on November 30, 2003; and

''(II) days of unemployment beginning on or after the date of enactment of Jobs and Growth Reconciliation Tax Relief Act of 2003.''.

TITLE VI—OTHER PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 601. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

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

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—A lessor of tangible property subject to a lease shall be treated as satisfying the requirements of paragraph (1)(B)(ii) with respect to the leased property if such lease satisfies such requirements as provided by the Secretary.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into on or after May 8, 2003.

SEC. 602. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

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

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

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

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

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

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

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

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 603. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable

transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

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

SEC. 604. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements 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).''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into on or after May 8, 2003.

SEC. 605. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''.

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

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

SEC. 606. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 607. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

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

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

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

SEC. 608. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 609. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's

request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

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

SEC. 610. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''.

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 611. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

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

SEC. 612. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 613. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 614. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

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

SEC. 615. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 616. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''.

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

Subtitle B—Enron-Related Tax Shelter Provisions

SEC. 621. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

''(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.''.

''(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

''(A) IN GENERAL.—If—

''(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 622. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 623. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking ‘‘, and any regular interest in a FASIT,’’.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding ‘‘and’’ at the end of subparagraph (B), by striking ‘‘, and’’ at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking ‘‘REMIC, or FASIT’’ and inserting ‘‘or REMIC’’.

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding ‘‘and’’ at the end of clause (ix), by striking ‘‘, and’’ at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary’s delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 624. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking ‘‘or a related party’’ and inserting ‘‘or equity held by the issuer (or any related party) in any other person’’.

(b) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

‘‘(4) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term ‘disqualified debt instrument’ does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term ‘dealer in securities’ has the meaning given such term by section 475.’’.

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking ‘‘or a related party’’ in the material preceding subparagraph (A) and inserting ‘‘or any other person’’.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 625. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

‘‘(a) IN GENERAL.—If—

‘‘(1)(A) any person acquires stock in a corporation, or

‘‘(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

‘‘(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance.’’.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 626. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence:

‘‘Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period.’’.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

Subtitle C—Provisions to Discourage Corporate Expatriation

SEC. 631. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

‘‘SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

‘‘(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

‘‘(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

‘‘(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

‘‘(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

‘‘(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

‘‘(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

‘‘(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

‘‘(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group. Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation’s stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

‘‘(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

‘‘(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

‘‘(A) subsection (a)(2)(A) were applied by substituting ‘after December 31, 1996, and on or before March 20, 2002’ for ‘after March 20, 2002’ and subsection (a)(2)(B) were applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’, or

‘‘(B) subsection (a)(2)(B) were applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’,

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

‘‘(2) ACQUIRED ENTITY.—For purposes of this section—

‘‘(A) IN GENERAL.—The term ‘acquired entity’ means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

‘‘(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

‘‘(3) APPLICABLE PERIOD.—For purposes of this section—

‘‘(A) IN GENERAL.—The term ‘applicable period’ means the period—

‘‘(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

‘‘(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

‘‘(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

‘‘(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

‘‘(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

‘‘(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

‘‘(A) the amount of the inversion gain for the taxable year, and

‘‘(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

‘‘(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

''(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

''(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

''(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

''(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

''(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

''(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

''(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

''(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

''(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

''(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

''(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

''(E) TAX COURT REVIEW.—

''(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

''(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

''(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is

under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking ''and'' at the end of subparagraph (C), by inserting ''and'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,''.

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking ''or (D)'' and inserting '', (D), or (E)''.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(e) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 632. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

''(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

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

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

''(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A

directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 633. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle D—Imposition of Customs User Fees

SEC. 641. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2013''.

TITLE VII—SUNSET

SEC. 701. SUNSET.

(a) IN GENERAL.—Except as otherwise provided, the provisions of, and amendments made, by this Act shall not apply to taxable years beginning after December 31, 2012, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such amendments had never been enacted.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following provisions of, and amendments made, by this Act:

(1) Title III.

(2) Title VI.

SA 620. Ms. LANDRIEU proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end of subtitle C of title V add the following:

SEC. ___. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45G. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—

''(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

''(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

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

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve or of the National Guard.

''(4) NATIONAL GUARD.—The term 'National Guard' has the meaning given such term by section 101(c)(1) of title 10, United States Code.

''(5) READY RESERVE.—The term 'Ready Reserve' has the meaning given such term by section 10142 of title 10, United States Code.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the Ready Reserve-National Guard employee credit determined under section 45G(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45F the following:

''Sec. 45G. Ready Reserve-National Guard employee credit.''.

(d) REVISION OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—Section 116(a)(2)(B) of the Internal Revenue Code of 1986, as added by section 201, is amended by striking ''2007'' and inserting ''2008''.

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

SA 621. Ms. LANDRIEU proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end of subtitle C of title V add the following:

SEC. ___. RENEWAL COMMUNITY EMPLOYERS MAY QUALIFY FOR EMPLOYMENT CREDIT BY EMPLOYING RESIDENTS OF CERTAIN OTHER RENEWAL COMMUNITIES.

(a) IN GENERAL.—Section 1400H(b)(2) (relating to modification) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) subsection (d)(1)(B) thereof shall be applied by substituting 'such renewal community, an adjacent renewal community within the same State as such renewal community, or a renewal community within such State which is within 5 miles of any border of such renewal community' for 'such empowerment zone'.''.

(b) REDUCTION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar year 2003, 35.1% shall be substituted for such year.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall take effect as if included in the amendment made by section 101(a) of the Community Renewal Tax Relief Act of 2000.

(2) Subsection (b) shall take effect on the date of enactment of this Act.

SA 622. Mr. ENSIGN proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

On page 281, between lines 2 and 3, insert the following:

SEC. ___. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

''SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

''(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

''(1) the taxpayer's excess qualified foreign distribution amount, and

''(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for such taxable year.

''(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

''(A) dividends received by the taxpayer during the taxable year which are—

''(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

''(ii) described in a domestic reinvestment plan approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends

and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, which plan shall provide for the reinvestment of such dividends in the United States, including as a source for the funding of worker hiring and training; infrastructure; research and development; capital investments; or the financial stabilization of the corporation for the purposes of job retention or creation, over

''(B) the base dividend amount.

''(2) BASE DIVIDEND AMOUNT.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

''(3) FIXED BASE PERIOD.—

''(A) IN GENERAL.—The term 'fixed base period' means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

''(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

''(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

''(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall mean such shorter period representing all of the taxable years of the taxpayer ending on or before December 31, 2002.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DIVIDENDS.—The term 'dividend' means a dividend as defined in section 316, except that the term shall also include amounts described in section 951(a)(1)(B), and shall exclude amounts described in sections 78 and 959.

''(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' shall have the same meaning as under section 957(a) and the term 'United States shareholder' shall have the same meaning as under section 951(b).

''(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent.

''(4) FOREIGN TAX CREDIT LIMITATION.—For all purposes of section 904, there shall be disregarded 85 percent of—

''(A) the excess qualified foreign distribution amount,

''(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

''(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

''(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

''(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer in applying the rules of this section.

''(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

''(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

''(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

''(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

''(d) ELECTION.—

''(1) IN GENERAL.—An election under this section shall be made on the taxpayer's timely filed income tax return for the taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

''(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

''(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer, and shall apply to all members of the affiliated group.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

''Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.''.

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section, other than the amendment made by subsection (d), shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

(e) TERMINATION OF REHABILITATION CREDIT.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

''(e) TERMINATION.—This section shall not apply to expenditures incurred after December 31, 2003.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday May 14, 2003. The purpose of this hearing will be to discuss the implementation of the 2002 Farm Bill.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday May 14, 2003, at 9:30 a.m., on the *Columbia* investigation in SR–253.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday May 14, 2003, at 9:30 a.m., for a hearing entitled ''Tissue Banks: The Dangers of Tainted Tissues and the Need for Federal Regulations.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday May 14, 2003. The following agenda will be considered:

Agenda

S. 754, Improved Vaccine Affordability and Availability Act.

S. , Genetics Non-Discrimination Act.

S. 888, Reauthorization of the Museum and Libraries Services Act.

S. 1015, The Mosquito Abatement for Safety and Health Act (MASH).

S. 686, The Poison Control Center Enhancement and Awareness Act Amendments.

S. 504, American History and Civics Education Act of 2003.

Nominations: John E. Buchanan, Jr., of Oregon, to be a Member of the National Museum Services Board; Mary Lucille Jordan, of Maryland, to be a Member of the Federal Mine Safety and Health Review Commission; Michael Schwartz, of Illinois, to be a Member of the Railroad Retirement Board; and Stanley Suboleski, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission.

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