SA 676. Mr. DURBIN proposed an amendment to the bill H.R. 1298, supra.

SA 677. Mr. LEAHY (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 1298, supra; which was ordered to lie on the table.

SA 678. Mr. DORGAN (for himself, Mr. LEAHY, Mr. DASCHLE, Mr. NELSON of Florida, and Mr. HARKIN) proposed an amendment to the bill H.R. 1298, supra.

SA 679. Mr. LAUTENBERG (for himself, Mr. REID, Mr. CORZINE, Mr. LEAHY, Mrs. MURRAY, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 1298, supra; which was ordered to lie on the table.

SA 680. 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.

SA 681. Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. LEVIN, Mr. SCHUMER, Mr. PRYOR, and Mr. JOHNSON) proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV, tuberculosis, and malaria, and for other purposes.

SA 682. Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. DURBIN, Mrs. CLINTON, Mr. JEFFORDS, Mr. HARKIN, Mr. LAUTENBERG, Mr. REID, Mr. SCHUMER, Mr. CORZINE, Mrs. BOXER, Mr. FEINGOLD, and Mr. BIDEN) proposed an amendment to the bill H.R. 1298, supra.

SA 683. Mr. FRIST (for Mr. DODD) proposed an amendment to the bill S. 535, to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty.

SA 684. Mrs. BOXER proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

SA 685. Mr. DODD proposed an amendment to the bill H.R. 1298, supra.

SA 686. Mr. BIDEN (for himself and Mr. LEAHY) proposed an amendment to the bill H.R. 1298, supra.

TEXT OF AMENDMENTS

SA 623. 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:

On page 281, between lines 2 and 3, insert the following:

SEC. ___. $2,500,000,000 INCREASE IN NEW MARKETS TAX CREDIT FOR 2003.

(a) IN GENERAL.—The table contained in paragraph (1) of section 45D(f) (relating to national limitation on amount of investments designated) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by striking subparagraph (B) and inserting the following new subparagraphs:

''(B) $1,500,000,000 for 2002,

''(C) $4,000,000,000 for 2003,''.

(b) ALLOCATION RULES.—Section 45D(f)(2) (relating to allocation of limitation) is amended by adding at the end the following new flush sentence:

''For purposes of the preceding sentence, $2,500,000,000 of the new markets tax credit limitation for 2003 shall be allocated within 18 months after the date of the enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003 by the Community Development Financial Institutions Fund.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 2002.

On page 19, lines 12 and 13, strike ''(20 percent in the case of taxable years beginning after 2007)'' and insert ''(15 percent in the case of taxable years beginning after 2007 and 20 percent in the case of taxable years beginning after 2008)''.

On page 26, lines 18 and 19, strike ''(80 percent in the case of taxable years beginning after 2007)'' and insert ''(85 percent in the case of taxable years beginning after 2007 and 80 percent in the case of taxable years beginning after 2008)''.

On page 26, lines 21 and 22, strike ''(80 percent in the case of taxable years beginning after 2007)'' and insert ''(85 percent in the case of taxable years beginning after 2007 and 80 percent in the case of taxable years beginning after 2008)''.

SA 624. Mr. BAUCUS proposed an amendment SA 555 proposed by Mr. GRASSLEY 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 2, strike line 13 and insert:

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

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

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

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''misdemeanor'' and inserting ''felony'', and

(ii) by striking ''1 year'' and inserting ''10 years'', and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

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

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

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

(c) EFFECTIVE DATE.—The amendments made by

* * * * *

SA 625. Mr. HATCH (for himself, Mr. BREAUX, Mrs. LINCOLN, Mr. SMITH, and Mr. ALLARD) 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 title V add the following:

Subtitle D—Provisions Relating To S Corporation Reform and Simplification

PART I—MAXIMUM NUMBER OF SHAREHOLDERS OF AN S CORPORATION

SEC. 541. MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.

(a) IN GENERAL.—Paragraph (1) of section 1361(c) (relating to special rules for applying subsection (b)) is amended to read as follows:

''(1) MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.—

''(A) IN GENERAL.—For purpose of subsection (b)(1)(A)—

''(i) except as provided in clause (ii), a husband and wife (and their estates) shall be treated as 1 shareholder, and

''(ii) in the case of a family with respect to which an election is in effect under subparagraph (E), all members of the family shall be treated as 1 shareholder.

''(B) MEMBERS OF THE FAMILY.—For purpose of subparagraph (A)(ii), the term 'members of the family' means the common ancestor, lineal descendants of the common ancestor and the spouses of such lineal descendants or common ancestor.

''(C) COMMON ANCESTOR.—For purposes of this paragraph, an individual shall not be considered a common ancestor if, as of the later of the effective date of this paragraph or the time the election under section 1362(a) is made, the individual is more than 6 generations removed from the youngest generation of shareholders.

''(D) EFFECT OF ADOPTION, ETC.—In determining whether any relationship specified in subparagraph (B) or (C) exists, the rules of section 152(b)(2) shall apply.

''(E) ELECTION.—An election under subparagraph (A)(ii)—

''(i) must be made with the consent of all persons who are shareholders (including those that are family members) in the corporation on the day the election is made,

''(ii) in the case of—

''(I) an electing small business trust, shall be made by the trustee of the trust, and

''(II) a qualified subchapter S trust, shall be made by the beneficiary of the trust,

''(iii) under regulations, shall remain in effect until terminated, and

''(iv) shall apply only with respect to 1 family in any corporation.''.

(b) RELIEF FROM INADVERTENT INVALID ELECTION OR TERMINATION.—Section 1362(f) (relating to inadvertent invalid elections or terminations), as amended by this Act, is amended—

(1) by inserting ''or under section 1361(c)(1)(A)(ii)'' after ''section 1361(b)(3)(B)(ii)'' in paragraph (1), and

(2) by inserting ''or under section 1361(c)(1)(E)(iii)'' after ''section 1361(b)(3)(C)'' in paragraph (1)(B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 542. INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 100.

(a) IN GENERAL.—Section 1361(b)(1)(A) (defining small business corporation) is amended by striking ''75'' and inserting ''100''.

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

SEC. 543. NONRESIDENT ALIENS ALLOWED AS BENEFICIARIES OF AN ELECTING SMALL BUSINESS TRUST.

(a) IN GENERAL.—Section 1361(e)(1)(A)(i)(I) is amended by inserting ''(including a nonresident alien individual)'' after ''individual''.

(b) CONFORMING AMENDMENT.—Clause (v) of section 1361(c)(2)(B) is amended by adding at the end the following new sentence: ''This clause shall not apply for purposes of subsection (b)(1)(C).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART II—TERMINATION OF ELECTION AND ADDITIONS TO TAX DUE TO PASSIVE INVESTMENT INCOME

SEC. 544. MODIFICATIONS TO PASSIVE INCOME RULES.

(a) INCREASED PERCENTAGE LIMIT.—

(1) IN GENERAL.—Subsection (a)(2) of section 1375 (relating to tax imposed when passive investment income of corporation having accumulated earnings and profits exceeds 25 percent of gross receipts) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) CONFORMING AMENDMENTS.—

(A) Section 26(b)(2)(J) is amended by striking ''25 percent'' and inserting ''60 percent''.

(B) Section 1362(d)(3)(A)(i)(II) is amended by striking ''25 percent'' and inserting ''60 percent''.

(C) The heading for paragraph (3) of section 1362(d) is amended by striking ''25 PERCENT'' and inserting ''60 PERCENT''.

(D) Section 1375(b)(1)(A)(i) is amended by striking ''25 percent'' and inserting ''60 percent''.

(E) The heading for section 1375 is amended by striking ''25 PERCENT'' and inserting ''60 PERCENT''.

(F) The table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' in the item relating to section 1375 and inserting ''60 percent''.

(b) CAPITAL GAIN NOT TREATED AS PASSIVE INVESTMENT INCOME.—Section 1362(d)(3) is amended—

(1) by striking ''annuities,'' and all that follows in subparagraph (C)(i) and inserting ''and annuities.'', and

(2) by striking subparagraphs (C)(iv) and (D) and by redesignating subparagraph (E) as subparagraph (D).

(c) CONFORMING AMENDMENTS.—Section 1375(d) is amended by striking ''subchapter C'' both places it appears and inserting ''accumulated''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

PART III—TREATMENT OF S CORPORATION SHAREHOLDERS

SEC. 545. TRANSFER OF SUSPENDED LOSSES INCIDENT TO DIVORCE.

(a) IN GENERAL.—Section 1366(d) (relating to special rules for losses and deductions) is amended by adding at the end the following new paragraph:

''(4) TRANSFER OF SUSPENDED LOSSES AND DEDUCTIONS WHEN STOCK IS TRANSFERRED INCIDENT TO DIVORCE.—For purposes of paragraph (2), the transfer of any shareholder's stock in an S corporation incident to a decree of divorce shall include any loss or deduction described in such paragraph attributable to such stock.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers in taxable years beginning after December 31, 2003.

SEC. 546. USE OF PASSIVE ACTIVITY LOSS AND AT-RISK AMOUNTS BY QUALIFIED SUBCHAPTER S TRUST INCOME BENEFICIARIES.

(a) IN GENERAL.—Section 1361(d)(1) (relating to special rule for qualified subchapter S trust) is amended—

(1) by striking ''and'' at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting '', and'', and

(3) by adding at the end the following new subparagraph:

''(C) for purposes of applying sections 465 and 469(g) to the beneficiary of the trust, the disposition of the S corporation stock by the trust shall be treated as a disposition by such beneficiary.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 2003.

SEC. 547. DISREGARD OF UNEXERCISED POWERS OF APPOINTMENT IN DETERMINING POTENTIAL CURRENT BENEFICIARIES OF ESBT.

(a) IN GENERAL.—Section 1361(e)(2) (defining potential current beneficiary) is amended by inserting ''(determined without regard to any unexercised (in whole or in part) power of appointment during such period)'' after ''of the trust'' in the first sentence.

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

SEC. 548. CLARIFICATION OF ELECTING SMALL BUSINESS TRUST DISTRIBUTION RULES.

(a) IN GENERAL.—Section 641(c)(1) (relating to special rules for taxation of electing small business trusts) is amended—

(1) by striking ''and'' at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

''(B) any distribution attributable to the portion treated as a separate trust shall be treated separately from any distribution attributable to the portion not so treated, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

PART IV—PROVISIONS RELATING TO BANKS

SEC. 549. SALE OF STOCK IN IRA RELATING TO S CORPORATION ELECTION EXEMPT FROM PROHIBITED TRANSACTION RULES.

(a) IN GENERAL.—Section 4975(d) (relating to exemptions) is amended by striking ''or'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ''; or'', and by adding at the end the following new paragraph:

''(16) a sale of stock held by a trust which constitutes an individual retirement account under section 408(a) to the individual for whose benefit such account is established if such sale is pursuant to an election under section 1362(a).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of stock held by individual retirement accounts on the date of the enactment of this Act.

SEC. 550. EXCLUSION OF INVESTMENT SECURITIES INCOME FROM PASSIVE INCOME TEST FOR BANK S CORPORATIONS.

(a) IN GENERAL.—Section 1362(d)(3) (relating to where passive investment income exceeds certain percentage of gross receipts for 3 consecutive taxable years and corporation has accumulated earnings and profits), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(E) EXCEPTION FOR BANKS; ETC.—In the case of a bank (as defined in section 581), a bank holding company (as defined in section 246A(c)(3)(B)(ii)), or a qualified subchapter S subsidiary which is a bank, the term 'passive investment income' shall not include—

''(i) interest income earned by such bank, bank holding company, or qualified subchapter S subsidiary, or

''(ii) dividends on assets required to be held by such bank, bank holding company, or qualified subchapter S subsidiary to conduct a banking business, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.''.

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

SEC. 551. TREATMENT OF QUALIFYING DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(f) TREATMENT OF QUALIFYING DIRECTOR SHARES.—

''(1) IN GENERAL.—For purposes of this subchapter—

''(A) qualifying director shares shall not be treated as a second class of stock, and

''(B) no person shall be treated as a shareholder of the corporation by reason of holding qualifying director shares.

''(2) QUALIFYING DIRECTOR SHARES DEFINED.—For purposes of this subsection, the term 'qualifying director shares' means any shares of stock in a bank (as defined in section 581) or in a bank holding company registered as such with the Federal Reserve System—

''(i) which are held by an individual solely by reason of status as a director of such bank or company or its controlled subsidiary; and

''(ii) which are subject to an agreement pursuant to which the holder is required to dispose of the shares of stock upon termination of the holder's status as a director at the same price as the individual acquired such shares of stock.

''(3) DISTRIBUTIONS.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualifying director shares shall be includible as ordinary income of the holder and deductible to the corporation as an expense in computing taxable income under section 1363(b) in the year such distribution is received.''.

(b) CONFORMING AMENDMENT.—Section 1366(a) is amended by adding at the end the following new paragraph:

''(3) ALLOCATION WITH RESPECT TO QUALIFYING DIRECTOR SHARES.—The holders of qualifying director shares (as defined in section 1361(f)) shall not, with respect to such shares of stock, be allocated any of the items described in paragraph (1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

PART V—QUALIFIED SUBCHAPTER S SUBSIDIARIES

SEC. 552. RELIEF FROM INADVERTENTLY INVALID QUALIFIED SUBCHAPTER S SUBSIDIARY ELECTIONS AND TERMINATIONS.

(a) IN GENERAL.—Section 1362(f) (relating to inadvertent invalid elections or terminations) is amended—

(1) by inserting ''or under section 1361(b)(3)(B)(ii)'' after ''subsection (a)''in paragraph (1),

(2) by inserting ''or under section 1361(b)(3)(C)'' after ''subsection (d)'' in paragraph (1)(B),

(3) by inserting ''or a qualified subchapter S subsidiary, as the case may be'' after ''small business corporation'' in paragraph (3)(A),

(4) by inserting ''or a qualified subchapter S subsidiary, as the case may be'' after ''S corporation'' in paragraph (4), and

(5) by inserting ''or a qualified subchapter S subsidiary, as the case may be'' after ''S corporation'' in the matter following paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 553. INFORMATION RETURNS FOR QUALIFIED SUBCHAPTER S SUBSIDIARIES.

(a) IN GENERAL.—Section 1361(b)(3)(A) (relating to treatment of certain wholly owned subsidiaries) is amended by inserting ''and in the case of information returns required under part III of subchapter A of chapter 61'' after ''Secretary''.

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

PART VI—ADDITIONAL PROVISIONS

SEC. 554. ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS.

(a) IN GENERAL.—Subsection (a) of section 1311 of the Small Business Job Protection Act of 1996 is amended to read as follows:

''(a) IN GENERAL.—If a corporation was an electing small business corporation under

subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, the amount of such corporation's accumulated earnings and profits (as of the beginning of the first taxable year beginning after December 31, 2003) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.''.

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

SA 626. Mr. HATCH 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, add the following:

TITLE I—REIT CORRECTIONS

SEC. 101. REVISIONS TO REIT ASSET TEST.

(a) EXPANSION OF STRAIGHT DEBT SAFE HARBOR.—Section 856 (defining real estate investment trust) is amended—

(1) in subsection (c) by striking paragraph (7), and

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

''(m) SAFE HARBOR IN APPLYING SUBSECTION (C)(4)—

''(1) IN GENERAL.—In applying subclause (III) of subsection (c)(4)(B)(iii), except as otherwise determined by the Secretary in regulations, the following shall not be considered securities held by the trust:

''(A) Straight debt securities of an issuer which meet the requirements of paragraph (2).

''(B) Any loan to an individual or an estate.

''(C) Any section 467 rental agreement (as defined in section 467(d)), other than with a person described in subsection (d)(2)(B).

''(D) Any obligation to pay rents from real property (as defined in subsection (d)(1)).

''(E) Any security issued by a State or any political subdivision thereof, the District of Columbia, a foreign government or any political subdivision thereof, or the Commonwealth of Puerto Rico, but only if the determination of any payment received or accrued under such security does not depend in whole or in part on the profits of any entity not described in this subparagraph or payments on any obligation issued by such an entity.

''(F) Any security issued by a real estate investment trust.

''(G) Any other arrangement as determined by the Secretary.

''(2) SPECIAL RULES RELATING TO STRAIGHT DEBT SECURITIES.—

''(A) IN GENERAL.—For purposes of paragraph (1)(A), securities meet the requirements of this paragraph if such securities are straight debt, as defined in section 1361(c)(5) (without regard to subparagraph (B)(iii) thereof).

''(B) SPECIAL RULES RELATING TO CERTAIN CONTINGENCIES.—For purposes of subparagraph (A), any interest or principal shall not be treated as failing to satisfy section 1361(c)(5)(B)(i) solely by reason of the fact that the time of payment of such interest or principal is subject to a contingency, but only if—

''(i) any such contingency does not have the effect of changing the effective yield to maturity, as determined under section 1272, other than a change in the annual yield to maturity which either—

''(I) does not exceed the greater of 1/4 of 1 percent or 5 percent of the annual yield to maturity, or

''(II) results solely from a default or the exercise of a prepayment right by the issuer of the debt, or

''(ii) neither the aggregate issue price nor the aggregate face amount of the issuer's debt instruments held by the trust exceeds $1,000,000 and not more than 12 months of unaccrued interest can be required to be prepaid thereunder.

''(C) SPECIAL RULES RELATING TO CORPORATE OR PARTNERSHIP ISSUERS.—In the case of an issuer which is a corporation or a partnership, securities that otherwise would be described in paragraph (1)(A) shall be considered not to be so described if the trust holding such securities and any of its controlled taxable REIT subsidiaries (as defined in subsection (d)(8)(A)(iv)) hold any securities of the issuer which—

''(i) are not described in paragraph (1) (prior to the application of paragraph (1)(C)), and

''(ii) have an aggregate value greater than 1 percent of the issuer's outstanding securities.

''(3) LOOK-THROUGH RULE FOR PARTNERSHIP SECURITIES.—

''(A) IN GENERAL.—For purposes of applying subclause (III) of subsection (c)(4)(B)(iii)—

''(i) a trust's interest as a partner in a partnership (as defined in section 7701(a)(2)) shall not be considered a security, and

''(ii) the trust shall be deemed to own its proportionate share of each of the assets of the partnership.

''(B) DETERMINATION OF TRUST'S INTEREST IN PARTNERSHIP ASSETS.—For purposes of subparagraph (A), with respect to any taxable year beginning after the date of the enactment of this subparagraph—

''(i) the trust's interest in the partnership assets shall be the trust's proportionate interest in any securities issued by the partnership (determined without regard to subparagraph (A)(i) and paragraph (4), but not including securities described in paragraph (1)), and

''(ii) the value of any debt instrument shall be the adjusted issue price thereof, as defined in section 1272(a)(4).

''(4) CERTAIN PARTNERSHIP DEBT INSTRUMENTS NOT TREATED AS A SECURITY.—For purposes of applying subclause (III) of subsection (c)(4)(B)(iii).—

''(A) any debt instrument issued by a partnership and not described in paragraph (1) shall not be considered a security to the extent of the trust's interest as a partner in the partnership, and

''(B) any debt instrument issued by a partnership and not described in paragraph (1) shall not be considered a security if at least 75 percent of the partnership's gross income (excluding gross income from prohibited transactions) is derived from sources referred to in subsection (c)(3).

''(5) SECRETARIAL GUIDANCE.—The Secretary is authorized to provide guidance (including through the issuance of a written determination, as defined in section 6110(b)) that an arrangement shall not be considered a security held by the trust for purposes of applying subclause (III) of subsection (c)(4)(B)(iii) notwithstanding that such arrangement otherwise could be considered a security under subparagraph (F) of subsection (c)(5).''.

SEC. 102. CLARIFICATION OF APPLICATION OF LIMITED RENTAL EXCEPTION.

Subparagraph (A) of section 856(d)(8) (relating to special rules for taxable REIT subsidiaries) is amended to read as follows:

''(A) LIMITED RENTAL EXCEPTION.—

''(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and other than persons described in paragraph (2)(B).

''(ii) RENTS MUST BE SUBSTANTIALLY COMPARABLE.—Clause (i) shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1) without regard to paragraph (2)(B)) from such property are substantially comparable to such rents paid by the other tenants of the trust's property for comparable space.

''(iii) TIMES FOR TESTING RENT COMPARABILITY.—The substantial comparability requirement of clause (ii) shall be treated as met with respect to a lease to a taxable REIT subsidiary of the trust if such requirement is met under the terms of the lease—

''(I) at the time such lease is entered into,

''(II) at the time of each extension of the lease, including a failure to exercise a right to terminate, and

''(III) at the time of any modification of the lease between the trust and the taxable REIT subsidiary if the rent under such lease is effectively increased pursuant to such modification.

With respect to subclause (III), if the taxable REIT subsidiary of the trust is a controlled taxable REIT subsidiary of the trust, the term 'rents from real property' shall not in any event include rent under such lease to the extent of the increase in such rent on account of such modification.

''(iv) CONTROLLED TAXABLE REIT SUBSIDIARY.—For purposes of clause (iii), the term 'controlled taxable REIT subsidiary' means, with respect to any real estate investment trust, any taxable REIT subsidiary of such trust if such trust owns directly or indirectly—

''(I) stock possessing more than 50 percent of the total voting power of the outstanding stock of such subsidiary, or

''(II) stock having a value of more than 50 percent of the total value of the outstanding stock of such subsidiary.

''(v) CONTINUING QUALIFICATIONS BASED ON THIRD PARTY ACTIONS.—If the requirements of clause (i) are met at a time referred to in clause (iii), such requirements shall continue to be treated as met so long as there is no increase in the space leased to any taxable REIT subsidiary of such trust or to any person described in paragraph (2)(B).

''(vi) CORRECTION PERIOD.—If there is an increase referred to in clause (v) during any calendar quarter with respect to any property, the requirements of clause (iii) shall be treated as met during the quarter and the succeeding quarter if such requirements are met at the close of such succeeding quarter.''.

SEC. 103. DELETION OF CUSTOMARY SERVICES EXCEPTION.

Subparagraph (B) of section 857(b)(7) (relating to redetermined rents) is amended by striking clause (ii) and by redesignating clauses (iii), (iv), (v), (vi), and (vii) as clauses (ii), (iii), (iv), (v), and (vi), respectively.

SEC. 104. CONFORMITY WITH GENERAL HEDGING DEFINITION.

(a) DEFINITION.—Subparagraph (G) of section 856(c)(5) (relating to treatment of certain hedging instruments) is amended to read as follows:

''(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS—Except to the extent provided by regulations, any income of a real estate investment trust from a hedging transaction (as defined in clause (ii) or (iii) of section 1221(b)(2)(A)) which is clearly identified pursuant to section 1221(a)(7), including gain from the sale or disposition of such a transaction, shall not constitute gross income

under paragraph (2) to the extent that the transaction hedges any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets.''

SEC. 105. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES.

Clause (i) of section 857(b)(5)(A) (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking ''90 percent'' and inserting ''95 percent''.

SEC. 106. PROHIBITED TRANSACTIONS PROVISIONS.

(a) EXPANSION OF PROHIBITED TRANSACTION SAFE HARBOR.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

''(D) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS—For purposes of this part the term 'prohibited transaction' does not include a sale of property which is a real estate asset (as defined in section 856(c)(5)(B)) if—

''(i) the trust held the property for not less than 4 years in connection with the trade or business of producing timber,

''(ii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

''(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

''(II) are directly related to operation of the property for the production of timber or for the preservation of the property for use as timberland,

do not exceed 30 percent of the net selling price of the property.

''(iii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

''(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

''(II) are not directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 5 percent of the net selling price of the property,

''(iv)(I) during the taxable year the trust does not make more than 7 sales of property (other than sales of foreclosure property or sales to which section 1033 applies), or

''(II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year,

''(v) in the case that the requirement of clause (iv)(I) is not satisfied, substantially all of the marketing expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income, and

''(vi) the sales price of the property sold by the trust to its taxable REIT subsidiary is not base din whole or in part on the income or profits of the subsidiary or the income or profits that the subsidiary derives from the sale or operation of such property.''

SEC. 107. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall apply to taxable years beginning after December 31, 2000.

(b) SECTIONS 105 THROUGH 106—The amendments made by sections 103, 104, 105 and 106 shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE III—REIT SAVINGS PROVISIONS

SEC. 301. REVISIONS TO REIT PROVISIONS

(a) RULES OF APPLICATION FOR FAILURE TO SATISFY SECTION 856(c)(4).—Section 856(c) (relating to definition of real estate investment trust), as amended by section 101, is amended by inserting after paragraph (6) the following new paragraph:

''(7) RULES OF APPLICATION FOR FAILURE TO SATISFY PARAGRAPH (4)—

''(A) DE MINIMIS FAILURE—A corporation, trust, or association that fails to meet the requirements of paragraph (4)(B)(iii) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

''(i) such failure is due to the ownership of assets the total value of which does not exceed the lesser of—

''(I) 1 percent of the total value of the trust's assets at the end of the quarter for which such measurement is done, and

''(II) $10,000,000, and

''(ii)(I) the corporation, trust, or association, following the identification of such failure, disposes of assets in order to meet the requirements of such paragraph within 6 months after the last day of the quarter in which the corporation, trust or association's identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

''(B) FAILURES EXCEEDING DE MINIMIS AMOUNT.—A corporation, trust, or association that fails to meet the requirements of paragraph (4) for a particular quarter shall nevertheless be considered to have satisified the requirements of such paragraph for such quarter if—

''(i) such failure involves the ownership of assets the total value of which exceeds the de minimis standard described in subparagraph (A)(i) at the end of the quarter for which such measurement is done,

''(ii) following the corporation, trust, or association's identification of the failure to satisfy the requirements of such paragraph for a particular quarter, a description of each asset that causes the corporation, trust, or association to fail to satisfy the requirements of such paragraph at the close of such quarter of any taxable year is set forth in a schedule for such quarter filed in accordance with regulations prescribed by the Secretary,

''(iii) the failure to meet the requirements of such paragraph for a particular quarter is due to reasonable cause and not due to willful neglect,

''(iv) the corporation, trust, and association pays a tax computed under subparagraph (C), and

''(v)(I) the corporation, trust, or association disposes of the assets set forth on the schedule specified in clause (ii) within 6 months after the last day of the quarter in which the corporation, trust or association's identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

''(C) Tax—For purposes of subparagraph (B)(iv)—

''(i) TAX IMPOSED.—If a corporation, trust, or association elects the application of this subparagraph, there is hereby imposed a tax on the failure described in subparagraph (B) of such corporation, trust, or association. Such tax shall be paid by the corporation, trust, or association.

''(ii) TAX COMPUTED.—The amount of the tax imposed by clause (i) shall be the greater of—

''(I) $50,000, or

''(II) the amount determined (pursuant to regulations promulgated by the Secretary) by multiplying the net income generated by the assets described in the schedule specified in subparagraph (B)(ii) for the period specified in clause (iii) by the highest rate of tax specified in section 11.

''(iii) PERIOD.—For purposes of clause (ii)(II), the period described in this clause is the period beginning on the first date that the failure to satisfy the requirements of such paragraph (4) occurs as a result of the ownership of such assets and ending on the earlier of the date on which the trust disposes of such assets or the end of the first quarter when there is no longer a failure to satisfy such paragraph (4).

''(iv) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subparagraph shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.''.

(b) MODIFICATION OF RULES OF APPLICATION FOR FAILURE TO SATISFY SECTIONS 856(c)(2) or 856(c)(3).—Paragraph (6) of section 856(c) (relating to definition of real estate investment trust) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) following the corporation, trust, or association's identification of the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, for any taxable year, a description of each item of its gross income described in such paragraphs is set forth in a schedule for such taxable year filed in accordance with regulations prescribed by the Secretary, and''.

(c) REASONABLE CAUSE EXCEPTION TO LOSS OF REIT STATUS IF FAILURE TO SATISFY REQUIREMENTS—Subsection (g) of section 856 (relating to termination of election) is amended—

(1) in paragraph (1) by inserting before the period at the end of the first sentence the following: 'unless paragraph (5) applies', and

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

''(5) ENTITIES TO WHICH PARAGRAPH APPLIES—This paragraph applies to a corporation, trust, or association—

''(A) which is not a real estate investment trust to which the provisions of this part apply for the taxable year due to one or more failures to comply with one or more of the provisions of this part (other than subsection (c)(6) or (c)(7) of section 856),

''(B) such failures are due to reasonable cause and not due to willful neglect, and

''(C) if such corporation, trust, or association pays (as prescribed by the Secretary in regulations and in the same manner as tax) a penalty of $50,000 for each failure to satisfy a provision of this part due to reasonable cause and not willful neglect.''.

(d) DEDUCTION OF TAX PAID FROM AMOUNT REQUIRED TO BE DISTRIBUTED—Subparagraph (E) of section 857(b)(2) is amended by striking '(7)' and inserting '(7) of this subsection, section 856(c)(7)(B)(iii), and section 856(g)(1).'.

(e) EXPANSION OF DEFICIENCY DIVIDEND PROCEDURE—Subsection (e) of section 860 is amended by striking 'or' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '; or', and by adding at the end the following new paragraph:

''(4) a statement by the taxpayer attached to its amendment or supplement to a return of tax for the relevant tax year.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after date of enactment.

SA 627. Mr. HATCH 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, add the following:

SEC. ___. EXCLUSION OF CERTAIN PUNITIVE DAMAGE AWARDS.

(a) IN GENERAL.—Section 104 (relating to compensation for injuries or sickness) is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

''(d) EXCLUSION OF PUNITIVE DAMAGES PAID TO A STATE UNDER A SPLIT-AWARD STATUTE.—

''(1) IN GENERAL.—The phrase '(other than punitive damages)' in subsection (a) shall not apply to—

''(A) any portion of an award of punitive damages in a civil action which is paid to a State under a split-award statute, or

''(B) any attorneys' fees or other costs incurred by the taxpayer in connection with obtaining an award of punitive damages to which subparagraph (A) is applicable.

''(2) SPLIT-AWARD STATUTE.—For purposes of this subsection, the term 'split-award statute' means a State law that requires a fixed portion of an award of punitive damages in a civil action to be paid to the State.''.

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

SA 628. Mr. DORGAN 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. ___. 5-YEAR EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM WIND.

(a) IN GENERAL.—Section 45(c)(3)(A) (relating to wind facility) is amended by striking ''2004'' and inserting ''2009''.

(b) 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 ''37.6%'' shall be substituted for ''35%''.

SA 629. Mr. DORGAN 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 357.

SA 630. Mr. DORGAN 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. ___. 5-YEAR EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM WIND.

Section 45(c)(3)(A) (relating to wind facility) is amended by striking ''2004'' and inserting ''2009''.

On page 19, line 13, strike ''2007'' and insert ''2008''.

On page 26, line 19, strike ''2007'' and insert ''2008''.

On page 26, line 22, strike ''2007'' and insert ''2008''.

SA 631. Mr. DORGAN 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 8, strike the matter preceding line 1, and insert:

''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%	35.3%
2004 and thereafter	25.0%	28.0%	33.0%	35.0%''.

Strike section 357.

SA 632. Mr. DORGAN 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. ___. ENSURING DEFICIT REDUCTION.

(a) TRIGGER.—Notwithstanding any other provision of this Act, the provisions as described in subsection (b) shall take effect only as provided in subsection (c).

(b) PROVISION DESCRIBED.—A provision of this Act described in this subsection is—

(1) a provision of this Act that 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) a provision of this Act that provides a 10 percent dividends exclusion between December 31, 2003, and December 31, 2007, and a 20 percent dividends exclusion after December 31, 2007.

(c) DELAY.—

(1) IN GENERAL.—Each year when the final monthly Treasury report for the most recently ended fiscal year is released, the Secretary of the Treasury shall certify whether the on-budget deficit exceeds $300,000,000,000 for such year.

(2) EFFECTIVE DATE.—The provisions described in subsection (b) shall become effective on January 1 in the calendar year following the issuance of the final Treasury report only if the Secretary has determined that the on-budget deficit is $300,000,000,000 or less for the recently ended fiscal year.

(d) DISCRETIONARY SPENDING LIMITATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in any fiscal year subject to the delay provisions of subsection (c)—

(A) the amount of budget authority for discretionary spending for Federal agency administrative overhead expenses shall be limited to the level in the preceding fiscal year minus 5 percent; and

(B) with respect to a second or subsequent consecutive fiscal year subject to this subsection, the amount of budget authority for discretionary spending for Federal agency administrative overhead expenses shall be limited to the level in the preceding fiscal year.

(2) DEFINITION.—In this subsection, the term ''administrative overhead expenses'' mean costs of resources that are jointly or commonly used to produce 2 or more types of outputs but are not specifically identifiable with any of the outputs. Administrative overhead expenses include general administrative services, general research and technology support, rent, employee health and recreation facilities, and operating and maintenance costs for buildings, equipment, and utilities.

SA 633. Mr. DORGAN 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. ___. 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 the amendment made by section 102 of this Act with respect to the highest individual income tax rate 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 ACCELERATION OF REDUCTION OF HIGHEST INDIVIDUAL INCOME TAX RATE.—Notwithstanding any other provision of law or this Act, the amendment made by section 102 of this Act with respect to the highest individual income tax rate 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 such amendment takes effect.

SA 634. Mr. DORGAN 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—Medicare Improvements

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. INCREASE IN LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME).

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI), by striking ''and'' at the end; and

(2) by striking subclause (VII) and inserting the following new subclauses:

''(VII) during fiscal year 2003, ''c'' is equal to 1.35.

''(VIII) during fiscal year 2004, ''c'' is equal to 1.85; and

''(IX) on or after October 1, 2004, 'c' is equal to 1.6.''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) of the Social Security Act (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 532(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003'' after ''2000''.

SEC. 533. PERMANENT INCREASE IN MEDICARE PAYMENT FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended by adding at the end the following new subsection:

''(f) INCREASE IN PAYMENT FOR SERVICES FURNISHED IN A RURAL AREA.—

''(1) IN GENERAL.—In the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D)) on or after April 1, 2003, the Secretary shall increase the payment amount otherwise made under this section for such services by 10 percent.

''(2) WAIVER OF BUDGET NEUTRALITY.—The Secretary shall not reduce the standard prospective payment amount (or amounts) under this section applicable to home health services furnished during a period to offset the increase in payments resulting from the application of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after April 1, 2003.

SEC. 534. 3-YEAR EXTENSION OF CERTAIN PAYMENT PROVISIONS FOR SKILLED NURSING FACILITY SERVICES UNDER THE MEDICARE PROGRAM.

(a) 3-YEAR EXTENSION OF TEMPORARY INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.—Section 312(a) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–498), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking '', and before October 1, 2002'' and inserting ''and before October 1, 2005''.

(b) 3-YEAR EXTENSION OF INCREASE FOR SKILLED NURSING FACILITY ADJUSTED FEDERAL PER DIEM RATE THROUGH FISCAL YEAR 2005.—Section 101(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (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 ''THROUGH 2005''; and

(2) in paragraph (1), by striking ''and 2002'' and inserting ''through 2005''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if this section had been enacted before October 1, 2002. The Secretary of Health and Human Services shall promptly provide for such adjustments in payments as may be required based on such amendments for services furnished during periods before the date of implementation of such amendments.

SEC. 535. TWO-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.

Section 1833(g)(4) of the Social Security Act (42 U.S.C. 1395*l*(g)(4)) is amended by striking ''and 2002'' and inserting ''2002, 2003, and 2004''.

SEC. 536. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR ALL MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking '', to an individual who receives'' and all that follows before the semicolon at the end and inserting ''to an individual who has received an organ transplant''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after the date of the enactment of this Act.

SEC. 537. BUDGET PROVISIONS.

(a) INAPPLICABILITY OF SUNSET.—The provisions of section 601(a) shall not apply to the provisions of, and amendments made by, this subtitle.

(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 and 2004, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004, 37.6%.

SA 635. Mr. LEVIN (for himself and Mr. REID) 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 15, line 8, strike ''$75,000'' and insert ''$82,500''.

Strike sections 341 and 342 of the bill and insert:

SEC. 341. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such

transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

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.

''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 7701(a)(4)(B)(ii)(I) 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 section 7701(a)(4)(B) applies. 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.

SA 636. Mr. EDWARDS 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. ___. FAMILY LEAVE TAX CREDIT; REPEAL OF TAX BENEFITS RELATING TO COMPANY-OWNED LIFE INSURANCE.

(a) IN GENERAL.—

(1) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended inserting after section 24 the following new section:

"SEC. 24A. FAMILY LEAVE CREDIT.

''(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualified child of the taxpayer an amount equal to $500 ($1,000 in the case of taxable years 2005 and 2006, and $1,500 in the case of taxable years after 2006).

''(b) LIMITATION.—

''(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by $50 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

''(i) $110,000 in the case of a joint return,

''(ii) $75,000 in the case of an individual who is not married, and

''(iii) $ 55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

''(c) PORTION OF CREDIT REFUNDABLE.—The aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

''(1) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a), or

''(2) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the taxpayer's earned income (within the meaning of section 32(c)(2)) over such limitation.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a).

''(d) QUALIFIED CHILD.—For purposes of this section, the term 'qualified child' means with respect to any taxable year—

''(1) except with respect to an individual described in paragraph (2), any qualifying child (as defined in section 24(c) by substituting 'age of 1' for 'age of 17' in paragraph (1)(B) thereof), and

''(2) any individual adopted by the taxpayer in such year (within the meaning of section 23).

''(e) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of a taxable year beginning after 2007, the $1,500 amount under subsection (a) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) 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 2006' for calendar year '1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $10, such amount shall be rounded to the next lowest multiple of $10.''.

(2) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(A) IN GENERAL.—Subsection (b) of section 24A (relating to family leave credit), as added by paragraph (1), is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—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 this subpart (other than this section and sections 23, 24, and 25B) and section 27 for the taxable year.''.

(B) CONFORMING AMENDMENTS.—

(i) The heading for section 24A(b) is amended to read as follows: ''LIMITATIONS.—''.

(B) The heading for section 24A(b)(1) is amended to read as follows: ''LIMITATION BASED ON ADJUSTED GROSS INCOME.—''.

(C) Section 24A(c) is amended by striking ''section 26(a)'' each place it appears and inserting ''subsection (b)(3)''.

(D) Subparagraph (C) of section 25(e)(1) is amended by inserting ''24A,'' after ''24,''.

(E) Section 904(h) is amended by inserting ''24A,'' after ''24,''.

(F) Subsection (d) of section 1400C is amended by inserting ''24A,'' after ''24,''.

(3) 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 24 the following new item:

''Sec. 24A. Family leave credit.''.

(4) EFFECTIVE DATE.—

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(B) The amendments made by paragraph (2) shall apply to taxable years beginning after December 31, 2003.

(b) REPEAL OF TAX BENEFITS RELATING TO COMPANY-OWNED LIFE INSURANCE.—

(1) INCLUSION OF LIFE INSURANCE INVESTMENT GAINS.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by inserting after subsection (j) the following new subsection:

''(k) TREATMENT OF CERTAIN COMPANY-OWNED LIFE INSURANCE CONTRACTS.—In the case of a company-owned life insurance contract, the income on the contract (as determined under section 7702(g)) for any taxable year shall be includible in gross income for such year unless the contract covers the life solely of individuals who are key persons (as defined in section 264(e)(3)).''.

(2) REPEAL OF EXCLUSION FOR DEATH BENEFITS.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

''(j) PROCEEDS OF CERTAIN COMPANY-OWNED LIFE INSURANCE.—Notwithstanding any other provision of this section, there shall be included in gross income of the beneficiary of a company-owned life insurance contract (unless the contract covers the life solely of individuals who are key persons (as defined in section 264(e)(3)))—

''(1) amounts received during the taxable year under such contract, less

''(2) the sum of amounts which the beneficiary establishes as investment in the contract plus premiums paid under the contract.

Amounts included in gross income under the preceding sentence shall be so included under section 72.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contracts entered into after the date of enactment of this section.

(c) REPEAL OF DIVIDEND EXCLUSION.—The amendments made by section 201 of this Act are repealed.

SA 637. 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; which was ordered to lie on the table; as follows:

On page 281, between lines 2 and 3, insert the following:

SEC. . CHILD SUPPORT ENFORCEMENT.

(a) NO EFFECT ON RIGHTS AND LIABILITIES.—Nothing in this Act shall be construed to affect—

(1) the right of an individual or State to receive any child support payment; or

(2) the obligation of an individual to pay child support.

(b) ALLOWANCE OF BAD DEBT DEDUCTION FOR UNPAID CHILD SUPPORT PAYMENTS.—

(1) IN GENERAL.—Section 166 (relating to deduction for bad debts) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) UNPAID CHILD SUPPORT.—

''(1) IN GENERAL.—In the case of a custodial parent who, as of the close of the taxable year, is owed child support, the amount of unpaid child support shall be deemed a canceled debt as of such date, and shall be allowed as a deduction for such taxable year.

''(2) PRESUMPTION OF WORTHLESSNESS.—Subsection (a) (relating to worthless debts) shall not apply to child support.

''(3) SUBSEQUENT PAYMENTS.—If any unpaid child support with respect to which a deduction was allowed under paragraph (1) is subsequently paid to the custodial parent, the amount of such payment shall not be included in the gross income of the custodial parent, nor shall it be allowed as a deduction to the delinquent debtor. The delinquent debtor shall be neither required nor allowed to file an amended return in any subsequent year to reflect the subsequent payment of unpaid child support.

''(4) FULL DEDUCTION FROM ORDINARY INCOME.—Subsection (d) (relating to the treatment of nonbusiness bad debt as a loss from the sale or exchange of a capital asset) shall not apply to the deductibility of unpaid child support.

''(5) TAX RETURNS.—A custodial parent who wishes to deduct the amount of unpaid child support shall include on the return claiming the deduction the name and taxpayer identification number of each child with respect to whom child support payments to which this subsection applies are required to be paid.

''(6) INFORMATION RETURNS.—

''(A) IN GENERAL.—A custodial parent who wishes to deduct the amount of unpaid child support shall complete Form 1099–CS (or such other form as the Secretary may prescribe) and provide such form to the Secretary, and (if the address is known) to the delinquent debtor, within 45 days following the close of the taxable year for which the deduction is claimed. Failure to so file such form with the Secretary (or, if the address is known, with the delinquent debtor) shall result in disallowance of the deduction for the taxable year.

''(B) CONTENTS OF FORM.—The Form 1099–CS (or such other form as the Secretary may prescribe) shall contain—

''(i) the total amount of child support owed (whether or not paid) for such taxable year,

''(ii) the total amount of unpaid child support as of the last day of such taxable year,

''(iii) the name, address (if known), and taxpayer identification number of the delinquent debtor, and

''(iv) notice that the delinquent debtor is required to include such total amount of unpaid child support in gross income for the delinquent debtor's taxable year which includes the last day of the custodial parent's taxable year.

''(C) DEBTOR'S ADDRESS UNKNOWN.—If the delinquent debtor's address is not known to the custodial parent, the Form 1099–CS (or

such other form as the Secretary may prescribe) shall indicate that fact. In such a case, the Secretary may send such notice if the address is available to the Secretary, and the notice from the custodial parent to the delinquent debtor under subparagraph (A) shall not be required.

''(7) DETERMINATION OF WHETHER CHILD SUPPORT IS PAID.—

''(A) CHILD SUPPORT ENFORCEMENT OFFICE RECORDS AS CONCLUSIVE EVIDENCE OF PAYMENT.—Child support shall be treated as paid if such payment is recorded by the State office of child support enforcement in which the custodial parent is registered.

''(B) TIMELY MAILING AS TIMELY PAYMENT.—A payment received by the State office of child support enforcement in which the custodial parent is registered after the last day of the custodial parent's taxable year shall be treated for the purpose of this subsection as paid on such day if the postmark date falls on or before such day. The rules of section 7502(f) and regulations issued thereunder shall apply for purposes of this subparagraph.

''(8) DEFINITIONS.—For the purposes of this subsection—

''(A) CHILD SUPPORT.—The term 'child support' means—

''(i) any periodic payment of a fixed amount, or

''(ii) any payment of a medical expense, education expense, insurance premium, or other similar item,

which is required to be paid to a custodial parent by an individual under a support instrument for the support of any qualifying child of such individual. 'Child support' does not include any amount which is described in section 408(a)(3) of the Social Security Act and which has been assigned to a State.

''(B) CUSTODIAL PARENT.—The term 'custodial parent' means an individual who is entitled to receive child support and who has registered with the appropriate State office of child support enforcement charged with implementing section 454 of the Social Security Act.

''(C) DELINQUENT DEBTOR.—The term 'delinquent debtor' means a taxpayer who owes unpaid child support to a custodial parent.

''(D) QUALIFYING CHILD.—The term 'qualifying child' means a child of a custodial parent with respect to whom a dependent deduction is allowable under section 151 for the taxable year (or would be so allowable but for paragraph (2) or (4) of section 152(e)).

''(E) SUPPORT INSTRUMENT.—The term 'support instrument' means—

''(i) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

''(ii) a written separation agreement, or

''(iii) a decree (not described in clause (i)) of a court or administrative agency requiring a parent to make payments for the support or maintenance of 1 or more children of such parent.

''(F) UNPAID CHILD SUPPORT.—The term 'unpaid child support' means child support that is payable for months during a custodial parent's taxable year and unpaid as of the last day of such taxable year, provided that such unpaid amount as of such day equals or exceeds one-half of the total amount of child support due to the custodial parent for such year.''.

(2) DEDUCTION FOR NONITEMIZERS.—Section 62(a) of such Code is amended by inserting after paragraph (18) the following new paragraph:

''(19) UNPAID CHILD SUPPORT PAYMENTS.—The deduction allowed by section 166(f).''.

(3) CONFORMING AMENDMENT.—Section 166(d)(2) of such Code is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of the subparagraph (B) and by inserting '', or'' and by adding at the end the following new subparagraph:

''(C) a debt which constitutes unpaid child support payment under subsection (f).''.

(c) INCLUSION IN INCOME OF AMOUNT OF UNPAID CHILD SUPPORT.—Section 108 (relating to discharge of indebtedness income) is amended by adding at the end the following new subsection:

''(h) UNPAID CHILD SUPPORT.—

''(1) IN GENERAL.—For purposes of this chapter, any unpaid child support of a delinquent debtor for any taxable year shall be treated as amounts includible in gross income of the delinquent debtor for the taxable year.

''(2) DETERMINATION OF WHETHER CHILD SUPPORT IS UNPAID.—

''(A) IN GENERAL.—Child support shall be treated as paid if such payment is recorded by the State office of child support enforcement in which the custodial parent is registered.

''(B) TIMELY MAILING AS TIMELY PAYMENT.—A payment received by the State office of child support enforcement in which the custodial parent is registered after the last day of the custodial parent's taxable year shall be treated for the purpose of this subsection as paid on such day if the postmark date falls on or before such day. The rules of section 7502(f) and regulations issued thereunder shall apply for purposes of this subparagraph.

''(3) DEFINITIONS.—For the purposes of this subsection—

''(A) CHILD SUPPORT.—The term 'child support' means—

''(i) any periodic payment of a fixed amount, or

''(ii) any payment of a medical expense, education expense, insurance premium, or other similar item,

which is required to be paid to a custodial parent by an individual under a support instrument for the support of any qualifying child of such individual. 'Child support' does not include any amount which is described in section 408(a)(3) of the Social Security Act and which has been assigned to a State.

''(B) CUSTODIAL PARENT.—The term 'custodial parent' means an individual who is entitled to receive child support and who has registered with the appropriate State office of child support enforcement charged with implementing section 454 of the Social Security Act.

''(C) DELINQUENT DEBTOR.—The term 'delinquent debtor' means a taxpayer who owes unpaid child support to a custodial parent.

''(D) QUALIFYING CHILD.—The term 'qualifying child' means a child of a custodial parent with respect to whom a dependent deduction is allowable under section 151 for the taxable year (or would be so allowable but for paragraph (2) or (4) of section 152(e)).

''(E) SUPPORT INSTRUMENT.—The term 'support instrument' means—

''(i) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

''(ii) a written separation agreement, or

''(iii) a decree (not described in clause (i)) of a court or administrative agency requiring a parent to make payments for the support or maintenance of 1 or more children of such parent.

''(F) UNPAID CHILD SUPPORT.—The term 'unpaid child support' means child support that is payable for months during a custodial parent's taxable year and unpaid as of the last day of such taxable year, provided that such unpaid amount as of such day equals or exceeds one-half of the total amount of child support due to the custodial parent for such year.

''(4) COORDINATION WITH OTHER LAWS.—Amounts treated as income by paragraph (1) shall not be treated as income by reason of paragraph (1) for the purposes of any provision of law which is not an internal revenue law.''.

(d) TAXPAYER INFORMATION REGARDING CHILD SUPPORT NOT BASIS FOR AUDIT.—A discrepancy between the tax returns of a custodial parent and a delinquent debtor concerning whether a payment of child support has been made may not be used or relied upon by the Internal Revenue Service in any way in selecting an individual's tax return for a general audit.

(e) EFFECTIVE DATE; IMPLEMENTATION.—The amendments made by is section shall apply to taxable years beginning after December 31, 2002. The Secretary of the Treasury shall publish Form 1099–CS (or such other form that may be prescribed to comply with the amendment made by subsection (b)(1)) and regulations, if any, that may be deemed necessary to carry out the purposes of this Act, not later than 90 days after the date of enactment of this Act.

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)''.

SA 638. Mr. BUNNING 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. ___. INCOME TAX CREDIT TO DISTILLED SPIRITS WHOLESALERS FOR COST OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

''SEC. 5011. INCOME TAX CREDIT FOR WHOLESALER'S AVERAGE COST OF CARRYING EXCISE TAX.

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible wholesaler, the amount of the distilled spirits wholesalers credit for any taxable year is the amount equal to the product of—

''(1) the number of cases of bottled distilled spirits—

''(A) which were bottled in the United States, and

''(B) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, and

''(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

''(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person who holds—

''(1) a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits, or

''(2) a basic permit under such Act as a distiller, rectifier, blender or warehouser and bottler of distilled spirits and acts as a wholesaler selling distilled spirits to a State agency.

''(c) AVERAGE TAX-FINANCING COST.—

''(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case

for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise per case.

''(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

''(3) DEEMED FEDERAL EXCISE TAX BASED ON CASE OF 12 80-PROOF 750ML BOTTLES.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

''(4) NUMBER OF CASES IN LOT.—For purposes of this section, the number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 of the Internal Revenue Code of 1986 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 new paragraph:

''(16) in the case of an eligible wholesaler (as defined in section 5011(b)), the distilled spirits wholesaler credit determined under section 5011(a).''.

(2) Subsection (d) of section 39 of such Code (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before January 1, 2003.''.

(3) The table of sections for subpart A of part I of subchapter A of chapter 51 of such Code is amended by adding at the end the following new item:

''Sec. 5011. Income tax credit for wholesaler's average cost of carrying excise tax.''.

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

SA 639. Mr. SESSIONS (for himself and 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; as follows:

Viz:

Strike subsection (b) of section 601 and insert the following:

(b) EXCEPTIONS

(1) Subsection (a) shall not apply to the provisions of, and amendments made by, title I (other than section 107).

(2) Subsection (a) shall not apply to Title III (other than section 362) however the provisions within Title III shall not apply to taxable years beginning after December 31, 2015.

SA 640. 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:

On page 8, strike the matter preceding line 1, and insert:

''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 and 2005	25.0%	28.0%	33.0%	37.6%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%''.

Strike title II.

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

SEC. 529. 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 529(a) of the Jobs and Growth Tax Relief Reconciliation 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 529(a)(5) of the Jobs and Growth Tax Relief Reconciliation 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.''

SA 641. 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:

At the end of subtitle A of title IV, insert:

SEC. ___. DEFERRED PAYMENT OF TAX BY CERTAIN SMALL BUSINESSES.

(a) IN GENERAL.—Subchapter B of chapter 62 (relating to extensions of time for payment of tax) is amended by adding at the end the following new section:

''SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF TAX FOR CERTAIN SMALL BUSINESSES.

''(a) IN GENERAL.—An eligible small business may elect to pay the tax imposed by chapter 1 in 4 equal installments.

''(b) LIMITATION.—The maximum amount of tax which may be paid in installments under this section for any taxable year shall not exceed whichever of the following is the least:

''(1) The tax imposed by chapter 1 for the taxable year.

''(2) The amount contributed by the taxpayer into a BRIDGE Account during such year.

''(3) The excess of $250,000 over the aggregate amount of tax for which an election under this section was made by the taxpayer (or any predecessor) for all prior taxable years.

''(c) ELIGIBLE SMALL BUSINESS.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible small business' means, with respect to any taxable year, any person if—

''(A) such person meets the active business requirements of section 1202(e) throughout such taxable year,

''(B) the taxpayer has gross receipts of $10,000,000 or less for the taxable year,

''(C) the gross receipts of the taxpayer for such taxable year are at least 10 percent greater than the average annual gross receipts of the taxpayer (or any predecessor) for the 2 prior taxable years, and

''(D) the taxpayer uses an accrual method of accounting.

''(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply for purposes of this subsection.

''(d) DATE FOR PAYMENT OF INSTALLMENTS; TIME FOR PAYMENT OF INTEREST.—

''(1) DATE FOR PAYMENT OF INSTALLMENTS.—

''(A) IN GENERAL.—If an election is made under this section for any taxable year, the first installment shall be paid on or before the due date for such installment and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment.

''(B) DUE DATE FOR FIRST INSTALLMENT.—The due date for the first installment for a taxable year shall be whichever of the following is the earliest:

''(i) The date selected by the taxpayer.

''(ii) The date which is 2 years after the date prescribed by section 6151(a) for payment of the tax for such taxable year.

''(2) TIME FOR PAYMENT OF INTEREST.—If the time for payment of any amount of tax has been extended under this section—

''(A) INTEREST FOR PERIOD BEFORE DUE DATE OF FIRST INSTALLMENT.—Interest payable under section 6601 on any unpaid portion of such amount attributable to the period before the due date for the first installment shall be paid annually.

''(B) INTEREST DURING INSTALLMENT PERIOD.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after such period shall be paid at the same time as, and as a part of, each installment payment of the tax.

''(C) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.—In the case of a deficiency to which subsection (e)(3) applies for a taxable year which is assessed after the due date for the first installment for such year, interest attributable to the period before such due date, and interest assigned under subparagraph (B) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

''(e) SPECIAL RULES.—

''(1) APPLICATION OF LIMITATION TO PARTNERS AND S CORPORATION SHAREHOLDERS.—

''(A) IN GENERAL.—In applying this section to a partnership which is an eligible small business—

''(i) the election under subsection (a) shall be made by the partnership,

''(ii) the amount referred to in subsection (b)(1) shall be the sum of each partner's tax which is attributable to items of the partnership and assuming the highest marginal rate under section 1, and

''(iii) the partnership shall be treated as the taxpayer referred to in paragraphs (2) and (3) of subsection (b).

''(B) OVERALL LIMITATION ALSO APPLIED AT PARTNER LEVEL.—In the case of a partner in a partnership, the limitation under subsection (b)(3) shall be applied at the partnership and partner levels.

''(C) SIMILAR RULES FOR S CORPORATIONS.—Rules similar to the rules of subparagraphs (A) and (B) shall apply to shareholders in an S corporation.

''(2) ACCELERATION OF PAYMENT IN CERTAIN CASES.—

''(A) IN GENERAL.—If—

''(i) the taxpayer ceases to meet the requirement of subsection (c)(1)(A), or

''(ii) there is an ownership change with respect to the taxpayer,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and the unpaid portion of the tax payable in installments shall be paid on or before the due date for filing the return of tax imposed by chapter 1 for the first taxable year following such cessation.

''(B) OWNERSHIP CHANGE.—For purposes of subparagraph, in the case of a corporation, the term 'ownership change' has the meaning given to such term by section 382. Rules similar to the rules applicable under the preceding sentence shall apply to a partnership.

''(3) PRORATION OF DEFICIENCY TO INSTALLMENTS.—Rules similar to the rules of section 6166(e) shall apply for purposes of this section.

''(f) BRIDGE ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'BRIDGE Account' means a trust created or organized in the United States for the exclusive benefit of an eligible small business, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted for any taxable year in excess of the amount allowed as a deferral under subsection (b) for such year.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) The assets of the trust consist entirely of cash or of obligations which have adequate stated interest (as defined in section 1274(c)(2)) and which pay such interest not less often than annually.

''(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(E) Amounts in the trust may be used only—

''(i) as security for a loan to the business or for repayment of such loan, or

''(ii) to pay the installments under this section.

''(2) ACCOUNT TAXED AS GRANTOR TRUST.—The grantor of a BRIDGE Account shall be treated for purposes of this title as the owner of such Account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

''(3) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to a BRIDGE Account on the last day of a taxable year if such payment is made on account of such taxable year and is made within 3½ months after the close of such taxable year.

''(g) REPORTS.—The Secretary may require such reporting as the Secretary determines to be appropriate to carry out this section.

''(h) APPLICATION OF SECTION.—This section shall apply to taxes imposed for taxable years beginning after December 31, 2002, and before January 1, 2006.''.

(b) PRIORITY OF LENDER.—Subsection (b) of section 6323 (relating to protection for certain interests even though notice filed) is amended by adding at the end the following new paragraph:

''(11) LOANS SECURED BY BRIDGE ACCOUNTS.—With respect to a BRIDGE account (as defined in section 6168(f)) with any bank (as defined in section 408(n)), to the extent of any loan made by such bank without actual notice or knowledge of the existence of such lien, as against such bank, if such loan is secured by such account.''.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 62 is amended by adding at the end the following new item:

''Sec. 6168. Extension of time for payment of tax for certain small businesses.''.

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

SA 642. 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:

On page 8, strike the matter preceding line 1, and insert:

''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 and 2005	25.0%	28.0%	33.0%	37.6%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%''.

Strike title II.

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

SEC. ___. MINIMUM TAX NOT TO APPLY TO INDIVIDUALS WITH ADJUSTED GROSS INCOME UNDER THRESHOLD AMOUNT.

(a) EXEMPTION.—Section 55 is amended by adding at the end the following:

''(e) EXCLUSION OF INDIVIDUALS.—

''(1) IN GENERAL.—In the case of any natural person, no tax shall be imposed by this section if the adjusted gross income of the taxpayer for the taxable year does not exceed the threshold amount.

''(2) THRESHOLD AMOUNT.—For purposes of this subsection, the term 'threshold amount' means—

''(A) $100,000 in the case of—

''(i) a joint return, or

''(ii) a surviving spouse,

''(B) $70,000 in the case of an individual who—

''(i) is not married, and

''(ii) is not a surviving spouse, and

''(C) $50,000 in the case of a married individual filing a separate return.''

(b) CONFORMING AMENDMENT.—Section 55(a) is amended by striking ''There'' and inserting ''Except as provided in subsection (e), there''.

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

SA 643. 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:

On page 8, strike the matter preceding line 1, and insert:

''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 and 2005	25.0%	28.0%	33.0%	37.6%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%''.

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

SEC. . INCOME TAX CREDIT FOR EMPLOYERS HIRING NEW EMPLOYEES OR INCREASING WAGES IN 2003.

(a) IN GENERAL.—Subpart F of part IV of subchapter A of chapter 1 (relating to rules for computing work opportunity credit) is amended by inserting after section 51A the following new section:

"SEC. 51B. REFUND OF PAYROLL TAXES ATTRIBUTABLE TO NEW EMPLOYEES AND INCREASED WAGES DURING 2003.

''(a) GENERAL RULE.—In the case of an employee's first taxable year beginning in 2003, the amount of the work opportunity credit determined under section 51 (without regard to this section) for the taxable year shall be increased by the increased wages payroll tax rebate amount.

''(b) INCREASED WAGES PAYROLL TAX REBATE AMOUNT.—For purposes of this section, the term 'increased wages payroll tax rebate amount' means an amount equal to 10 percent of the excess (if any) of—

''(1) the wages paid or incurred by the employer with respect to employment during 2003, over

''(2) the sum of—

''(A) the wages paid or incurred by the employer with respect to employment during 2002, plus

''(B) an amount equal to the amount determined under subparagraph (A) multiplied by a percentage equal to the percentage change in the contribution and benefit base under section 230 of the Social Security Act from 2002 to 2003.

''(c) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) WAGES.—

''(A) IN GENERAL.—The term 'wages' has the meaning given such term by section 3121(a).

''(B) SPECIAL ROLE FOR RAILROAD EMPLOYERS.—In the case of any employer subject to tax under chapter 22 with respect to any employee, the term 'wages' includes compensation within the meaning of section 3231(e).

''(2) PREDECESSORS.—Any reference in this section to an employer shall include a reference to a predecessor.

''(3) OTHER RULES.—Rules similar to the rules of sections 51(k) and 52 shall apply.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations for the application of this section in the case of acquisitions and dispositions.''

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 51A the following new item:

''Sec. 51B. Refund of payroll taxes attributable to new employees and increased wages during 2003.''

SA 644. Mr. BAUCUS (for himself and Mr. GRASSLEY) 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, insert the following:

TITLE VII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions of Expiring Provisions

SEC. 701. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812 is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2002.

SEC. 702. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''RULE FOR 2000, 2001, 2002, AND 2003.—'' and inserting ''RULE FOR 2000, 2001, 2002, 2003, AND 2004.—'', and

(2) by striking ''during 2000, 2001, 2002, or 2003,'' and inserting ''during 2000, 2001, 2002, 2003, or 2004''.

(b) CONFORMING AMENDMENTS.—

(1) Section 904(h) is amended by striking ''during 2000, 2001, 2002, or 2003'' and inserting ''during 2000, 2001, 2002, 2003, or 2004''.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004.

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

SEC. 703. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking ''2004'' and inserting ''2005''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2002.

SEC. 704. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2002.

SEC. 705. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2002.

SEC. 706. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''2004'' and inserting ''2005''.

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

SEC. 707. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''2000, 2001, 2002, and 2003'' and inserting ''2000, 2001, 2002, 2003, and 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 708. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2004'' and inserting ''January 1, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2002.

SEC. 709. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY.

(a) EXTENSION OF DEDUCTION.—Section 170(e)(6)(G) (relating to termination) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

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

SEC. 710. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking ''December 31, 2003,'' and inserting ''December 31, 2004,'', and

(B) in subparagraphs (A), (B), and (C), by striking ''2004'', ''2005'', and ''2006'', respectively, and inserting ''2005'', ''2006'', and ''2007'', respectively.

(2) in subsection (e), by striking ''December 31, 2006'' and inserting ''December 31, 2007''.

(b) CONFORMING AMENDMENTS.—Clause (iii) of section 280F(a)(1)(C) is amended by striking ''2007'' and inserting ''2008''.

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

SEC. 711. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking ''December 31, 2003,'' and inserting ''December 31, 2004,'', and

(B) in clauses (i), (ii), and (iii), by striking ''2004'', ''2005'', and ''2006'', respectively, and inserting ''2005'', ''2006'', and ''2007'', respectively, and

(2) in subsection (f), by striking ''December 31, 2006'' and inserting ''December 31, 2007''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2002.

SEC. 712. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''during 2002 or 2003'' and inserting ''during 2002, 2003, or 2004''.

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

SEC. 713. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking ''2003'' each place it appears and inserting ''2004''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended by striking ''1998, 1999, 2001, or 2002'' each place it appears and inserting ''1998, 1999, 2001, 2002, or 2003''.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2002'' and inserting ''2002, and 2003''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

SEC. 714. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2002.

SEC. 715. DISTRICT OF COLUMBIA INVESTMENT INCENTIVES.

(a) IN GENERAL.—The following provisions are amended by striking ''2003'' each place it appears and inserting ''2004'':

(1) Section 1400(f).

(2) Section 1400A(b).

(b) ZERO CAPITAL GAINS RATE.—Section 1400B (relating to zero percent capital gains rate) is amended by striking ''2004'' each place it appears and inserting ''2005''.

(c) EXTENSION OF DC HOMEBUYER CREDIT.—Section 1400C(i) (relating to application of section) is amended by striking ''2004'' and inserting ''2005''.

Subtitle B—Delay of Dividend Exclusion

SEC. 721. DELAY OF DIVIDEND EXCLUSION.

(a) IN GENERAL.—Subparagraph (B) of section 116(a)(2) (relating to partial exclusion of

dividend received by individuals), as added by section 201 of this Act, is amended by striking ''2007'' and inserting ''2009''.

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

SA 645. Mr. BAUCUS 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. . 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 on or after the date of the enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003, 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, 2005'',

(3) by striking ''SEPTEMBER 11, 2004'' and inserting ''JANUARY 1, 2005'', and

(4) by striking ''PRE-SEPTEMBER 11, 2004'' and inserting ''PRE-JANUARY 1, 2005''.

(b) CONFORMING AMENDMENTS.—

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

(2) Section 1400L(b)(2)(D) 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) 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 ''2010''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired on or after the date of the enactment of this Act

(2) REVISION.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 2006.

SA 646. Mr. BUNNING 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. ___. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

''SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

''(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

''(1) in the case of—

''(A) any eligible wholesaler—

''(i) the number of cases of bottled distilled spirits—

''(I) which were bottled in the United States, and

''(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

''(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

''(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

''(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

''(c) AVERAGE TAX-FINANCING COST.—

''(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

''(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

''(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

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

''(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

''(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 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 new paragraph:

''(16) the distilled spirits credit determined under section 5011(a).''.

(2) Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before January 1, 2003.''.

(3) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

''Sec. 5011. Income tax credit for average cost of carrying excise tax.''.

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

SA 647. 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:

Subtitle D—Medicare Improvements

SEC. 531. INCREASE IN LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME).

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI), by striking ''and'' at the end; and

(2) by striking subclause (VII) and inserting the following new subclauses:

''(VII) during fiscal year 2003, ''c'' is equal to 1.35.

''(VIII) during fiscal year 2004, ''c'' is equal to 1.85; and

''(IX) on or after October 1, 2004, 'c' is equal to 1.6.''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) of the Social Security Act (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 531(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003'' after ''2000''.

SEC. 532. PERMANENT INCREASE IN MEDICARE PAYMENT FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended by adding at the end the following new subsection:

''(f) INCREASE IN PAYMENT FOR SERVICES FURNISHED IN A RURAL AREA.—

''(1) IN GENERAL.—In the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D)) on or after April 1, 2003, the Secretary shall increase the payment amount otherwise made under this section for such services by 10 percent.

''(2) WAIVER OF BUDGET NEUTRALITY.—The Secretary shall not reduce the standard prospective payment amount (or amounts) under this section applicable to home health services furnished during a period to offset the increase in payments resulting from the application of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after April 1, 2003.

SEC. 533. 3-YEAR EXTENSION OF CERTAIN PAYMENT PROVISIONS FOR SKILLED NURSING FACILITY SERVICES UNDER THE MEDICARE PROGRAM.

(a) 3-YEAR EXTENSION OF TEMPORARY INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.—Section 312(a) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–498), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking '', and before October 1, 2002'' and inserting ''and before October 1, 2005''.

(b) 3-YEAR EXTENSION OF INCREASE FOR SKILLED NURSING FACILITY ADJUSTED FEDERAL PER DIEM RATE THROUGH FISCAL YEAR 2005.—Section 101(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (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 ''THROUGH 2005''; and

(2) in paragraph (1), by striking ''and 2002'' and inserting ''through 2005''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if this section had been enacted before October 1, 2002. The Secretary of Health and Human Services shall promptly provide for such adjustments in payments as may be required

based on such amendments for services furnished during periods before the date of implementation of such amendments.

SEC. 534. TWO-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.

Section 1833(g)(4) of the Social Security Act (42 U.S.C. 1395*l*(g)(4)) is amended by striking ''and 2002'' and inserting ''2002, 2003, and 2004''.

SEC. 535. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR ALL MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking '', to an individual who receives'' and all that follows before the semicolon at the end and inserting ''to an individual who has received an organ transplant''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after the date of the enactment of this Act.

SEC. 536. BUDGET PROVISIONS.

(a) INAPPLICABILITY OF SUNSET.—The provisions of section 601(a) shall not apply to the provisions of, and amendments made by, this subtitle.

(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 and 2004, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004, 37.6%.

SA 648. 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 THE TREATMENT OF NET OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (A) of section 108(b)(2) (relating to tax attributes affected; order of reduction) is amended to read as follows:

''(A) NOL.—Any net operating loss (in the case of a taxpayer which is a member of an affiliated group of corporations which files a consolidated return under section 1501, any consolidated net operating loss, as defined in regulations prescribed by the Secretary) for the taxable year of the discharge, and any net operating loss carryover to such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges of indebtedness occurring after May 8, 2003, except that discharges of indebtedness under any plan of reorganization in a case under title 11, United States Code, shall be deemed to occur on the date such plan is confirmed.

SA 649. Mr. GRAHAM 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; as follows:

At the appropriate place insert the following:

SEC. . CITRUS CANKER TREE RELIEF.

(a) RATABLE INCLUSION.

(1) IN GENERAL.—Part I of subchapter Q of chapter 1 (relating to income averaging) is amended by inserting after section 1301 the following new section:

''SEC. 1302. RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.

''(a) IN GENERAL.—At the election of the taxpayer, any amount taken into account as income or gain by reason of receiving a citrus canker tree payment shall be included in the income of the taxpayer ratably over the 10-year period beginning with the taxable year in which the payment is received or accrued by the taxpayer. Such election shall be made on the return of tax for such taxable year in such manner as the Secretary prescribed, and, once made shall be irrevocable.

''(b) CITRUS CANKER TREE PAYMENT.—For purposes of subsection (a), the term 'citrus canker tree payment' means a payment made to an owner of a commercial citrus grove to recover income that was lost as a result of the removal of commercial citrus trees to control canker under the amendments to the citrus canker regulations (7 C.F.R. 301) made by the final rule published in the Federal Register by the Secretary of Agriculture on June 18, 2001 (66 Fed. Reg. 32713, Docket No. 00–37–4).''

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter Q of chapter is amended by inserting after the item relating to section 1301 the following new item:

SEC. 1302. RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.''.

(b) EXPANSION OF PERIOD WITHIN WHICH CONVERTED CITRUS TREE PROPERTY MUST BE REPLACED.—Section 1033 (relating to period within which property must be replaced) is amended by redesignating subsection (k) as subsection (1) and by inserting after subsection (j) the following new subsection:

''(k) COMMERCIAL TREES DESTROYED BECAUSE OF CITRUS TREE CANKER.—In the case of commercial citrus trees which are compulsorily or involuntarily converted under a public order as a result of the citrus tree canker, clause (i) of subsection (a)(2)(B) shall be applied as if such clause reads: '4 years after close of the first taxable year in which any part of the gain upon conversion is realized, or such additional period after the close of such taxable year as determined appropriate by the Secretary on a regional basis if a State or Federal plant health authority determines with respect to such region that the land on which such trees grew is not free from the bacteria that causes citrus tree canker'.''.

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

SA 650. Mr. KENNEDY (for himself, Mr. FEINGOLD, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

On page 54, strike lines 7 through 24, and insert the following: ''medicines to treat opportunistic infections, at the lowest possible price for products of assured quality (as provided for in subparagraph (D)). Such procurement shall be made anywhere in the world notwithstanding any provision of law restricting procurement of goods to domestic sources.

''(B) MECHANISMS FOR QUALITY CONTROL AND SUSTAINABLE SUPPLY.—Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

''(C) DISTRIBUTION.—The distribution of such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

''(D) LOWEST POSSIBLE PRICE AND ASSURED QUALITY.—

''(i) LOWEST POSSIBLE PRICE.—With respect to an HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, the lowest possible price means the lowest price at which such medicine (which includes all products of assured quality with the same active ingredients) may be obtained in sufficient quantity in either the United States or elsewhere on the world market.

''(ii) ASSURED QUALITY.—An HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, shall be considered a product of assured quality if it is—

''(I) approved by the Food and Drug Administration;

''(II) authorized for marketing by the European Commission;

''(III) on the most recent edition of the list of HIV-related medicines prequalified for procurement by the World Health Organization's Pilot Procurement Quality and Sourcing Project; or

''(IV) during the period that begins on the date of enactment of this section and ending on December 31, 2004, authorized for use by the national regulatory authority of the country where the product will be used.

''(iii) INTELLECTUAL PROPERTY PROTECTIONS.—An HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, at the lowest possible price may include any product in compliance with—

''(I) the intellectual property laws of the country where the product is manufactured;

''(II) the intellectual property laws of the country where the product will be used; and

''(III) applicable international obligations in the field of intellectual property, to the extent consistent with the flexibilities provided in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as interpreted in the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

''(iv) PRICES PUBLICLY AVAILABLE.—Prices paid for purchases of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, of assured quality shall be made publicly available.

''(v) APPLICATION TO APPROPRIATED FUNDS.—Funds appropriated under title IV of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 that are used for the procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, shall be used to procure products of assured quality at the lowest possible price, as determined under this subparagraph.

SA 651. Mr. SCHUMER (for himself, Mr. DEWINE, and Ms. LANDRIEU) 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 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

''(a) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3), or (b) the area contains a population of less than 100 people.

''(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 652. Mrs. CLINTON (for herself and Mrs. BOXER) proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes: as follows:

On page 23, line 24, insert before the semicolon the following: '', including the pursuit of sexual relations with adolescent girls''.

On page 24, strike lines 2 through 4, and insert the following: ''developed to address the access of women and adolescent girls to employment opportunities, income, education and training, productive resources, and microfinance programs;''.

On page 27, strike lines 19 through 23, and insert the following:

(W) An analysis of strategies to reduce deaths from cervical cancer caused by high risk strains of human papillomavirus in women over 30 living in sub-Saharan Africa.

(X) A description of a comprehensive 5-year global AIDS plan that shall be developed by the President to address issue effecting, and promote specific strategies to overcome, the extreme vulnerability of adolescent girls to HIV infection, including self esteem, access to education, safe employment and livelihood opportunities, pressures to marry at an early age and bear children, and norms that do not allow for safe and supportive family life and marriages.

(Y) A description of the programs, and the number of women and girls reached through these programs—

(i) to increase women's access to currently available prevention technologies and the steps taken to increase the availability of such technologies;

(ii) that provide prevention education and training for women and girls;

(iii) addressing violence and coercion; and

(iv) increasing access to treatment.

(Z) A description of the progress made on developing a safe, effective, and user-friendly microbicide.

On page 51, line 8, strike ''and''.

On page 51, line 12, strike the period and insert a semicolon.

On page 51, between lines 12 and 13, insert the following:

''(I) assistance for programs to dramatically increase women's access to currently available female-controlled prevention technologies and to microbicides when these become available, and for the training and skills needed to use these methods effectively;

''(J) assistance for research to develop safe, effective, and usable microbicides;

''(K) assistance for programs to provide comprehensive education for women and girls, including health education that emphasizes skills building on negotiation and the prevention of sexually transmitted infections and other related reproductive health risks and strategies that emphasize the delay of sexual debut;

''(L) assistance for strategies to prevent and address gender-based violence and sexual coercion of women and minors;

''(M) assistance to reduce the vulnerability of HIV/AIDS for women, young people, and children who are refugees or internally displaced persons; and

''(N) assistance for community-based strategies to reduce the stigma faced by women affected by HIV and AIDS.

On page 52, line 3, strike ''; and'' and insert a semicolon.

On page 52, line 10, strike the period and insert a semicolon.

On page 52, between lines 10 and 11, insert the following:

''(D) assistance for programs that promote equitable access to treatment and care for all women, by—

''(i) reducing economic and social barriers faced disproportionately by women;

''(ii) directly increase women's access to affordable drugs; and

''(iii) providing adequate pre- and postnatal care to pregnant women and mothers infected with HIV or living with AIDS to prevent an increase in the number of AIDS orphans; and

''(E) assistance to increase resources for households headed by females caring for AIDS orphans.

On page 81, after line 24, add the following:

(9) At the United Nations Special Session on HIV/AIDS in June 2001, the United States also committed itself to the specific goals with respect to reducing HIV prevalence among youth, as specified in the Declaration of Commitment on HIV/AIDS adopted by the United Nations General Assembly at the Special Session.

SA 653. Mr. BAUCUS 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 15, line 18, insert '', plus 50 percent of the aggregate cost not otherwise taken into account for such taxable year for section 179 property placed in service after the date of the enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003, and before January 1, 2005'' after ''$75,000''.

On page 19, line 13, strike ''2007'' and insert ''2010''.

On page 26, line 19, strike ''2007'' and insert ''2010''.

On page 26, line 22, strike ''2007'' and insert ''2010''.

SA 654. Mr. BINGAMAN (for himself, Mr. ENZI, Mrs. LINCOLN, Mr. SMITH, and Mr. NELSON of Nebraska) 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 F of title III, add 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) 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.—Only with respect to fiscal year 2004, if the statewide 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 paragraph) 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 for fiscal year 2004 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.—The Secretary shall compute a DSH allotment for the State of Hawaii for each of fiscal year 2004 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 striking ''Payment'' and inserting ''Subject to paragraph (3), payment''; and

(B) by adding at the end the following:

''(3) SPECIAL RULE.—The limitation of paragraph (1) shall not apply in the case of Tennessee with respect to fiscal year 2004 in the case of a revocation or termination of its statewide waiver described in subsection (f)(6)(A).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if enacted on October 1, 2002.

SA 655. Mr. REID 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. ___. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.

(a) IN GENERAL.—Subsection (m) of section 274 (relating to additional limitations on travel expenses) is amended by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 656. Mr. DASCHLE 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 up to subtitle D 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 657. Mr. INOUYE 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. __. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: ''For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date.

SA 658. Mr. INOUYE 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. . EXEMPTION OF CERTAIN HELICOPTER USES FROM TAXES ON TRANSPORTATION BY AIR.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) ADDITIONAL EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section or section 4271 on air transportation by helicopter for the purpose of transporting individuals and cargo to and from sites for the purpose of conducting removal and environmental restoration activities relating to unexploded ordnance.''.

(b) CONFORMING AMENDMENT.—Section 4041(l) is amended by striking ''(f) or (g)'' and inserting ''(f), (g), or (i)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after June 30, 1997, and before August 1, 2005.

SA 659. 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; as follows:

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

SEC. . MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR BUSINESSES AFFECTED BY THE SEPTEMBER 11TH TERRORIST ATTACKS.

(a) IN GENERAL.—Subsection (g) of section 1400L is amended to read as follows:

''(g) MODIFICATION OF RULES APPLICABLE TO NONRECOGNITION OF GAIN.—In the case of property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone—

''(1) which was held by a corporation which is a member of an affiliated group filing a consolidated return, such corporation shall be treated as satisfying the purchase requirement of section 1033(a)(2) with respect to such property to the extent such requirement is satisfied by another member of the group, and

''(2) notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' but only if substantially all of the use of the replacement property is in the City of New York, New York.''.

(b) EFFECTIVE DATE.—The amendments made by this Act shall apply to involuntary conversions occurring on or after September 11, 2001.

On page 19, line 13, strike ''2007'' and insert ''2008''.

SA 660. 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:

On page 19, line 13, strike ''2007'' and insert ''2008''.

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

SEC. ___. TAX TREATMENT OF FOREIGN CORPORATIONS RELOCATING TO WORLD TRADE CENTER AREA.

(a) IN GENERAL.—Subchapter Y of chapter 1 (relating to New York Liberty Zone benefits) is amended by adding at the end the following new section:

''SEC. 1400M. NO ADDITIONAL CORPORATE INCOME TAXES ON FOREIGN CORPORATIONS RELOCATING HEADQUARTERS OPERATIONS TO NEW YORK LIBERTY ZONE.

''(a) GENERAL RULE.—If there is a qualified headquarters relocation of an eligible foreign corporation, any qualified headquarters activities of the corporation conducted in the New York Liberty Zone shall be treated as conducted outside the United States for purposes of determining—

''(1) the amount of any tax imposed by this chapter, or the amount of withholding tax under chapter 3, on the corporation, or

''(2) whether the corporation has a permanent establishment within the United States for purposes of any applicable income tax treaty between the United States and any foreign country.

''(b) QUALIFIED HEADQUARTERS RELOCATION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified headquarters relocation' means any relocation of an eligible foreign corporation's qualified headquarters activities to the New York Liberty Zone but only if the corporation with respect to such relocation—

''(A) before September 11, 2007, enters into a contract—

''(i) under which the corporation agrees to acquire, lease, sublease, or otherwise occupy office space located in the New York Liberty Zone for use in the conduct of the activities to be relocated, and

''(ii) which requires a substantial financial commitment or provides a substantial cancellation penalty, and

''(B) before September 11, 2009—

''(i) transfers to the New York Liberty Zone qualified headquarters activities meeting the requirements of paragraph (2), and

''(ii) locates employees in the New York Liberty Zone in accordance with the requirements of paragraph (3).

''(2) TRANSFER OF QUALIFIED HEADQUARTERS ACTIVITIES.—The requirements of this paragraph are met if the transfer of qualified headquarters activities includes at least the transfer of a substantial part of the following activities which the eligible foreign corporation was performing for members of its expanded affiliated group immediately before the requirement of paragraph (1)(A) is met:

''(A) The activities described in clause (ii) of subsection (c)(2)(A).

''(B) High-level activities described in clause (iii) of subsection (c)(2)(A).

''(C) The activities described in clause (iv) of subsection (c)(2)(A).

''(3) TRANSFER OF EMPLOYEES.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the eligible foreign corporation locates in the New York Liberty Zone a number of employees equal to or greater than the lesser of—

''(i) 200 employees, or

''(ii) the greater of—

''(I) 10 percent of the employees of the corporation and the members of its expanded affiliated group for which the corporation performs headquarters activities (as of the date the requirements of paragraph (1)(B) are first met), or

''(II) 50 employees.

''(B) HIGH-LEVEL EMPLOYEES.—The requirements of this paragraph shall be treated as met only if the eligible foreign corporation locates in the New York Liberty Zone at least—

''(i) 50 percent of the senior officers of the corporation, and

''(ii) 50 percent of the senior business development personnel of the corporation.

''(C) CURRENT U.S. EMPLOYEES NOT COUNTED.—For purposes of determining whether the requirements of this paragraph are first met, and continue to be met during the 2-year period after the date on which the requirements are first met, there shall not be taken into account any individual who was an employee of the eligible foreign corporation or any member of its expanded affiliated group who was located in the United States at any time during the 1-year period ending on the later of—

''(i) the date the requirements of subsection (b)(1)(B) are first met, or

''(ii) the date the employee is first located in the New York Liberty Zone.

Any period during which an individual was located in the New York Liberty Zone solely as part of a qualified headquarters relocation

shall not be taken into account for purposes of the preceding sentence.

''(D) LOCATED.—An employee shall be treated as located in the New York Liberty Zone or the United States for any period if the services performed by the employee during the period are performed primarily in the New York Liberty Zone or the United States, respectively.

''(c) ELIGIBLE FOREIGN CORPORATION; QUALIFIED HEADQUARTERS ACTIVITIES.—For purposes of this section—

''(1) ELIGIBLE FOREIGN CORPORATION.—The term 'eligible foreign corporation' means a foreign corporation which—

''(A) performs qualified headquarters activities for 1 or more members of an expanded affiliated group including such corporation, and

''(B) agrees to furnish to the Secretary (at such time and in such manner as the Secretary may prescribe) such information as the Secretary may require to carry out this section, including the gross revenue of the corporation derived from qualified headquarters activities.

''(2) QUALIFIED HEADQUARTERS ACTIVITIES.—

''(A) IN GENERAL.—The term 'qualified headquarters activities' means, with respect to any eligible foreign corporation—

''(i) the ownership and management of any member of the expanded affiliated group of which it is a member,

''(ii) the conduct of any treasury function of a member of the expanded affiliated group of which it is a member, including the borrowing of funds, financing of members of the group and related entities, and investment of excess corporate funds, but not including the taking of deposits from, or the making of loans to, the public,

''(iii) marketing and branding functions,

''(iv) senior business management and development, and

''(v) any other activity incidental to any activity described in clauses (i) through (iv).

''(B) CERTAIN ACTIVITIES PREVIOUSLY CONDUCTED IN U.S. NOT INCLUDED.—

''(i) IN GENERAL.—Such term shall not include any activity which the eligible foreign corporation or any member of its expanded affiliated group engaged in through an office or fixed place of business in the United States at any time during the 3-year period ending on the date the requirements of subsection (b)(1)(B) are first met.

''(ii) EXCEPTION FOR RELOCATION ACTIVITIES.—The conduct of any activity as part of a qualified headquarters relocation shall not be taken into account in determining whether clause (i) applies to the activity.

''(iii) EXCLUSION CEASES TO APPLY IF ACTIVITY NOT CONDUCTED IN U.S. FOR 5 YEARS.—

''(I) IN GENERAL.—Clause (i) shall not apply to any activity conducted in the New York Liberty Zone during the taxable year described in subclause (II) or any succeeding taxable year.

''(II) APPLICABLE TAXABLE YEAR.—A taxable year is described in this subclause with respect to any activity if such year is the first taxable year in which ends a consecutive 5-year period which begins after the date the requirements of subsection (b)(1)(B) are first met and during which the eligible foreign corporation or any member of its expanded affiliated group did not engage in such activity through an office or fixed place of business within the United States.

''(iv) SPECIAL RULES FOR ACQUIRED ENTITIES.—

''(I) IN GENERAL.—If an acquired entity engaged in an activity described in subparagraph (A) through an office or fixed place of business in the United States (other than an activity which was a qualified headquarters activity of the acquired entity for purposes of subsection (a)) at any time during the 1-year period preceding the first date on which the acquired entity became a member of the expanded affiliated group of the eligible foreign corporation, such activity shall be treated as an activity engaged in by the eligible foreign corporation on the day preceding the first day the requirements of subsection (b)(1)(B) are met.

''(II) ACTIVITIES NOT CONDUCTED IN U.S FOR 5 YEARS.—If subclause (I) applies to an activity, clause (iii) shall be applied to the activity by substituting the date the acquired entity became a member of the expanded affiliated group of the eligible foreign corporation for the first day the requirements of subsection (b)(1)(B) are met.

''(III) ACQUIRED ENTITY.—The term 'acquired entity' means any corporation or partnership which became a member of the eligible foreign corporation's expanded affiliated group after the first date the requirements of subsection (b)(1)(B) are met.

''(v) PREDECESSOR ENTITIES.—For purposes of this subparagraph, any activity conducted by a predecessor or related person with respect to a member of an expanded affiliated group shall be treated as conducted by the member.

''(d) TERMINATION AND RECAPTURE OF TAX BENEFITS.—

''(1) IN GENERAL.—This section shall not apply to any qualified headquarters activities of an eligible foreign corporation for any taxable year if the corporation at any time during the taxable year or any preceding taxable year fails to—

''(A) conduct the qualified headquarters activities described in subsection (b)(2), or

''(B) meet the requirements of subsection (b)(3).

The Secretary may waive the application of this paragraph in the case of a de minimis or inadvertent failure which is corrected within a reasonable period of time after discovery.

''(2) RECAPTURE OF TAX ON CERTAIN ELIGIBLE FOREIGN CORPORATIONS.—

''(A) IN GENERAL.—In addition to any tax imposed by this chapter for the first taxable year during which this section does not apply to an eligible foreign corporation by reason of paragraph (1), there is hereby imposed on the eligible foreign corporation a tax equal to the recapture amount described in subparagraph (B).

''(B) RECAPTURE AMOUNT.—

''(i) IN GENERAL.—The recapture amount described in this subparagraph shall be the sum of the amounts determined for each of the 4 taxable years preceding the first taxable year to which this section does not apply by reason of paragraph (1) by multiplying the qualified tax benefits for each such year by the following recapture percentage:

"In the case of—	The recapture percentage is—
The immediately preceding taxable year.	80%
The second preceding taxable year	60%
The third preceding taxable year ...	40%
The fourth preceding taxable year	20%.

''(ii) QUALIFIED TAX BENEFITS.—For purposes of this subparagraph, the term 'qualified tax benefits' means, with respect to any taxable year described in clause (i), an amount equal to the excess (if any) of—

''(I) the amount of the tax liability which a foreign corporation would have had for the taxable year under this chapter and chapter 3 if this section had not applied, over

''(II) the amount of such tax liability for such corporation for such taxable year without regard to this paragraph.

''(C) INTEREST.—

''(i) IN GENERAL.—In addition to the tax imposed by subparagraph (A), an eligible foreign corporation shall pay interest on the recapture amount.

''(ii) CALCULATION OF INTEREST.—The amount of interest under clause (i) shall be determined—

''(I) at the underpayment rate specified in section 6621,

''(II) separately for each taxable year, and

''(III) for the period beginning on the due date for the tax return of the corporation for such taxable year (without regard to extensions) and ending on the due date for the tax return of the corporation for the first taxable year to which this section ceases to apply.

''(e) EXPANDED AFFILIATED GROUP.—For purposes of this section—

''(1) IN GENERAL.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to paragraphs (2) and (3) of section 1504(b), except that section 1504(a) shall be applied by substituting '50 percent' for '80 percent' each place it appears.

''(2) PARTNERSHIPS.—Such term includes any partnership in which the eligible foreign corporation or its expanded affiliated group owns directly or indirectly more than 50 percent of the capital or profit interests.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) which exclude from qualified headquarters activities any activities of a type not ordinarily performed by a corporation performing headquarters activities,

''(2) to apply this section in the case of eligible foreign corporations that conduct activities in the United States other than qualified headquarters activities, and

''(3) which prevent qualified foreign corporations from expanding the benefits available by reason of this paragraph through intercompany transactions.''

(b) CONFORMING AMENDMENT.—The table of sections for subchapter Y of chapter 1 is amended by adding at the end the following new item:

''Sec. 1400M. No additional corporate income taxes on foreign corporations relocating headquarters operations to New York Liberty Zone.''

SA 661. Mr. MCCAIN (for himself and Mr. BAUCUS) 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:

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.

SA 662. Mr. EDWARDS (for himself, Mr. MCCAIN, and Mr. GRAHAM of South Carolina) 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. ___. REPEAL OF TAX BENEFITS RELATING TO COMPANY-OWNED LIFE INSURANCE.

REPEAL OF TAX BENEFITS RELATING TO COMPANY-OWNED LIFE INSURANCE.—

(1) INCLUSION OF LIFE INSURANCE INVESTMENT GAINS.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by inserting after subsection (j) the following new subsection:

''(k) TREATMENT OF CERTAIN COMPANY-OWNED LIFE INSURANCE CONTRACTS.—In the case of a company-owned life insurance contract, the income on the contract (as determined under section 7702(g)) for any taxable year shall be includible in gross income for such year unless the contract covers the life solely of individuals who are key persons (as defined in section 264(e)(3)).''.

(2) REPEAL OF EXCLUSION FOR DEATH BENEFITS.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

''(j) PROCEEDS OF CERTAIN COMPANY-OWNED LIFE INSURANCE.—Notwithstanding any other provision of this section, there shall be included in gross income of the beneficiary of a company-owned life insurance contract (unless the contract covers the life solely of individuals who are key persons (as defined in section 264(e)(3)))—

''(1) amounts received during the taxable year under such contract, less

''(2) the sum of amounts which the beneficiary establishes as investment in the contract plus premiums paid under the contract. Amounts included in gross income under the preceding sentence shall be so included under section 72.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contracts entered into after the date of enactment of this section.

SA 663. Mr. BREAUX 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 Sec. 350;

On page 19, line 11, strike ''100'' and insert ''65.''

SA 664. Mr. NICKLES (for himself, Mr. MILLER, Mr. KYL, Mr. LOTT, Mr. BUNNING, Mr. CRAPO, Mr. GRAHAM of South Carolina, Mr. BENNETT, Mr. FRIST, Mr. MCCONNELL, Mr. SANTORUM, Mr. ENSIGN, Mr. SMITH, Mr. THOMAS, Mr. DOMENICI, and Mr. ALLARD) 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:

Beginning on page 9, line 16, strike all through page 12, line 9, and insert:

SEC. 104. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (7) of section 63(c) (relating to standard deduction) is amended to read as follows:

''(7) APPLICABLE PERCENTAGE.—For purposes of paragraph (2), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	The applicable percentage is—
2003	195
2004	200
2005	174
2006	184
2007	187
2008	190
2009 and thereafter	200.''.

(b) CONFORMING AMENDMENT.—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. 105. ACCELERATION OF 15-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET EXPANSION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Subparagraph (B) of section 1(f)(8) (relating to phaseout of marriage penalty in 15-percent bracket) is amended to read as follows:

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (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	195
2004	200
2005	180
2006	187
2007	193
2008 and thereafter	200.''.

(b) CONFORMING AMENDMENT.—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.

Beginning on page 15, line 12, strike all through page 18, line 11, and insert:

SEC. 107. 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.

On page 19, line 5, insert ''the applicable percentage of'' before ''qualified''.

On page 19, strike lines 7 through 15, and insert:

''(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage is—

''(A) 50 percent in the case of taxable years beginning in 2003,

''(B) 100 percent in the case of taxable years beginning in 2004, 2005, and 2006, and

''(C) zero percent in the case of any other taxable year.

On page 21, beginning with line 21, strike all through page 22, line 2, and redesignate accordingly.

On page 26, strike lines 17 through 22, and insert:

(4) Section 531 is amended—

(A) by inserting ''the taxable percentage of'' after ''equal to'', and

(B) by adding at the end the following: ''For purposes of this section, the taxable percentage is 100 percent minus the applicable percentage (as defined in section 116(a)(2)).''

(5) Section 541 is amended—

(A) by inserting ''the taxable percentage of'' after ''equal to'', and

(B) by adding at the end the following: ''For purposes of this section, the taxable percentage is 100 percent minus the applicable percentage (as defined in section 116(a)(2)).''

On page 27, between lines 16 and 17, insert:

(9)(A) Section 1059(a) is amended by striking ''corporation'' each place it appears and inserting ''taxpayer''.

(B)(i) The heading for section 1059 is amended by striking ''**CORPORATE**''.

(ii) The item relating to section 1059 in the table of sections for part IV of subchapter O of chapter 1 is amended by striking ''Corporate shareholder's'' and inserting ''Shareholder's''.

On page 27, line 19, strike ''2003'' and insert ''2002''.

SA 665. Mr. REID (for himself and Mr. GRAHAM 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; as follows:

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

SEC. ___. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.

(a) IN GENERAL.—Subsection (m) of section 274 (relating to additional limitations on travel expenses) is amended by striking paragraph (3)(A).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, and on or before December 31, 2004.

SA 666. Mr. DORGAN 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 8, strike the matter preceding line 1, and insert:

''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%	35.4%
2004 and thereafter	25.0%	28.0%	33.0%	35.0%''.

Strike section 357.

SA 667. Mrs. BOXER 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. ___. CHILD SUPPORT ENFORCEMENT.

(a) INCLUSION IN INCOME OF AMOUNT OF UNPAID CHILD SUPPORT.—Section 108 (relating to discharge of indebtedness income) is amended by adding at the end the following new subsection:

''(h) UNPAID CHILD SUPPORT.—

''(1) IN GENERAL.—For purposes of this chapter, any unpaid child support of a delinquent debtor for any taxable year shall be treated as amounts includible in gross income of the delinquent debtor for the taxable year.

''(2) DEFINITIONS.—For the purposes of this subsection—

''(A) CHILD SUPPORT.—The term 'child support' means—

''(i) any periodic payment of a fixed amount, or

''(ii) any payment of a medical expense, education expense, insurance premium, or other similar item,

which is required to be paid to a custodial parent by an individual under a support instrument for the support of any qualifying child of such individual. 'Child support' does not include any amount which is described in section 408(a)(3) of the Social Security Act and which has been assigned to a State.

''(B) CUSTODIAL PARENT.—The term 'custodial parent' means an individual who is entitled to receive child support and who has registered with the appropriate State office of child support enforcement charged with implementing section 454 of the Social Security Act.

''(C) DELINQUENT DEBTOR.—The term 'delinquent debtor' means a taxpayer who owes unpaid child support to a custodial parent.

''(D) QUALIFYING CHILD.—The term 'qualifying child' means a child of a custodial parent with respect to whom a dependent deduction is allowable under section 151 for the taxable year (or would be so allowable but for paragraph (2) or (4) of section 152(e)).

''(E) SUPPORT INSTRUMENT.—The term 'support instrument' means—

''(i) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

''(ii) a written separation agreement, or

''(iii) a decree (not described in clause (i)) of a court or administrative agency requiring a parent to make payments for the support or maintenance of 1 or more children of such parent.

''(F) UNPAID CHILD SUPPORT.—The term 'unpaid child support' means child support that is payable for months during a custodial parent's taxable year and unpaid as of the last day of such taxable year, provided that such unpaid amount as of such day equals or exceeds one-half of the total amount of child support due to the custodial parent for such year.

''(3) COORDINATION WITH OTHER LAWS.—Amounts treated as income by paragraph (1) shall not be treated as income by reason of paragraph (1) for the purposes of any provision of law which is not an internal revenue law.''.

(b) EFFECTIVE DATE; IMPLEMENTATION.—The amendments made by is section shall apply to taxable years beginning after December 31, 2002. The Secretary of the Treasury shall publish Form 1099–CS (or such other form that may be prescribed to comply with the amendment made by subsection (b)(1)) and regulations, if any, that may be deemed necessary to carry out the purposes of this Act, not later than 90 days after the date of enactment of this Act.

SA 668. Mr. DORGAN 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:

SEC. ___. ENSURING DEFICIT REDUCTION.

(a) TRIGGER.—Notwithstanding any other provision of this Act, the provisions as described in subsection (b) shall take effect only as provided in subsection (c).

(b) PROVISION DESCRIBED.—A provision of this Act described in this subsection is—

(1) a provision of this Act that 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) a provision of this Act that provides a 50 percent dividends exclusion between December 31, 2002, and December 31, 2003, and a 100 percent dividends exclusion between December 31, 2003 and December 31, 2006.

(c) DELAY.—

(1) IN GENERAL.—Each year when the final monthly Treasury report for the most recently ended fiscal year is released, the Secretary of the Treasury shall certify whether the on-budget deficit exceeds $300,000,000,000 for such year.

(2) EFFECTIVE DATE.—The provisions described in subsection (b) shall become effective on January 1 in the calendar year following the issuance of the final Treasury report only if the Secretary has determined that the on-budget deficit is $300,000,000,000 or less for the recently ended fiscal year.

(d) DISCRETIONARY SPENDING LIMITATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in any fiscal year subject to the delay provisions of subsection (c)—

(A) the amount of budget authority for discretionary spending for Federal agency administrative overhead expenses shall be limited to the level in the preceding fiscal year minus 5 percent; and

(B) with respect to a second or subsequent consecutive fiscal year subject to this subsection, the amount of budget authority for discretionary spending for Federal agency administrative overhead expenses shall be limited to the level in the preceding fiscal year.

(2) DEFINITION.—In this subsection, the term ''administrative overhead expenses'' mean costs of resources that are jointly or commonly used to produce 2 or more types of outputs but are not specifically identifiable with any of the outputs. Administrative overhead expenses include general administrative services, general research and technology support, rent, employee health and recreation facilities, and operating and maintenance costs for buildings, equipment, and utilities.

SA 669. Mr. DURBIN 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. ___. 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 670. Mr. SANTORUM (for himself and Mr. NELSON of Nebraska) 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 title II and insert:

TITLE II—DIVIDEND EXCLUSION TO ELIMINATE DOUBLE TAXATION OF CORPORATE EARNINGS

SEC. 201. DIVIDEND EXCLUSION TO ELIMINATE DOUBLE TAXATION OF CORPORATE EARNINGS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 115 the following new section:

''SEC. 116. DIVIDEND EXCLUSION TO ELIMINATE DOUBLE TAXATION OF CORPORATE EARNINGS.

''(a) EXCLUSION.—Gross income does not include the excludable portion (as defined in section 281) of any amount received as a dividend.

''(b) REPORTING TO SHAREHOLDERS.—For reporting to shareholders, see section 6042.''

(b) CLERICAL AMENDMENT.—The table of sections for such part III is amended by inserting after the item relating to section 115 the following new item:

''Sec. 116. Dividend exclusion to eliminate double taxation of corporate earnings.''

SEC. 202. RULES FOR APPLICATION OF DIVIDEND EXCLUSION.

(a) IN GENERAL.—Subchapter B of chapter 1 (as amended by subsection (d)) is amended by inserting after part IX the following new part:

''PART X—RULES FOR APPLICATION OF DIVIDEND EXCLUSION

''Sec. 281. Excludable portion of dividends.

''Sec. 282. Special rules for credits and refunds.
''Sec. 283. Special rules for foreign corporations and shareholders.
''Sec. 284. Other special rules.
''Sec. 285. Regulations.
''Sec. 286. Phasein and Termination.

''SEC. 281. EXCLUDABLE PORTION OF DIVIDENDS.

''(a) EXCLUDABLE PORTION.—For purposes of section 116, the term 'excludable portion' means, with respect to any dividend paid by a corporation in a calendar year, an amount which bears the same ratio to such dividend as the excludable dividend amount of such corporation for the calendar year bears to the total amount of dividends paid by such corporation in such calendar year.

''(b) EXCLUDABLE DIVIDEND AMOUNT.—For purposes of this part and section 116—

''(1) IN GENERAL.—The term 'excludable dividend amount' means, with respect to any corporation for any calendar year, the excess of—

''(A) the sum of—

''(i) the fully taxed earnings amount for the preceding calendar year, and

''(ii) the aggregate amount of dividends received by the corporation during such preceding year which are excluded from gross income under section 116(a), over

''(B) the amount of applicable income tax taken into account under subparagraph (A)(i).

''(2) CARRYOVER OF EXCESS OF EXCLUDABLE DIVIDEND AMOUNT OVER DIVIDENDS PAID.—The excludable dividend amount of a corporation for any calendar year shall be increased by the excess of—

''(A) the excludable dividend amount of such corporation for the preceding calendar year, over

''(B) the aggregate amount paid by the corporation as dividends during such preceding calendar year.

''(c) FULLY TAXED EARNINGS AMOUNT.—

''(1) IN GENERAL.—The fully taxed earnings amount for any calendar year is the amount of the applicable income tax shown on applicable returns for such year divided by the highest rate of tax specified in section 11.

''(2) INCREASE FOR PRIOR YEAR ASSESSMENTS.—The fully taxed earnings amount for any calendar year shall be increased by the amount of any applicable income tax (not previously taken into account under paragraph (1)) which is assessed during such year divided by the highest rate of tax specified in section 11.

''(3) LIMITATION TO AMOUNT PAID.—If an amount described in paragraph (1) or (2) is paid after the close of the calendar year in which such amount would (but for this paragraph) be taken into account, such amount shall be taken into account for the calendar year in which paid.

''(4) HIGHEST RATE OF TAX.—For purposes of this subsection, the highest rate of tax specified in section 11 with respect to any applicable income tax shall be such highest rate for the taxable year for which (or by reference to which) such tax is determined.

''(d) DEFINITIONS.—For purposes of this part—

''(1) APPLICABLE INCOME TAX.—

''(A) IN GENERAL.—The term 'applicable income tax' means the excess (if any) of—

''(i) the sum of the taxes imposed by sections 11, 55, 511, 801, 831, 882, 1201, 1291 (without regard to section 1291(c)(1)(B)), and 1374, over

''(ii) the sum of the credits under part IV of subchapter A (other than subpart C and section 27(a)).

''(B) TRANSITIONAL RULES.—

''(i) IN GENERAL.—Such term shall not include any tax imposed for any taxable year ending before April 1, 2001.

''(ii) TREATMENT OF MINIMUM TAX CREDIT.—The applicable income tax shall not be reduced by the credit under section 53 attributable (determined as if such credit were used on a first-in first-out basis) to taxable years ending before April 1, 2001.

''(iii) SECTION 1374.—The reference to section 1374 in subparagraph (A)(i) shall not apply to taxable years beginning before January 1, 2003.

''(iv) OTHER TAXES INCLUDED.—The taxes imposed by sections 531 and 541 (as in effect before their repeal) shall be taken into account under subparagraph (A)(i) for taxable years ending after March 31, 2001, and beginning before January 1, 2004.

''(2) APPLICABLE RETURN.—

''(A) IN GENERAL.—The term 'applicable return' means, with respect to a calendar year, any return of applicable income tax for a taxable year if the 15th day of the 9th month following the close of such taxable year occurs during such calendar year.

''(B) FILING REQUIREMENT.—If a return is filed after the close of the calendar year with respect to which such return would (but for this subparagraph) be treated as an applicable return under subparagraph (A), such return shall be treated as an applicable return for the calendar year in which filed.

''SEC. 282. SPECIAL RULES FOR CREDITS AND REFUNDS.

''(a) IN GENERAL.—No overpayment of an applicable income tax by a corporation may be allowed as a credit or refund to the extent that the overpayment exceeds the sum of—

''(1) the aggregate applicable income taxes otherwise taken into account under section 281 for determining the excludable dividend amount for the calendar year succeeding the calendar year in which the credit or refund would otherwise be allowed or made, and

''(2) an amount equal to the lesser of—

''(A) the product of the corporation's excludable dividend amount for such calendar year and the fraction the numerator of which is the highest rate of tax specified in section 11 (within the meaning of section 281(c)(4)) and the denominator of which is 1 minus such highest rate, or

''(B) the amount specified by the corporation for purposes of this paragraph.

''(b) ADJUSTMENTS TO EXCLUDABLE DIVIDEND AMOUNTS RESULTING FROM CREDITS AND REFUNDS.—If subsection (a) applies to any credit or refund which is allowed or made in a calendar year—

''(1) the applicable income taxes described in subsection (a)(1) otherwise taken into account under section 281 for determining the excludable dividend amount for the succeeding calendar year shall be reduced (but not below zero) by the amount of the credit or refund, and

''(2) the excludable dividend amount for the calendar year shall be reduced by the excess of—

''(A) the amount determined under subsection (a)(2) divided by the highest rate of tax specified in section 11, over

''(B) the amount determined under subsection (a)(2).

''(c) DISALLOWED OVERPAYMENT NOT LOST.—Nothing in subsection (a) shall be construed to reduce the amount of any overpayment for which credit or refund is not allowed by reason of subsection (a), and such overpayment shall continue to be taken into account in applying subsection (a) for succeeding calendar years until a credit or refund is allowed or made.

''(d) EXCEPTION FOR FOREIGN TAX CREDIT.—This section shall not apply to any overpayment to the extent that such overpayment is attributable to the credit allowed under section 27(a).

''(e) DENIAL OF INTEREST.—No interest shall be allowed on any overpayment during the period that credit or refund of such overpayment is not allowed by reason of this section.

''SEC. 283. SPECIAL RULES FOR FOREIGN CORPORATIONS AND SHAREHOLDERS.

''(a) COMPUTATION OF EXCLUDABLE DIVIDEND AMOUNTS OF FOREIGN CORPORATIONS.—

''(1) REDUCTION IN EXCLUDABLE DIVIDEND AMOUNT FOR CERTAIN TAXES.—The reduction under section 281(b)(1)(B) (without regard to this subparagraph) shall be increased by the sum of—

''(A) the taxes imposed by section 884 (relating to branch profits tax), and

''(B) so much of the taxes imposed by section 881 as are attributable to dividends which would (but for subsection (b)) be excludable under section 116.

''(2) TREATMENT OF DISALLOWED EXCLUSIONS.—Notwithstanding subsection (b), the excludable dividend amount of a foreign corporation for a calendar year shall be increased by the dividends received by the corporation which (but for subsection (b)) would be excludable under section 116(a).

''(b) TAXATION OF FOREIGN SHAREHOLDERS.—In the case of a shareholder who is a nonresident alien individual or a foreign corporation, no dividends shall be excludable under section 116(a).

''(c) RULES RELATING TO FOREIGN TAX CREDIT.—

''(1) IN GENERAL.—No credit shall be allowed under section 901 for any taxes paid or accrued (or deemed paid under section 902 or 960) with respect to any dividend excludable under section 116.

''(2) EXCLUDABLE DIVIDEND AMOUNT.—The excludable dividend amount of a corporation for any calendar year shall be determined without regard to a reduction in the credit allowed by section 27(a) on an applicable return for a prior calendar year.

''SEC. 284. OTHER SPECIAL RULES.

''(a) REDEMPTIONS.—If a corporation makes a distribution to a shareholder during any calendar year with respect to its stock and section 301 does not apply to such distribution, the excludable dividend amount as of the beginning of the calendar year shall be reduced by the ratable share of such amounts attributable to the stock so redeemed.

''(b) COORDINATION WITH SECTION 246(c).—

''(1) HOLDING PERIOD REQUIREMENTS.—If a shareholder disposes of any share of stock before the holding period requirements of section 246(c) are met, the basis of such share shall be reduced by the amount of dividends received with respect to such share which are excludable under section 116(a).

''(2) RELATED PAYMENTS.—No deduction shall be allowed under this chapter for any related payments described in section 246(c)(1)(B) with respect to any dividend excludable under section 116(a) with respect to any share of stock to the extent that such payments do not exceed the amount of such dividend or basis increase.

''(3) TREATMENT OF DISALLOWED EXCLUSIONS AND ADJUSTMENTS.—The excludable dividend amount of any corporation for a calendar year, and its earnings and profits, shall not be increased by the dividends received by the corporation which are excludable under section 116(a) and which resulted in a basis reduction under paragraph (1).

''(c) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''(1) IN GENERAL.—Except as provided in regulations, the excludable dividend amount of a regulated investment company or real estate investment trust shall be zero.

''(2) CROSS REFERENCE.—

"For special rules relating to application of this part to regulated investment companies and real estate investment trusts, see section 852(g).

''(d) EXCLUSION REDUCED WHERE PORTFOLIO STOCK HELD BY CORPORATION IS DEBT-FINANCED.—

''(1) TREATMENT OF EXCLUDABLE DIVIDEND.—In the case of any debt-financed portfolio stock (within the meaning of section 246A) held by a corporation, the amount excluded under section 116(a) with respect to any dividend received with respect to such stock shall be an amount equal to the product of—

''(A) the amount which would be excluded under section 116(a) without regard to this paragraph, and

''(B) 100 percent minus the average indebtedness percentage (within the meaning of section 246A(d)).

''(2) LIMITATION.—The aggregate amount of reductions under paragraph (1) with respect to any debt-financed portfolio stock shall not exceed the amount of interest deduction (including any deductible short sale expense) allocable to such stock.

''(3) EXCEPTION.—This subsection shall not apply to any dividend described in paragraph (1) or (2) of section 246A(b).

''(e) TREATMENT OF VARIABLE ANNUITY CONTRACTS.—

''(1) IN GENERAL.—A life insurance company may allocate (at such time and manner as the Secretary shall prescribe) to a qualified variable annuity contract based on a segregated asset account dividends received which would (but for section 803(c)) be excludable under section 116(a) with respect to stock held in such account.

''(2) TREATMENT OF AMOUNTS ALLOCATED.—

''(A) AMOUNTS ALLOCATED ON OR BEFORE ANNUITY STARTING DATE.—Any amount allocated under paragraph (1) to a contract on or before the annuity starting date shall be treated for purposes of section 72 as an additional investment in the contract.

''(B) AMOUNTS ALLOCATED AFTER ANNUITY STARTING DATE.—If any amount is allocated under paragraph (1) to a contract after the annuity starting date, the amounts otherwise includible in gross income with respect to amounts received as an annuity under such contract after the date of such allocation shall be reduced by the amount so allocated.

''(3) QUALIFIED VARIABLE ANNUITY CONTRACT.—For purposes of this subsection, the term 'qualified variable annuity contract' means any annuity contract described in section 817(d)(3)(A). Such term shall not include a pension plan contract (within the meaning of section 818).

''(4) INFORMATION REPORTING.—The Secretary may require such reporting as may be appropriate for purposes of this paragraph.

''(f) COOPERATIVES.—In the case of a cooperative to which subchapter T applies—

''(1) the excludable dividend amount of such cooperative shall be allocated for purposes of section 116 and this part between shares of such cooperative held by patrons and shares held by other persons in such manner as the Secretary shall prescribe by regulations, and

''(2) no deduction shall be allowed to the cooperative under this chapter for any dividend paid to a patron which is excludable under section 116(a).

''(g) ESOP STOCK.—Any dividend allowed as a deduction under section 404(k) shall not be treated as a dividend for purposes of section 116 and this part.

"SEC. 285. REGULATIONS.

''The Secretary shall prescribe such regulations as may be appropriate to carry out section 116 and this part, including regulations—

''(1) providing for the treatment of options and convertible debt as stock, including modification of the attribution rules under section 318(a)(4),

''(2) providing for the allocation of the excludable dividend amount in the case of transactions described in section 312(h),

''(3) waiving the application of section 246(c)(4) for purposes of sections 284(b) and 1059(g),

''(4) modifying the consolidated return regulations to the extent necessary or appropriate to apply the provisions of this part, including regulations that accelerate the inclusion in the excludable dividend amount of a higher-tier member with respect to—

''(A) activities of lower-tier members of the group, and

''(B) dividends excludable under section 116(a) received from such lower-tier members,

''(5) providing for the application of section 116 and this part in the case of pass-thru entities, including appropriate adjustments to basis, and

''(6) as are necessary to further the purposes of section 116 and this part and to prevent the circumvention of such purposes.

Any regulations under paragraph (4) may be effective as of the effective date of this part.

"SEC. 286. PHASEIN AND TERMINATION.

''(a) PHASEIN OF EXCLUDABLE DIVIDEND AMOUNT.—In computing the excludable dividend amount for any calendar year, only 50 percent of the applicable income taxes for a taxable year beginning before April 1, 2002, shall be taken into account.

''(b) TERMINATION.—

''(1) IN GENERAL.—Except as provided in this subsection, section 116 and this part shall not apply to any calendar year after calendar year 2006, and the excludable dividend amount for any such year shall be zero.

''(2) CREDITS AND REFUNDS.—Section 282 shall apply to any credit or refund after December 31, 2006, of an applicable income tax taken into account in determining the excludable dividend account for calendar year 2003, 2004, 2005, or 2006.''.

(b) REPORTING OF EXCLUDABLE DIVIDENDS.—

(1) IN GENERAL.—Section 6042(a) (relating to returns regarding payments of dividends and corporate earnings and profits) is amended to read as follows:

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—Every person—

''(A) who makes payments of dividends aggregating $10 or more to any other person during any calendar year, or

''(B) who receives such payments of dividends as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the dividends received,

shall make a return at the time and in the manner prescribed by the Secretary, setting forth the information described in paragraph (3).

''(2) RETURNS REQUIRED BY SECRETARY.—Every person who makes payments of dividends to which paragraph (1) does not apply shall, when required by the Secretary, make a return setting forth the information described in paragraph (3).

''(3) INFORMATION REPORTED.—Information described in this paragraph includes—

''(A) the aggregate amount of dividends, including the portion of such amount excludable from gross income under section 116(a), and

''(B) such other information as the Secretary may require.

In the case of a nominee described in paragraph (1)(B), this paragraph shall apply with respect to the payments and allocations made by the nominee.''

(2) APPLICATION TO FOREIGN PERSONS.—Section 6042 is amended by adding at the end the following new subsection:

''(e) APPLICATION TO FOREIGN PERSONS.—The Secretary may provide for the application of this section to payments, allocations, and distributions made by or to a foreign person to the extent necessary to carry out the provisions of section 116 and part X of subchapter B of chapter 1.''

(3) CONFORMING AMENDMENT.—Section 6042(c)(2) is amended to read as follows:

''(2) the information described in subsection (a)(3) required to be shown on the return.''

(c) AMENDMENTS TO OTHER SECTIONS.—

(1) MINIMUM TAX.—Clause (i) of section 56(g)(4)(B) is amended by striking ''or under section 114'' and inserting '', section 114, or section 116''.

(2) COORDINATION WITH DIVIDEND RECEIVED DEDUCTIONS.—

(A) Section 246 is amended by adding at the end the following new subsection:

''(f) COORDINATION WITH DIVIDEND EXCLUSION.—No deduction shall be allowed under section 243, 244, or 245 with respect to the amount of any dividend excluded from gross income under section 116 or would be so excluded but for sections 283(b) and 284(d).''

(B) Section 243 is amended by adding at the end the following new subsection:

''(f) TERMINATION.—Paragraph (1) of subsection (a) shall not apply to any dividend received by a corporation after December 31, 2005.''

(3) CARRYOVERS IN CERTAIN CORPORATION ACQUISITIONS.—Section 381(c) is amended by adding at the end the following new paragraph:

''(27) EXCLUDABLE DIVIDEND AMOUNT.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section, section 116, and part X of subchapter B, and under such regulation as may be prescribed by the Secretary) the excludable dividend amount in respect of the distributor or transferor.''

(4) TRUSTS AND ESTATES.—Subsection (a) of section 643 is amended—

(A) by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) DIVIDENDS, ETC.—There shall be included the amount of any dividends excluded from gross income under section 116.'', and

(B) by striking ''and (6)'' in the last sentence and inserting '', (6), and (7)''.

(5) PARTNERSHIPS.—Paragraph (5) of section 702(a) is amended to read as follows:

''(5) dividends with respect to which there is an exclusion under section 116 or a deduction under part VIII of subchapter B,''.

(6) EXTRAORDINARY DIVIDENDS.—

(A) IN GENERAL.—Section 1059 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) TREATMENT OF EXCLUDABLE DIVIDENDS AS EXTRAORDINARY DIVIDENDS.—

''(1) IN GENERAL.—For purposes of this section, any dividend excludable under section 116(a) shall be treated as an extraordinary dividend, except that this section shall be applied by substituting '1 year (or such other period as the Secretary may prescribe)' for '2 years' each place it appears.

''(2) TREATMENT OF DEEMED EXTRAORDINARY DIVIDENDS.—The excludable dividend amount of any corporation for a calendar year, and its earnings and profits, shall not be increased by the dividends received by the corporation which are treated as extraordinary dividends by reason of paragraph (1).

''(3) COORDINATION WITH SECTION 284(b).—This section shall not apply to any dividend excludable under section 116(a) with respect to which section 284(b) applies.

''(4) REGULATIONS.—The Secretary may by regulation provide for exceptions to the application of paragraph (1).''

(B) Paragraph (3) of section 1059(d) is amended by inserting ''section 1223(11) shall not apply and'' after ''subsection (a),''.

(C)(i) Section 1059 is amended by striking ''corporation'' each place it appears in subsection (a) and inserting ''taxpayer''.

(ii) The section heading for section 1059 is amended by striking ''**CORPORATE**'' and by inserting ''**AND EXCLUDABLE**'' before ''**DIVIDENDS**''.

(iii) The item relating to section 1059 in the table of sections for part IV of subchapter O of chapter 1 is amended—

(I) by striking ''Corporate'' and inserting ''Shareholder's'', and

(II) by inserting ''and excludable'' before ''dividends''.

(7) PRIVATE FOUNDATIONS.—Section 4940(c) is amended by adding at the end the following new paragraph:

''(6) COORDINATION WITH DIVIDEND EXCLUSION.—For purposes of this section, gross investment income shall not include a dividend to the extent excluded from gross income under section 116(a).''

(d) CONFORMING AMENDMENTS.—

(1)(A) Part X of subchapter B of chapter 1, as in effect on the day before the date of the enactment of this Act, is hereby moved after part XI of such subchapter B and redesignated as part XII.

(B) Section 281, as so in effect, is redesignated as section 296.

(C) The table of sections for such part XII, as so designated, is amended by striking ''Sec. 281'' and inserting ''Sec. 296.''

(D) The table of parts for subchapter B of chapter 1 is amended by striking the items relating to parts X and XI and inserting the following new items:

''Part X. Rules for application of dividend exclusion.

''Part XI. Special rules relating to corporate preference items.

''Part XII. Terminal railroad corporations and their shareholders.''

(2) Subsection (f) of section 301 is amended by adding at the end the following new paragraph:

''(4) For exclusion from gross income of certain dividends, see section 116.''

SEC. 203. TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 852 is amended by adding at the end the following new subsection:

''(g) SPECIAL RULES RELATING TO SECTION 116 AND PART X OF SUBCHAPTER B.—

''(1) EXCLUDABLE PORTION.—

''(A) IN GENERAL.—For purposes of section 116(a), the excludable portion of any dividend paid by any qualified investment entity shall be the amount so designated by such entity in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year in which such dividend is paid.

''(B) LIMITATION.—If the aggregate amount so designated with respect to a taxable year (including dividends paid after the close of the taxable year as described in section 855) exceeds the aggregate amount of dividends received by such entity during such year which are excludable from gross income under section 116(a), then the amount of a dividend otherwise excludable by reason of a designation under subparagraph (A) shall be reduced by an amount which bears the same ratio to the amount otherwise excludable as such excess bears to the total amount designated under subparagraph (A).

''(C) TREATMENT OF CAPITAL GAIN AND EXEMPT-INTEREST DIVIDENDS.—Any amount designated under subparagraph (A) as excludable under section 116 may not be treated as a capital gain dividend or an exempt-interest dividend.

''(D) COORDINATION WITH SECTION 853.—The election under section 853 shall not apply to dividends excludable under section 116 received by a qualified investment entity.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) QUALIFIED INVESTMENT ENTITY.—The term 'qualified investment entity' means—

''(i) a regulated investment company, and

''(ii) a real estate investment trust.

''(B) EXEMPT-INTEREST DIVIDEND.—The term 'exempt-interest dividend' has the meaning given to such term by subsection (b)(5).''

(b) OTHER RULES RELATING TO REGULATED INVESTMENT COMPANIES.—

(1) DISTRIBUTION REQUIREMENTS.—Clause (i) of section 852(a)(1)(B) is amended by inserting ''and its dividend income excludable under section 116(a),'' before ''over''.

(2) TAXATION OF ENTITY AND SHAREHOLDERS.—

(A) The material following paragraph (3) of section 851(b) is amended by inserting ''and dividends excludable from gross income under section 116(a)'' after ''103(a)'' in the third sentence.

(B) Section 852(b)(2)(D) is amended by striking ''and exempt-interest dividends'' and inserting '', exempt-interest dividends, and any dividends excludable under section 116(a)''.

(C) Subparagraph (B) of section 852(b)(4) is amended to read as follows:

''(B) LOSS ATTRIBUTABLE TO EXEMPT DIVIDENDS.—If—

''(i) a shareholder of a regulated investment company receives an exempt-interest dividend or a dividend excludable under section 116(a) with respect to any share, and

''(ii) such share is held by the taxpayer for 6 months or less,

then any loss on the sale or exchange of such share shall, to the extent of the sum of the amounts of such dividends be disallowed.''

(D) Paragraph (3) of section 4982(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 new subparagraph:

''(C) any dividend excludable from gross income under section 116(a).''

(c) OTHER RULES RELATING TO REAL ESTATE INVESTMENT TRUSTS.—

(1) DISTRIBUTION REQUIREMENTS.—Subparagraph (A) of section 857(a)(1) is amended by striking ''and'' at the end of clause (i), by striking ''minus'' at the end of clause (ii), and by inserting at the end the following new clause:

''(iii) 90 percent of its dividend income excludable under section 116(a); minus''

(2) TAXATION OF ENTITY AND SHAREHOLDERS.—

(A)(i) Section 856(c)(2) is amended—

(I) by inserting ''(including dividends excludable from gross income under section 116(a))'' after ''dividends'' in subparagraph (A), and

(II) by inserting ''(including tax-exempt interest)'' after ''interest'' in subparagraph (B).

(ii) Section 856(c) is amended by adding at the end the following new paragraph:

''(8) GROSS INCOME TESTS.—For purposes of paragraphs (2) and (3), gross income shall be treated as including tax-exempt interest and dividends excludable from gross income under section 116(a).''

(B) Section 857(b)(2)(B) is amended by inserting '' or any dividends paid which are excludable under section 116(a)'' after ''subparagraph (D)''.

(C) Section 857(b) is amended by adding at the end the following new paragraph:

''(10) LOSS ATTRIBUTABLE TO EXEMPT DIVIDENDS.—If—

''(A) a taxpayer receives a dividend excludable under section 116(a) with respect to any share of stock of, or a certificate of beneficial interest in, a real estate investment trust, and

''(B) such share or certificate is held by the taxpayer for 6 months or less,

then any loss on the sale or exchange of such share or certificate shall, to the extent of the sum of the amounts of such dividends, be disallowed.''

(D) Paragraph (1) of section 4981(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 new subparagraph:

''(C) any dividend excludable from gross income under section 116(a).''

SEC. 204. TREATMENT OF INSURANCE COMPANIES.

(a) LIFE INSURANCE COMPANIES.—

(1) Section 803 is amended by adding at the end the following new subsection:

''(c) SPECIAL RULES FOR EXCLUDABLE DIVIDENDS.—

''(1) IN GENERAL.—The exclusion under section 116(a) with respect to any dividend received by a life insurance company shall only apply to such company's share (as determined under section 812) of such dividend.

''(2) RULES FOR SEGREGATED ASSET ACCOUNTS.—In the case of stock held in a segregated asset account (within the meaning of section 817), this subsection shall be applied as if the policyholders' share of the excludable portion of any dividend with respect to such stock were 100 percent.

''(3) COMPUTATION OF EXCLUDABLE DIVIDEND AMOUNT.—In the case of a life insurance company, the increase under clause (ii) of section 281(b)(1)(A) in the company's excludable dividend amount shall be limited to the company's share (as determined under section 812) of the dividends described in such clause.''

(2) Section 812(d)(1)(A) is amended by inserting ''(including dividends excludable under section 116(a))'' after ''dividends''.

(3) Section 815(c)(2)(A)(iii) is amended by adding ''and the amount of dividends excludable under section 116(a) (as modified by section 803(c)(1)),'' after ''section 103''.

(b) OTHER INSURANCE COMPANIES.—

(1) Section 832(b)(5)(B) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding after clause (iii) the following new clause:

''(iv) any dividend excludable under section 116(a) which is received during such taxable year.''

(2) Section 832(c) is amended by striking ''and'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ''; and'', and by adding at the end the following new paragraph:

''(14) the amount of dividends received during the taxable year which are excluded from gross income under section 116(a).''

(3) Section 833(b)(3)(E) is amended—

(A) by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by inserting after clause (ii) the following new clause:

''(iii) the aggregate amount excluded for the taxable year under section 116(a).'', and

(B) by adding at the end the following: ''The amount determined under clause (iii) shall be reduced by the amount of any decrease in such deductions for the taxable year by reason of section 832(b)(5)(B) to the

extent such decrease is attributable to the exclusion under section 116(a).''

(4) Section 834(c) is amended by adding at the end the following new paragraph:

''(10) EXCLUDABLE DIVIDENDS.—The amount of dividends received during the taxable year which are excluded from gross income under section 116(a).''

SEC. 205. TREATMENT OF S CORPORATIONS.

(a) APPLICATION OF SECTION 116 AND PART X OF SUBCHAPTER B TO S CORPORATIONS.—Section 1368 is amended by adding at the end the following new subsection:

''(f) COORDINATION WITH DIVIDEND EXCLUSION.—

''(1) DETERMINATION OF EXCLUDED DIVIDENDS AMOUNT.—

''(A) IN GENERAL.—Clause (ii) of section 281(b)(1)(A) shall not apply to amounts received or allocated in a taxable year for which the corporation is an S corporation.

''(B) CROSS REFERENCE.—

''For treatment of taxes imposed by section 1374, see section 281(d)(1).

''(2) DISTRIBUTIONS.—Subject to regulations prescribed by the Secretary, the preceding provisions of this section shall not apply to any dividend excludable from gross income under section 116(a).''

(c) MODIFICATION TO TREATMENT OF SECTION 1374 TAX.—

(1) Paragraph (2) of section 1366(f) is amended to read as follows:

''(2) TREATMENT OF BUILT-IN GAINS.—The amount of the items of the net recognized built-in gain taken into account under section 1374(b)(1) (reduced by any deduction allowed under section 1374(b)(2)) shall not be taken into account under this section.''

(2)(A) Subsection (c) of section 1371 is amended by adding at the end the following new paragraph:

''(4) TREATMENT OF BUILT-IN GAIN.—The accumulated earnings and profits of the corporation shall be increased at the beginning of the taxable year by the amount not taken into account under section 1366 by reason of section 1366(f)(2) (determined without regard any reduction of such amount under section 1374(b)(2)) reduced by the tax imposed by section 1374 (net of credits allowed).''

(B) Paragraph (1) of section 1371(c) is amended by striking ''and (3)'' and inserting '', (3), and (4)''.

(d) REPEAL OF TAX AND TERMINATION WHERE EXCESS PASSIVE INVESTMENT INCOME.—

(1) REPEAL OF TAX.—

(A) IN GENERAL.—Section 1375 is repealed.

(B) CONFORMING AMENDMENTS.—Sections 26(b)(2)(J) and 1366(f)(3) are repealed.

(2) REPEAL OF TERMINATION.—Section 1362(d) is amended by striking paragraph (3).

(e) TREATMENT OF ACCUMULATED ADJUSTMENTS ACCOUNT.—Subsection (e) of section 1368 is amended by adding at the end the following new paragraph:

''(4) TREATMENT OF CERTAIN DISTRIBUTIONS.—The accumulated adjustments account for any taxable year shall be increased by the sum of the dividends excludable under section 116(a) received by the corporation during such taxable year.''

SEC. 206. REPEAL OF ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY TAX.

(a) IN GENERAL.—Parts I and II of subchapter G of chapter 1 (relating to corporations improperly accumulating surplus and to personal holding companies) are hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 12 is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(2) Section 26(b)(2) is amended by striking subparagraphs (F) and (G).

(3) Section 30A(c) is amended by inserting ''or'' at the end of paragraph (1), by striking paragraphs (2) and (3), and by redesignating paragraph (4) as paragraph (2).

(4) Section 41(e)(7)(E) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(5) Section 56(b)(2) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(6) Section 111 is amended by striking subsection (d).

(7) Section 170(e)(4)(D) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(8) Sections 170(f)(10)(A), 508(d), 4947, and 4948(c)(4) are each amended by striking ''545(b)(2),'' each place it appears.

(9)(A) Section 316(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 331(b) is amended by striking ''(other than a distribution referred to in paragraph (2)(B) of section 316(b))''.

(10) Section 341(d) is amended—

(A) by striking ''section 544(a) (relating to personal holding companies)'' and inserting ''section 465(f) (relating to constructive ownership rules)'', and

(B) by inserting before the period at the end of the next to the last sentence ''and such paragraph (2) shall be applied by inserting 'or by or for his partner' after 'his family' ''.

(11) Section 381(c) is amended by striking paragraphs (14) and (17).

(12) Section 443(e) is amended by striking paragraphs (1) and (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively.

(13) Section 447(g)(4)(A) is amended by striking ''other than—'' and all that follows and inserting ''other than an S corporation.''

(14)(A) Section 465(a)(1)(B) is amended to read as follows:

''(B) a C corporation which is closely held,''.

(B) Section 465(a)(3) is amended to read as follows:

''(3) CLOSELY HELD DETERMINATION.—For purposes of paragraph (1), a corporation is closely held if, at any time during the last half of the taxable year, more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than 5 individuals. For purposes of this paragraph, an organization described in section 401(a), 501(c)(17), or 509(a) or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642(c) shall be considered an individual.''

(C) Section 465(c)(7)(B) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(D) Section 465(c)(7)(G) is amended to read as follows:

''(G) LOSS OF 1 MEMBER OF AFFILIATED GROUP MAY NOT OFFSET INCOME OF PERSONAL SERVICE CORPORATION.—Nothing in this paragraph shall permit any loss of a member of an affiliated group to be used as an offset against the income of any other member of such group which is a personal service corporation (as defined in section 269A(b) but determined by substituting '5 percent' for '10 percent' in section 269A(b)(2)).''

(E) Section 465 is amended by adding at the end the following new subsection:

''(f) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of subsection (a)(3)—

''(1) STOCK NOT OWNED BY INDIVIDUAL.—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

''(2) FAMILY OWNERSHIP.—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family. For purposes of this paragraph, the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

''(3) OPTIONS.—If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

''(4) APPLICATION OF FAMILY AND OPTION RULES.—Paragraphs (2) and (3) shall be applied if, but only if, the effect is to make the corporation closely held under subsection (a)(3).

''(5) CONSTRUCTIVE OWNERSHIP AS ACTUAL OWNERSHIP.—Stock constructively owned by a person by reason of the application of paragraph (1) or (3), shall, for purposes of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for purposes of again applying such paragraph in order to make another the constructive owner of such stock.

''(6) OPTION RULE IN LIEU OF FAMILY RULE.—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

''(7) CONVERTIBLE SECURITIES.—Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock if the effect of the inclusion of all such securities is to make the corporation closely held under subsection (a)(3). The requirement under the preceding sentence that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.''

(15)(A) Section 553(a)(1) is amended by striking ''section 543(d)'' and inserting ''subsection (c)''.

(B) Section 553 is amended by adding at the end the following new subsection:

''(c) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'active business computer software royalties' means any royalties—

''(A) received by any corporation during the taxable year in connection with the licensing of computer software, and

''(B) with respect to which the requirements of paragraphs (2), (3), and (4) are met.

''(2) ROYALTIES MUST BE RECEIVED BY CORPORATION ACTIVELY ENGAGED IN COMPUTER SOFTWARE BUSINESS.—The requirements of this paragraph are met if the royalties described in paragraph (1)—

''(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and

''(B) are attributable to computer software which—

''(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or

''(ii) is directly related to such trade or business.

''(3) ROYALTIES MUST CONSTITUTE AT LEAST 50 PERCENT OF INCOME.—The requirements of this paragraph are met if the royalties described in paragraph (1) constitute at least 50 percent of the ordinary gross income of the corporation for the taxable year.

''(4) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—

''(A) IN GENERAL.—The requirements of this paragraph are met if—

''(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or

''(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.

If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.

''(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.

''(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no deduction shall be taken into account with respect to compensation for personal services rendered by the 5 individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account.''

(16) Section 556(b)(1) is amended by striking '', but not including'' and all that follows and inserting a period.

(17) Section 561(a) is amended by striking paragraph (3), by inserting ''and'' at the end of paragraph (1), and by striking '', and'' at the end of paragraph (2) and inserting a period.

(18) Section 562(b) is amended to read as follows:

''(b) DISTRIBUTIONS IN LIQUIDATION.—Except in the case of a foreign personal holding company described in section 552—

''(1) in the case of amounts distributed in liquidation, the part of such distribution which is properly chargeable to earnings and profits accumulated after February 28, 1913, shall be treated as a dividend for purposes of computing the dividends paid deduction, and

''(2) in the case of a complete liquidation occurring within 24 months after the adoption of a plan of liquidation, any distribution within such period pursuant to such plan shall, to the extent of the earnings and profits (computed without regard to capital losses) of the corporation for the taxable year in which such distribution is made, be treated as a dividend for purposes of computing the dividends paid deduction.

For purposes of paragraph (1), a liquidation includes a redemption of stock to which section 302 applies. Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company.''

(19) Section 563 is amended by striking subsections (a) and (b), by redesignating subsections (c) and (d) as subsections (a) and (b), and by striking '', (b), or (c)'' in subsection (b) (as so redesignated).

(20) Section 564 is hereby repealed.

(21) Section 631(c) is amended by striking the next to the last sentence and inserting the following: ''This subsection shall have no application for purposes of applying subchapter G (relating to corporations used to avoid income tax on shareholders).''.

(22) Section 852(b)(1) is amended by striking ''which is a personal holding company (as defined in section 542) or''.

(23)(A) Section 856(h)(1) is amended to read as follows:

''(1) IN GENERAL.—For purposes of subsection (a)(6), a corporation, trust, or association is closely held if the stock ownership requirement of section 465(a)(3) is met.''.

(B) Section 856(h)(3)(A)(i) is amended by striking ''section 542(a)(2)'' and inserting ''section 465(a)(3)''.

(C) Paragraph (3) of section 856(h) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(D) Subparagraph (C) of section 856(h)(3), as redesignated by the preceding subparagraph, is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(24) The last sentence of section 882(c)(2) is amended to read as follows:

''The preceding sentence shall not be construed to deny the credit provided by section 33 for tax withheld at source or the credit provided by section 34 for certain uses of gasoline.''.

(25) Section 936(a)(3) is amended by striking subparagraphs (B) and (C), by inserting ''or'' at the end of subparagraph (A), and by redesignating subparagraph (D) as subparagraph (B).

(26) Section 936 is amended by striking subsection (g).

(27) Section 992(d) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(28) Section 992 is amended by striking subsection (e).

(29) Section 1202(e)(8) is amended by striking ''section 543(d)(1)'' and inserting ''section 553(c)(1)''.

(30) Section 1298(b) is amended by striking paragraph (8) and redesignating paragraph (9) as paragraph (8).

(31) Section 1504(c)(2)(B) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(32)(A) Section 1551(a) is amended by striking ''or the accumulated earnings credit'' and all that follows and inserting ''unless such transferee corporation shall establish by the clear preponderance of the evidence that the securing of such benefits was not a major purpose of such transfer.''.

(B) The section heading for section 1551 is amended by striking ''**AND ACCUMULATED EARNINGS CREDIT**''.

(C) The item relating to section 1551 in the table of sections for part I of subchapter B of chapter 6 is amended by striking ''and accumulated earnings credit''.

(33)(A) Section 1561(a) is amended—

(i) by striking paragraph (2),

(ii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3),

(iii) by striking ''paragraph (3)'' each place it appears and inserting ''paragraph (2)'',

(iv) by striking ''paragraph (4)'' and inserting ''paragraph (3)'', and

(v) by striking the third sentence.

(B) Section 1561(b) is amended to read as follows:

''(b) CERTAIN SHORT TAXABLE YEARS.—If a corporation has a short taxable year which does not include a December 31 and is a component member of a controlled group of corporations with respect to such taxable year, then for purposes of this subtitle, the amount in each taxable income bracket in the tax table in section 11(b) for such corporation for such taxable year shall be the amount specified in subsection (a)(1), divided by the number of corporations which are component members of such group on the last day of such taxable year. For purposes of the preceding sentence, section 1563(b) shall be applied as if such last day were substituted for December 31.''.

(34) Section 2057(e)(2)(C) is amended by adding at the end the following new sentence: ''References to sections 542 and 543 in the preceding sentence shall be treated as references to such sections as in effect on the day before their repeal.''

(35) Sections 6422 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (12) and paragraphs (3) through (11), respectively.

(36) Section 6501 is amended by striking subsection (f).

(37) Section 6503(k) of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(38) Section 6515 is amended by striking paragraph (1) and by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(39) Section 6601(b) is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(40) Subsections (d)(1)(B) and (e)(2) of section 6662 of such Code are each amended by striking ''or a personal holding company (as defined in section 542)''.

(41) Section 6683 is hereby repealed.

(42) Section 7518(c)(1) is amended by inserting ''and'' at the end of subparagraph (C), by striking '', and'' at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(c) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 of such Code is amended by striking the items relating to parts I and II.

(2) The table of sections for part IV of such subchapter G is amended by striking the item relating to section 564.

(3) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6683.

SEC. 207. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall apply to distributions received after December 31, 2002, and before January 1, 2007.

(b) SPECIAL RULES.—

(1) SECTION 1374 TAX.—In applying the amendments made by this section, any tax imposed by section 1374 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 2003, shall not be taken into account.

(2) SECTION 205 (C) AND (D) AND SECTION 206.—The amendments made by subsections (c) and (d) of section 205 and by section 206 shall apply to taxable years beginning after December 31, 2003, and before January 1, 2007; except that—

(A) section 547 of such Code (as in effect before its repeal) shall continue to apply to deficiency dividends (as defined in section 547(d) of such Code) relating to taxable years beginning before January 1, 2004, and

(B) subsections (a) and (b) of section 563 of such Code (as so in effect) shall continue to apply to dividends relating to taxable years beginning before January 1, 2004.

Notwithstanding subparagraphs (A) and (B), such dividends shall not be taken into account in applying section 116 of such Code or part X of subchapter B of chapter 1 of such Code.

(3) SECTION 282.—Section 282 of such Code (as added by this title) shall apply to taxable years ending after the date of the enactment of this Act.

SA 671. Mr. LAUTENBERG (for himself, Mr. CORZINE, Mr. LEAHY, Mrs. MURRAY, and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RULE OF CONSTRUCTION RELATING TO METHOD OF PREVENTION.

Nothing in this Act (or an amendment made by this Act) shall be construed to require that an organization utilize or endorse any particular approach to HIV/AIDS prevention, except that any information provided by the organization about any particular preventive approach shall be complete and medically accurate including both the public health benefits and failure rates of the approach involved.

SA 672. Mr. REED (for himself, Mr. CORZINE, Ms. MIKULSKI, Mr. KERRY, Mr. ROCKEFELLER, Ms. LANDRIEU, and Mr. SARBANES) 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. ___. LOW-INCOME HOUSING TAX CREDIT.

(a) FINDINGS.—The Senate finds the following:

(1) The low-income housing tax credit is the Nation's primary program for producing affordable rental housing.

(2) Each year, the low-income housing tax credit produces over 115,000 affordable apartments.

(3) Since Congress created the low-income housing tax credit in 1986, the credit has created 1,500,000 units of affordable housing for about 3,500,000 Americans.

(4) Analyses have found that certain approaches to reducing or eliminating the taxation of dividends have the potential to reduce the value of the low-income housing tax credit and so reduce the amount of affordable housing available.

(5) As of 2001, over 7,000,000 American renter families (1 in 5) suffer severe housing affordability problems, meaning that the family spends more than half of its income on rent or lives in substandard housing.

(6) More than 150,000 apartments in the low-cost rental housing inventory are lost each year due to rent increases, abandonment, and deterioration.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any reduction or elimination of the taxation on dividends should include provisions to preserve the success of the low-income housing tax credit.

SA 673. Mr. DEWINE 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. TREATMENT OF CERTAIN IMPORTED RECYCLED HALONS.

(a) IN GENERAL.—Section 1803(c) of the Small Business Job Protection Act of 1986 (Public Law 104–188) is amended by striking ''1997'' and ''1998'' and inserting ''1994''.

(b) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment 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.

SA 674. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 5 and 6, insert the following:

''(V) Ensuring that United States efforts to combat HIV/AIDS take maximum advantage of the potential for positive spill-over effects in other health priorities, such as improving pre-natal care and combating tuberculosis through referral at voluntary counseling and testing centers.

SA 675. Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. LEVIN, Mr. SCHUMER, Mr. PRYOR, Mr. JOHNSON, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

On page 54, strike lines 7 through 24, and insert the following: ''medicines to treat opportunistic infections, at the lowest possible price for products of assured quality (as provided for in subparagraph (D)). Such procurement shall be made anywhere in the world notwithstanding any provision of law restricting procurement of goods to domestic sources.

''(B) MECHANISMS FOR QUALITY CONTROL AND SUSTAINABLE SUPPLY.—Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

''(C) DISTRIBUTION.—The distribution of such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

''(D) LOWEST POSSIBLE PRICE AND ASSURED QUALITY.—

''(i) LOWEST POSSIBLE PRICE.—With respect to an HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, the lowest possible price means the lowest delivered duty unpaid price at which such medicine (which includes all products of assured quality with the same active ingredients) may be obtained in sufficient quantity in either the United States or elsewhere on the world market.

''(ii) ASSURED QUALITY.—An HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, shall be considered a product of assured quality if it is—

''(I)(aa) approved by the Food and Drug Administration;

''(bb) authorized for marketing by the European Commission;

''(cc) on the most recent edition of the list of HIV-related medicines prequalified for procurement by the World Health Organization's Pilot Procurement Quality and Sourcing Project; or

''(dd) during the period that begins on the date of enactment of this section and ending on December 31, 2004, authorized for use by the national regulatory authority of the country where the product will be used; and

''(II) in compliance with—

''(aa) the intellectual property laws of the country where the product is manufactured;

''(bb) the intellectual property laws of the country where the product will be used; and

''(cc) applicable international obligations in the field of intellectual property, to the extent consistent with the flexibilities provided in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as interpreted in the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

''(iii) PRICES PUBLICLY AVAILABLE.—Prices paid for purchases of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, of assured quality shall be made publicly available.

''(iv) APPLICATION TO APPROPRIATED FUNDS.—Funds appropriated under title IV of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 that are used for the procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, shall be used to procure products of assured quality at the lowest possible price, as determined under this subparagraph.

(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect a decision regarding which medicine is most medically appropriate for a specific disease or condition.

SA 676. Mr. DURBIN proposed an amendment intended to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; as follows:

Beginning on page 35, strike line 22, and all that follows through page 45, line 25, and insert the following section:

SEC. 202. PARTICIPATION IN THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA.

(a) AUTHORITY FOR UNITED STATES PARTICIPATION.—

(1) UNITED STATES PARTICIPATION.—The United States is authorized to participate in the Global Fund.

(2) PRIVILEGES AND IMMUNITIES.—The Global Fund shall be considered a public international organization for purposes of section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

(b) PUBLIC DISSEMINATION.—Not later than 180 days after the date of the enactment of this Act, and regularly thereafter for the duration of the Global Fund, the Coordinator of the United States Government Activities to

Combat HIV/AIDS Globally shall make available to the public, through electronic media and other publication mechanisms, the following documents:

(1) Any proposal approved for funding by the Global Fund.

(2) A list of all organizations that comprise each country coordinating mechanism, as such mechanism is recognized by the Global Fund.

(3) A list of all organizations that received funds from the Global Fund, including the amount of such funds received by each organization.

(c) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Coordinator of the United States Government Activities to Combat HIV/AIDS Globally shall submit to the appropriate congressional committees a report on the Global Fund. The report shall include, for the reporting period, the following elements:

(1) Contributions pledged to or received by the Global Fund (including donations from the private sector).

(2) Efforts made by the Global Fund to increase contributions from all sources other than the United States.

(3) Programs funded by the Global Fund.

(4) An evaluation of the effectiveness of such programs.

(5) Recommendations regarding the adequacy of such programs.

(d) UNITED STATES FINANCIAL PARTICIPATION.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated under section 401, there are authorized to be appropriated for United States contributions to the Global Fund, in addition to any other amounts authorized to be appropriated under any other provision of law for such purpose, $1,000,000,000 for fiscal year 2004, $1,200,000,000 for fiscal year 2005, and such sums as may be necessary for fiscal years 2006 through 2008.

(2) AVAILABILITY OF FUNDS.—

(A) CERTAIN FISCAL YEAR 2004 FUNDS.—Of the amount authorized to be appropriated by paragraph (1) for fiscal year 2004, the amount in excess of $500,000,000 shall be available only if the Global Fund receives, during the period beginning on April 1, 2003, and ending on March 31, 2004, pledges from all donors other than the United States for funding new grant proposals in an amount not less than $2,000,000,000.

(B) CERTAIN FISCAL YEAR 2005 FUNDS.—Of the amount authorized to be appropriated by paragraph (1) for fiscal year 2005, the amount in excess of $600,000,000 shall be available only if the Global Fund receives, during the period beginning on April 1, 2004, and ending on March 31, 2005, pledges from all donors other than the United States for funding new grant proposals in an amount not less than $2,400,000,000.

(C) RECEIPT OF PLEDGES BEFORE PERIOD END.—If the Global Fund receives in a period described in subparagraph (A) or (B) the pledges described in such subparagraph in the amount required by such subparagraph as of a date before the end of such period, the United States contribution specified in such subparagraph shall be available as of such date.

(D) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated by paragraph (1), and available under that paragraph or this paragraph, shall remain available until expended.

(3) PRIOR FISCAL YEAR FUNDS.—Any unobligated balances of funds made available for fiscal years 2001 and 2002 under section 141 of the Global AIDS and Tuberculosis Relief Act of 2000 (22 U.S.C. 6841)—

(A) are authorized to remain available until expended; and

(B) shall be merged with, and made available for the same purposes as, the funds authorized to be appropriated by paragraph (1).

SA 677. Mr. LEAHY (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

SEC. . POLICY TO INCREASE FUNDING TO COMBAT HIV/AIDS AND FOR OTHER INTERNATIONAL HEALTH PROGRAMS.

(a) FINDINGS.—(1) The National Security Strategy of the United States, dated September 17, 2002, states that ''[t]he scale of the public health crisis in poor countries is enormous. In countries afflicted by epidemics and pandemics . . . growth and development will be threatened until these scourges can be contained.''

(2) The United States Agency for International Development concluded that ''Global health issues have global consequences that not only affect the people of developing nations but also directly affect the interests of American citizens.''

(3) The Centers for Disease Control and Prevention concluded that ''[i]n today's global environment, new diseases have the potential to spread across the world in a matter of days, or even hours, making early detection and action more important than ever.''

(4) The President's Fiscal Year 2004 budget request for the Child Survival and Health Programs Fund, which is the principle source of funds for building public health capacity in developing countries, would cut the Fund by $124,313,000 (not including programs to combat HIV/AIDS which are cut by an additional $86,030,000) below the Fiscal Year 2003 enacted level.

(5) Within the Child Survival and Health Programs Fund, the President's Fiscal Year 2004 budget request would cut funding to protect vulnerable children by 63%; to combat infectious diseases (other than HIV/AIDS) by 32%; to improve child nutrition and maternal health by 12%; and to support family planning and reproductive health by 5%.

(6) These programs save the lives of millions of women and children each year, help prevent dangerous infectious diseases from spreading to the United States, build goodwill towards the United States, and alleviate conditions that can contribute to international terrorism.

(7) Building public health capacity in developing countries by improving children's health, material and reproductive health, and combating other infectious diseases is an essential component of an effective global strategy to control the spread of HIV/AIDS.

(b) POLICY.—For each of the Fiscal Years 2004 through 2008, the President should request and the Congress should appropriate $3,000,000,000 to carry out this Act and an amount that exceeds the amount appropriated in the previous fiscal year for the Child Survival and Health Programs Fund, including for programs to protect vulnerable children, to combat other infectious diseases, to improve disease surveillance and combat drug resistance, to improve child nutrition and maternal health, and to support family planning and reproductive health.

SA 678. Mr. DORGAN (for himself, Mr. LEAHY, Mr. DASCHLE, Mr. NELSON of Florida, and Mr. HARKIN) proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. ___. EMERGENCY FOOD AID FOR HIV/AIDS VICTIMS.

(a) FINDINGS.—The Senate finds the following:

(1) Whereas the Centers for Disease Control and Prevention found that ''For persons living with HIV/AIDS, practicing sound nutrition can play a key role in preventing malnutrition and wasting syndrome, which can weaken an already compromised immune system.''.

(2) Whereas there are immediate needs for additional food aid in sub-Saharan Africa where the World Food Program has estimated that more than 40,000,000 people are at risk of starvation.

(3) Whereas prices of certain staple commodities have increased by 30 percent over the past year, which was not anticipated by the President's fiscal year 2004 budget request.

(4) The Commodity Credit Corporation has the legal authority to finance up to $30,000,000,000 for ongoing agriculture programs and $250,000,000 represents a use of less than 1 percent of such authority to combat the worst public health crisis in 500 years.

(b) COMMODITY CREDIT CORPORATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall immediately use the funds, facilities, and authorities of the Commodity Credit Corporation to provide an additional $250,000,000 in fiscal year 2003 to carry out programs authorized under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) to assist in mitigating the effects of HIV/AIDS on affected populations in sub-Saharan Africa and other developing nations, and by September 30, 2003, the Administrator of the United States Agency for International Development shall enter into agreements with private voluntary organizations, non-governmental organizations, and other appropriate organizations for the provision of such agricultural commodities through programs that—

(A) provide nutritional assistance to individuals with HIV/AIDS and to children, households, and communities affected by HIV/AIDS; and

(B) generate funds from the sale of such commodities for activities related to the prevention and treatment of HIV/AIDS, support services and care for HIV/AIDS infected individuals and affected households, and the creation of sustainable livelihoods among individuals in HIV/AIDS affected communities, including income-generating and business activities.

(2) REQUIREMENT.—The food aid provided under this subsection shall be in addition to any other food aid acquired and provided by the Commodity Credit Corporation prior to the date of enactment of this Act. Agricultural commodities made available under this subsection may, notwithstanding any other provision of law, be shipped in fiscal years 2003 and 2004.

SA 679. Mr. LAUTENBERG (for himself, Mr. REID, Mr. CORZINE, Mr. LEAHY, Mrs. MURRAY, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RULE OF CONSTRUCTION RELATING TO METHOD OF PREVENTION.

Nothing in this Act (or an amendment made by this Act) shall be construed to require that an organization utilize or endorse any particular approach to HIV/AIDS prevention, except that any information provided by the organization about any particular preventive approach shall be complete and medically accurate including both the public health benefits and failure rates of the approach involved.

SA 680. 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:

On page 8, beginning with line 13, strike all through the matter following line 2 on page 9, and insert:

''(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	$60,500
In 2004	$60,500
In 2005	$60,500
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	$41,500
In 2004	$41,500
In 2005	$41,500
After 2005	$33,750.''.

Beginning on page 82, line 25, strike all through page 83, line 13, and insert:

(2) EXCEPTION FOR EXISTING FASITS.—The amendments made by this section 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 of such interests.

On page 165, beginning with line 21, strike all through page 166, line 8, and insert:

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

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.

On page 206, between lines 19 and 20, insert:

SEC. ___. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking ''age 14'' and inserting ''age 18''.

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

SEC. ___. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(A) the amount of organizational expenditures with respect to the taxpayer, or

''(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.''.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

(d) 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. ___. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: ''Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. ___. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) initial clearing and grading land improvements with respect to gas utility property.''

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

''(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.''

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting ''or (E)(iv)'' after ''(E)(iii)'', and

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

''(F) .... 25''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. ___. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

''(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

''(1) IN GENERAL.—Subsection (a) and section 331 shall not apply to any distribution in complete liquidation of an applicable holding company to the extent of the earnings and profits of such company.

''(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable holding company' means any corporation—

''(i) which is a member of a chain of includible corporations with a common parent which is a foreign corporation,

''(ii) the stock of which is directly owned by such common parent or another foreign corporation,

''(iii) substantially all of the assets of which consist of stock in other members of such chain of corporations, and

''(iv) which has not been in existence at least 5 years as of the date of the liquidation.

''(B) INCLUDIBLE CORPORATION.—The term 'includible corporation' has the meaning given such term under section 1504(b) (without regard to paragraph (3) thereof).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring after the date of the enactment of this Act.

SEC. ___. LEASE TERM TO INCLUDE CERTAIN SERVICE CONTRACTS.

(a) IN GENERAL.—Section 168(i)(3) (relating to lease term) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR SERVICE CONTRACTS.—In determining a lease term, there shall be taken into account any optional service contract or other similar arrangement.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to leases entered into after the date of the enactment of this Act.

SEC. ___. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) IN GENERAL.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the exchange to which section 1031 applied.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. ___. REPEAL OF CAPITAL GAINS TREATMENT FOR CERTAIN TRANSACTIONS INVOLVING OPTIONS AND COMMODITIES DEALERS.

(a) IN GENERAL.—Subsection (a) of section 1256 (relating to section 1256 contracts marked to market) is amended—

(1) by striking paragraph (3),

(2) by redesignating paragraph (4) as paragraph (3), and

(3) by inserting ''and'' at the end of paragraph (2).

(b) CONFORMING AMENDMENTS.—

(1) Section 988(c)(1)(E)(iv) is amended to read as follows:

''(iv) TREATMENT OF CERTAIN CURRENCY CONTRACTS.—Except as provided in regulations, in the case of a qualified fund, any bank forward contract, any foreign currency futures contract traded on a foreign exchange, or to the extent provided in regulations any similar instrument, which is not otherwise a section 1256 contract shall be treated as a section 1256 contract for purposes of section 1256.''.

(2) Section 1092(b)(2)(A)(ii) is amended by striking ''and section 1256(a)(3) will only apply to net gain or net loss attributable to section 1256 contracts,''.

(3) Section 1092(d)(5)(B) is amended by striking ''1256(a)(4)'' and inserting ''1256(a)(3)''.

(4) Section 1256(c)(1) is amended by striking ''paragraphs (1), (2), and (3)'' and inserting ''paragraphs (1) and (2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

Beginning on page 260, line 7, strike all through page 264, line 6, and insert:

SEC. 521. CIVIL RIGHTS TAX RELIEF.

(a) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new item:

''(19) COSTS INVOLVING DISCRIMINATION SUITS, ETC.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination (as defined in subsection (e)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code. The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.''.

(b) UNLAWFUL DISCRIMINATION DEFINED.—Section 62 is amended by adding at the end the following new subsection:

''(e) UNLAWFUL DISCRIMINATION DEFINED.—For purposes of subsection (a)(19), the term 'unlawful discrimination' means an act that is unlawful under any of the following:

''(1) Section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202).

''(2) Section 201, 202, 203, 204, 205, 206, or 207 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

''(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

''(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

''(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

''(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

''(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

''(8) Title IX of the Education Amendments of 1972 (29 U.S.C. 1681 et seq.).

''(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 201 et seq.).

''(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

''(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

''(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

''(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

''(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2, 2000e–3, or 2000e–16).

''(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

''(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

''(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

''(18) Any provision of State or local law, or common law claims permitted under Federal, State, or local law—

''(i) providing for the enforcement of civil rights, or

''(ii) regulating any aspect of the employment relationship, including prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fees and costs paid after the date of the enactment of this Act with respect to any judgment or settlement occurring after such date.

SA 681. Mr. KENNEDY (for himself, Mr. MCCAIN, Mr FEINGOLD, Mrs. FEINSTEIN, Mr. LEVIN, Mr. SCHUMER, Mr. PRYOR, and Mr. JOHNSON) proposed an amendment to the bill H. 1298, to provide foreign assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; as follows:

On page 54, strike lines 7 through 24, and insert the following: ''medicines to treat opportunistic infections, at the lowest possible price for products of assured quality (as provided for in subparagraph (D)). Such procurement shall be made anywhere in the world notwithstanding any provision of law restricting procurement of goods to domestic sources.

''(B) MECHANISMS FOR QUALITY CONTROL AND SUSTAINABLE SUPPLY.—Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

''(C) DISTRIBUTION.—The distribution of such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

''(D) LOWEST POSSIBLE PRICE AND ASSURED QUALITY.—

''(i) LOWEST POSSIBLE PRICE.—With respect to an HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, the lowest possible price means the lowest delivered duty unpaid price at which such medicine (which includes all products of assured quality with the same active ingredients) may be obtained in sufficient quantity in either the United States or elsewhere on the world market.

''(ii) ASSURED QUALITY.—An HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, shall be considered a product of assured quality if it is—

''(I)(aa) approved by the Food and Drug Administration;

''(bb) authorized for marketing by the European Commission;

''(cc) on the most recent edition of the list of HIV-related medicines prequalified for procurement by the World Health Organization's Pilot Procurement Quality and Sourcing Project; or

''(dd) during the period that begins on the date of enactment of this section and ending on December 31, 2004, authorized for use by the national regulatory authority of the country where the product will be used; unless the President determines that the product does not meet appropriate quality standards and

''(II) in compliance with—

''(aa) the intellectual property laws of the country where the product is manufactured;

''(bb) the intellectual property laws of the country where the product will be used; and

''(cc) applicable international obligations in the field of intellectual property, to the extent consistent with the flexibilities provided in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as interpreted in the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

''(iii) PRICES PUBLICLY AVAILABLE.—Prices paid for purchases of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, of assured quality shall be made publicly available.

''(iv) APPLICATION TO APPROPRIATED FUNDS.—Funds appropriated under title IV of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 that are used for the procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, shall be used to procure products of assured quality at the lowest possible price, as determined under this subparagraph.

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect a decision regarding which medicine is most medically appropriate for a specific disease or condition.

SA 682. Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. DURBIN, Mrs. CLINTON, Mr. JEFFORDS, Mr. HARKIN, Mr. LAUTENBERG, Mr. REID, Mr. SCHUMER, Mr. CORZINE, Mrs. BOXER, Mr. FEINGOLD, and Mr. BIDEN) proposed an amendment to the bill H. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; as follows:

Beginning on page 94, strike line 19 and all that follows through line 17 on page 95, and insert the following: ''301 of this Act), including promoting abstinence from sexual activity and encouraging monogamy and faithfulness and promoting the effective use of condoms for sexually active people; and

''(4) 10 percent of such amounts for orphans and vulnerable children.

''SEC. 403. ALLOCATION OF FUNDS.

''(a) THERAPEUTIC MEDICAL CARE.—For fiscal years 2006 through 2008, not less than 55 percent of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance for each such fiscal year shall be expended for therapeutic medical care of individuals infected with HIV, of which such amount at least 75 percent should be expended for the purchase and distribution of antiretroviral pharmaceuticals and at least 25 percent should be expended for related care.''.

SA 683. Mr. FRIST (for Mr. DODD) proposed an amendment to the bill S. 535, to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty; as follows:

On page 1, beginning with line 7, strike all through page 3, line 19, and insert the following:

SEC. 2. CAPITOL-FLOWN FLAGS FOR FAMILIES OF DECEASED LAW ENFORCEMENT OFFICERS AND DECEASED FIREFIGHTERS.

(a) DEFINITIONS.—In this Act:

(1) CAPITOL-FLOWN FLAG.—The term ''Capitol-flown flag'' means a United States flag flown over the United States Capitol and provided under this Act to honor the deceased law enforcement officer or firefighter for whom such flag is requested.

(2) DECEASED FIREFIGHTER.—The term ''deceased firefighter'' means a person who—

(A) performs firefighting duties on a paid or voluntary basis; and

(B) dies in the line of duty as a firefighter.

(3) DECEASED LAW ENFORCEMENT OFFICER.—The term ''deceased law enforcement officer'' means a person who was charged with protecting public safety, who was authorized to make arrests by a Federal, State, Tribal, county, or local law enforcement agency, and who died while acting in the line of duty.

(4) MEMBER OF CONGRESS.—The term ''Member of Congress'' means a Senator, a Representative in Congress, or a Delegate to Congress.

(b) MEMBER OFFICES.—

(1) IN GENERAL.—The family of a deceased law enforcement officer or a deceased firefighter may request that a Member of Congress provide to that family a Capitol-flown flag.

(2) EXPENSE.—The costs associated with providing a flag under this subsection may be paid from official funds.

(c) APPLICABILITY.—This Act shall only apply to a deceased law enforcement officer or a deceased firefighter who died on or after the date of enactment of this Act.

SA 684. Mrs. BOXER proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; as follows:

On Page 29, line 15, insert before the semicolon the following: '', including the development and implementation of a specific plan to provide resources to households headed by an individual who is caring for one or more AIDS orphans''.

SA 685. Mr. DODD proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; as follows:

On page 31, line 19, insert the following after the second comma on that line:

''Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Jamaica, Montserrat, St. Kitts and Nevis, St. Vincent and the Grenadines, St. Lucia, Suriname, Trinidad and Tobago, Dominican Republic,''

SA 686. Mr. BIDEN (for himself, Mr. LEAHY) proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes as follows:

At the end of the bill, insert the following:

TITLE V—INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 501. MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p-7) is amended by adding at the end the following new section:

''SEC. 1625. MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary of the Treasury should immediately commence efforts within the Paris Club of Official Creditors, the International Bank for Reconstruction and Development, the International Monetary Fund, and other appropriate multilateral development institutions to modify the Enhanced HIPC Initiative so that the amount of debt stock reduction approved for a country eligible for debt relief under the Enhanced HIPC Initiative shall be sufficient to reduce, for each of the first 3 years after the date of enactment of this section or the Decision Point, whichever is later—

''(A) the net present value of the outstanding public and publicly guaranteed debt of the country—

''(i) as of the decision point if the country has already reached its decision point, or

(ii) as of the date of enactment of this Act, if the country has not reached its decision point, to not more than 150 percent of the annual value of exports of the country for the year preceding the Decision Point; and

''(B) the annual payments due on such public and publicly guaranteed debt to not more than—

''(i) 10 percent or, in the case of a country suffering a public health crisis (as defined in subsection (e)), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources; or

''(ii) a percentage of the gross national product of the country, or another benchmark, that will yield a result substantially equivalent to that which would be achieved through application of subparagraph (A).

''(2) LIMITATION.—In financing the objectives of the Enhanced HIPC Initiative, an international financial institution shall give priority to using its own resources.

''(b) RELATION TO POVERTY AND THE ENVIRONMENT.—Debt cancellation under the modifications to the Enhanced HIPC Initiative described in subsection (a) should not be conditioned on any agreement by an impoverished country to implement or comply with policies that deepen poverty or degrade the environment, including any policy that—

''(1) implements or extends user fees on primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, tuberculosis, malaria, and infant, child, and maternal well-being;

''(2) provides for increased cost recovery from poor people to finance basic public services such as education, health care, clean water, or sanitation;

''(3) reduces the country's minimum wage to a level of less than $2 per day or undermines workers' ability to exercise effectively their internationally recognized worker rights, as defined under section 526(e) of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1995 (22 U.S.C. 262p–4p); or

''(4) promotes unsustainable extraction of resources or results in reduced budget support for environmental programs.

''(c) CONDITIONS.—A country shall not be eligible for cancellation of debt under modifications to the Enhanced HIPC Initiative described in subsection (a) if the government of the country—

''(1) has an excessive level of military expenditures;

''(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

''(3) is failing to cooperate on international narcotics control matters; or

''(4) engages in a consistent pattern of gross violations of internationally recognized human rights (including its military or other security forces).

''(d) PROGRAMS TO COMBAT HIV/AIDS AND POVERTY.—A country that is otherwise eligible to receive cancellation of debt under the modifications to the Enhanced HIPC Initiative described in subsection (a) may receive such cancellation only if the country has agreed—

''(1) to ensure that the financial benefits of debt cancellation are applied to programs to combat HIV/AIDS and poverty, in particular through concrete measures to improve basic services in health, education, nutrition, and other development priorities, and to redress environmental degradation;

''(2) to ensure that the financial benefits of debt cancellation are in addition to the government's total spending on poverty reduction for the previous year or the average total of such expenditures for the previous 3 years, whichever is greater;

''(3) to implement transparent and participatory policymaking and budget procedures, good governance, and effective anticorruption measures; and

''(4) to broaden public participation and popular understanding of the principles and goals of poverty reduction.

''(e) DEFINITIONS.—In this section:

''(1) COUNTRY SUFFERING A PUBLIC HEALTH CRISIS.—The term 'country suffering a public health crisis' means a country in which the HIV/AIDS infection rate, as reported in the most recent epidemiological data for that country compiled by the Joint United Nations Program on HIV/AIDS, is at least 5 percent among women attending prenatal clinics or more than 20 percent among individuals in groups with high-risk behavior.

''(2) DECISION POINT.—The term 'Decision Point' means the date on which the executive boards of the International Bank for Reconstruction and Development and the International Monetary Fund review the debt sustainability analysis for a country and determine that the country is eligible for debt relief under the Enhanced HIPC Initiative.

''(3) ENHANCED HIPC INITIATIVE.—The term 'Enhanced HIPC Initiative' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.''.

SEC. 502. REPORT ON EXPANSION OF DEBT RELIEF TO NON-HIPC COUNTRIES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on—

(1) the options and costs associated with the expansion of debt relief provided by the Enhanced HIPC Initiative to include poor countries that were not eligible for inclusion in the Enhanced HIPC Initiative;

(2) options for burden-sharing among donor countries and multilateral institutions of costs associated with the expansion of debt relief; and

(3) options, in addition to debt relief, to ensure debt sustainability in poor countries, particularly in cases when the poor country has suffered an external economic shock or a natural disaster.

(b) SPECIFIC OPTIONS TO BE CONSIDERED.—Among the options for the expansion of debt relief provided by the Enhanced HIPC Initiative, consideration should be given to making eligible for that relief poor countries for which outstanding public and publicly guaranteed debt requires annual payments in excess of 10 percent or, in the case of a country suffering a public health crisis (as defined in section 1625(e) of the Financial Institutions Act, as added by section 501 of this Act), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources.

(c) ENHANCED HIPC INITIATIVE DEFINED.—In this section, the term ''Enhanced HIPC Initiative'' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary for the fiscal year 2004 and each fiscal year thereafter to carry out section 1625 of the International Financial Institutions Act, as added by section 501 of this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

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 Thursday May 15, 2003. The purpose of this hearing will be to review the nominations of Glenn Klippenstein, Julia Bartling, and Lowell Junkins to be a member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

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

COMMITTEE ON ARMED SERVICES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 15, 2003, at 5 p.m., in closed session to receive a briefing by the General Counsel of the Air Force, Ms. Mary L. Walker, on the results of the inquiry into reports of sexual assaults at the U.S. Air Force Academy.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to conduct a business meeting on Thursday, May 15 at 9:30 to consider the following:

A bill to provide for the security of commercial nuclear power plants and facilities designated by the Nuclear Regulatory Commission.

A bill to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works.

S. 994, Chemical Security Bill, a bill to protect human health and the environment from the release of hazardous substances by acts of terrorism.

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 Thursday, May 15, 2003 at 9:30 a.m. for a hearing entitled ''Investing in Homeland Security: Challenges Facing State and Local Governments.''

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 Thursday, May 15, 2003 at 2 p.m. for a nomination hearing to consider the nominations of Susanne T. Marshall to be Chairman of the Merit Systems Protection Board, Neil McPhie to be a Member of the Merit Systems Protection Board and Terrence A. Duffy to be a member of the Federal Retirement Thrift Investment Board.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, May 15, 2003 at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 575, a bill to amend the Native American Languages Act to provide for the support of Native American language survival schools, and for other purposes.

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

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 15, 2003, at 10:00 a.m.

I. Nominations: Michael Chertoff to be U.S. Circuit Judge for the Third Circuit; David G. Campbell to be U.S. District Judge for the District of Arizona; L. Scott Coogler to be U.S. District Judge for the Northern District of Alabama; and Mark Moki Hanohano to be U.S. Marshal for the District of Hawaii.

II. Bills: S. 878, A bill to authorize an additional permanent judgeship in the District of Idaho and S. 1023, A bill to increase the annual salaries of justices and judges of the United States.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 15, 2003 at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON OCEANS, FISHERIES, AND COAST GUARD

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Fisheries and Coast Guard be authorized to meet on Thursday, May 15, 2003, at 2:30 p.m. on Marine Mammal Protection Act in SR–253.

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

HOMETOWN HEROES SURVIVORS BENEFITS ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 459 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.