

108TH CONGRESS  
1ST SESSION

# S. 414

To provide an economic stimulus package, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2003

Mr. DASCHLE introduced the following bill; which was read the first time

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## A BILL

To provide an economic stimulus package, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Economic Recovery Act of 2003”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-  
8 wise expressly provided, whenever in this Act an amend-  
9 ment or repeal is expressed in terms of an amendment  
10 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—

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

TITLE I—BROAD-BASED TAX CUT

Sec. 101. Broad-based tax cut.

TITLE II—BUSINESS TAX CUT

Sec. 201. Increased bonus depreciation.  
 Sec. 202. Modifications to expensing under section 179.  
 Sec. 203. Credit for employee health insurance expenses.  
 Sec. 204. Broadband Internet access tax credit.

TITLE III—STATE FISCAL RELIEF

Sec. 301. General revenue sharing with States and their local governments.  
 Sec. 302. Homeland security.  
 Sec. 303. Funding for education.  
 Sec. 304. Temporary State FMAP relief.  
 Sec. 305. Funding for transportation infrastructure.

TITLE IV—UNEMPLOYMENT ASSISTANCE

Subtitle A—Additional Weeks of Temporary Extended Unemployment  
 Compensation

Sec. 401. Entitlement to additional weeks of temporary extended unemployment  
 compensation.

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

Sec. 411. Federal-State agreements.  
 Sec. 412. Payments to States having agreements under this title.  
 Sec. 413. Financing provisions.  
 Sec. 414. Definitions.  
 Sec. 415. Applicability.  
 Sec. 416. Coordination with the Temporary Extended Unemployment Com-  
 pensation Act of 2002.

TITLE V—LONG-TERM FISCAL DISCIPLINE

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 501. Clarification of economic substance doctrine.  
 Sec. 502. Penalty for failing to disclose reportable transaction.  
 Sec. 503. Accuracy-related penalty for listed transactions and other reportable  
 transactions having a significant tax avoidance purpose.  
 Sec. 504. Penalty for understatements attributable to transactions lacking eco-  
 nomic substance, etc.  
 Sec. 505. Modifications of substantial understatement penalty for nonreportable  
 transactions.

- Sec. 506. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
- Sec. 507. Disclosure of reportable transactions.
- Sec. 508. Modifications to penalty for failure to register tax shelters.
- Sec. 509. Modification of penalty for failure to maintain lists of investors.
- Sec. 510. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
- Sec. 511. Understatement of taxpayer's liability by income tax return preparer.
- Sec. 512. Penalty on failure to report interests in foreign financial accounts.
- Sec. 513. Frivolous tax submissions.
- Sec. 514. Regulation of individuals practicing before the Department of Treasury.
- Sec. 515. Penalty on promoters of tax shelters.
- Sec. 516. Statute of limitations for taxable years for which listed transactions not reported.
- Sec. 517. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
- Sec. 518. Authorization of appropriations for tax law enforcement.

#### Subtitle B—Other Provisions

- Sec. 521. Affirmation of consolidated return regulation authority.
- Sec. 522. Signing of corporate tax returns by chief executive officer.
- Sec. 523. Disclosure of tax shelters to corporate audit committee.

#### Subtitle C—Budget Points of Order

- Sec. 531. Extension of pay-as-you-go enforcement in the Senate.

## 1 **TITLE I—BROAD-BASED TAX CUT**

### 2 **SEC. 101. BROAD-BASED TAX CUT.**

3 (a) IN GENERAL.—The Secretary of the Treasury  
 4 shall pay, out of any money in the Treasury not otherwise  
 5 appropriated, to each eligible taxpayer an amount equal  
 6 to 10 percent of the eligible portion of the taxpayer's ad-  
 7 justed gross income (as defined in section 62 of the Inter-  
 8 nal Revenue Code of 1986) for a taxable year beginning  
 9 in 2002.

10 (b) ELIGIBLE TAXPAYER.—For purposes of this sec-  
 11 tion, the term “eligible taxpayer” means any individual  
 12 other than—

- 1           (1) any estate or trust,  
2           (2) any nonresident alien, or  
3           (3) any individual with respect to whom a de-  
4           duction under section 151 of such Code is allowable  
5           to another taxpayer for a taxable year beginning in  
6           2003.

7           (c) ELIGIBLE PORTION.—For purposes of this sec-  
8           tion—

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

12                   (A) \$3,000 (\$6,000 in the case of a tax-  
13                   payer filing a joint return under section 6013  
14                   of such Code), plus

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

17           (2) QUALIFYING CHILD.—The term “qualifying  
18           child” has the meaning given such term by section  
19           24(c) of such Code.

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

## 1       **TITLE II—BUSINESS TAX CUT**

### 2       **SEC. 201. INCREASED BONUS DEPRECIATION.**

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

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

7           “In the case of any qualified property acquired by  
8 the taxpayer pursuant to a written binding contract  
9 which was entered into after December 31, 2002,  
10 subparagraph (A) shall be applied by substituting  
11 ‘50 percent’ for ‘30 percent.’”,

12               (2) by striking “September 11, 2004” each  
13 place it appears and inserting “January 1, 2004”,

14               (3) by striking “SEPTEMBER 11, 2004” and in-  
15 serting “JANUARY 1, 2004”, and

16               (4) by striking “PRE-SEPTEMBER 11, 2004” and  
17 inserting “PRE-JANUARY 1, 2004”.

18           (b) CONFORMING AMENDMENTS.—

19               (1) The heading for clause (i) of section  
20 1400L(b)(2)(C) of the Internal Revenue Code of  
21 1986 is amended by striking “30 PERCENT ADDI-  
22 TIONAL” and inserting “ADDITIONAL”.

23               (2) Section 1400L(b)(2)(D) of such Code is  
24 amended by inserting “(as in effect on the day after

1 the date of the enactment of this section)” after  
2 “section 168(k)(2)(D)”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to property acquired after Decem-  
5 ber 31, 2002.

6 **SEC. 202. MODIFICATIONS TO EXPENSING UNDER SECTION**

7 **179.**

8 (a) INCREASE OF AMOUNT WHICH MAY BE EX-  
9 PENSED.—

10 (1) IN GENERAL.—Paragraph (1) of section  
11 179(b) (relating to dollar limitation) is amended to  
12 read as follows:

13 “(1) DOLLAR LIMITATION.—The aggregate cost  
14 which may be taken into account under subsection  
15 (a) for any taxable year shall not exceed \$25,000  
16 (\$75,000 in the case of any taxable year beginning  
17 in 2003).”

18 (2) INCREASE IN PHASEOUT THRESHOLD.—  
19 Paragraph (2) of section 179(b) is amended by  
20 striking “\$200,000” and inserting “\$200,000  
21 (\$325,000 in the case of any taxable year beginning  
22 in 2003)”.

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

1 **SEC. 203. CREDIT FOR EMPLOYEE HEALTH INSURANCE EX-**  
2 **PENSES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-  
4 chapter A of chapter 1 (relating to business-related cred-  
5 its) is amended by adding at the end the following:

6 **“SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.**

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

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

15 “(1) 50 percent in the case of an employer with  
16 less than 26 qualified employees,

17 “(2) 40 percent in the case of an employer with  
18 more than 25 but less than 36 qualified employees,  
19 and

20 “(3) 30 percent in the case of an employer with  
21 more than 35 but less than 51 qualified employees.

22 “(c) PER EMPLOYEE DOLLAR LIMITATION.—The  
23 amount of qualified employee health insurance expenses  
24 taken into account under subsection (a) with respect to  
25 any qualified employee for any taxable year shall not ex-  
26 ceed the maximum employer contribution for self-only cov-

1 erage or family coverage (as applicable) determined under  
2 section 8906(a) of title 5, United States Code, for the cal-  
3 endar year in which such taxable year begins.

4 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
5 poses of this section—

6 “(1) QUALIFIED SMALL EMPLOYER.—

7 “(A) IN GENERAL.—The term ‘qualified  
8 small employer’ means any small employer  
9 which provides eligibility for health insurance  
10 coverage (after any waiting period (as defined  
11 in section 9801(b)(4)) to all qualified employees  
12 of the employer.

13 “(B) SMALL EMPLOYER.—

14 “(i) IN GENERAL.—For purposes of  
15 this paragraph, the term ‘small employer’  
16 means, with respect to any calendar year,  
17 any employer if such employer employed  
18 an average of not less than 2 and not more  
19 than 50 qualified employees on business  
20 days during either of the 2 preceding cal-  
21 endar years. For purposes of the preceding  
22 sentence, a preceding calendar year may be  
23 taken into account only if the employer  
24 was in existence throughout such year.

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

10                   “(2) QUALIFIED EMPLOYEE HEALTH INSUR-  
11                   ANCE EXPENSES.—

12                   “(A) IN GENERAL.—The term ‘qualified  
13                   employee health insurance expenses’ means any  
14                   amount paid by an employer for health insur-  
15                   ance coverage to the extent such amount is at-  
16                   tributable to coverage provided to any employee  
17                   while such employee is a qualified employee.

18                   “(B) EXCEPTION FOR AMOUNTS PAID  
19                   UNDER SALARY REDUCTION ARRANGEMENTS.—  
20                   No amount paid or incurred for health insur-  
21                   ance coverage pursuant to a salary reduction  
22                   arrangement shall be taken into account under  
23                   subparagraph (A).

24                   “(C) HEALTH INSURANCE COVERAGE.—  
25                   The term ‘health insurance coverage’ has the

1 meaning given such term by paragraph (1) of  
2 section 9832(b) (determined by disregarding  
3 the last sentence of paragraph (2) of such sec-  
4 tion).

5 “(3) QUALIFIED EMPLOYEE.—The term ‘quali-  
6 fied employee’ means an employee of an employer  
7 who, with respect to any period, is not provided  
8 health insurance coverage under—

9 “(A) a health plan of the employee’s  
10 spouse,

11 “(B) title XVIII, XIX, or XXI of the So-  
12 cial Security Act,

13 “(C) chapter 17 of title 38, United States  
14 Code,

15 “(D) chapter 55 of title 10, United States  
16 Code,

17 “(E) chapter 89 of title 5, United States  
18 Code, or

19 “(F) any other provision of law.

20 “(4) EMPLOYEE—The term ‘employee’—

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

1           “(B) does not include an employee within  
2           the meaning of section 401(e)(1), and

3           “(C) includes a leased employee within the  
4           meaning of section 414(n).

5           “(5) COMPENSATION.—The term ‘compensa-  
6           tion’ means amounts described in section  
7           6051(a)(3).

8           “(e) CERTAIN RULES MADE APPLICABLE.—For pur-  
9           poses of this section, rules similar to the rules of section  
10          52 shall apply.

11          “(f) DENIAL OF DOUBLE BENEFIT.—No deduction  
12          or credit under any other provision of this chapter shall  
13          be allowed with respect to qualified employee health insur-  
14          ance expenses taken into account under subsection (a).

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

17          (b) CREDIT TO BE PART OF GENERAL BUSINESS  
18          CREDIT.—Section 38(b) (relating to current year business  
19          credit) is amended by striking “plus” at the end of para-  
20          graph (14), by striking the period at the end of paragraph  
21          (15) and inserting “, plus”, and by adding at the end the  
22          following:

23                 “(16) the employee health insurance expenses  
24                 credit determined under section 45G.”.

25          (c) CREDIT ALLOWED AGAINST MINIMUM TAX.—

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

6           “(3) SPECIAL RULES FOR EMPLOYEE HEALTH  
7           INSURANCE CREDIT.—

8           “(A) IN GENERAL.—In the case of the em-  
9           ployee health insurance credit—

10           “(i) this section and section 39 shall  
11           be applied separately with respect to the  
12           credit, and

13           “(ii) in applying paragraph (1) to the  
14           credit—

15           “(I) the amounts in subpara-  
16           graphs (A) and (B) thereof shall be  
17           treated as being zero, and

18           “(II) the limitation under para-  
19           graph (1) (as modified by subclause  
20           (I)) shall be reduced by the credit al-  
21           lowed under subsection (a) for the  
22           taxable year (other than the employee  
23           health insurance credit).

24           “(B) EMPLOYEE HEALTH INSURANCE  
25           CREDIT.—For purposes of this subsection, the

1 term ‘employee health insurance credit’ means  
 2 the credit allowable under subsection (a) by rea-  
 3 son of section 45G(a).”.

4 (2) CONFORMING AMENDMENT.—Subclause (II)  
 5 of section 38(e)(2)(A)(ii) is amended by striking  
 6 “(other” and all that follows through “credit)” and  
 7 inserting “(other than the empowerment zone em-  
 8 ployment credit or the employee health insurance  
 9 credit)”.

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

13 “(11) NO CARRYBACK OF SECTION 45G CREDIT  
 14 BEFORE EFFECTIVE DATE.—No portion of the un-  
 15 used business credit for any taxable year which is  
 16 attributable to the employee health insurance ex-  
 17 penses credit determined under section 45G may be  
 18 carried back to a taxable year ending before the date  
 19 of the enactment of section 45G.”.

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

“Sec. 45G. Employee health insurance expenses.”.

23 (f) EMPLOYER OUTREACH.—The Internal Revenue  
 24 Service shall, in conjunction with the Small Business Ad-  
 25 ministration, develop materials and implement an edu-

1 cational program to ensure that business personnel are  
2 aware of—

3 (1) the eligibility criteria for the tax credit pro-  
4 vided under section 45G of the Internal Revenue  
5 Code of 1986 (as added by this section),

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

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

10 (4) any available health plan purchasing alli-  
11 ances established under title II,

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

14 (g) **EFFECTIVE DATE.**—The amendments made by  
15 this section shall apply to amounts paid or incurred in tax-  
16 able years beginning after December 31, 2002.

17 **SEC. 204. BROADBAND INTERNET ACCESS TAX CREDIT.**

18 (a) **IN GENERAL.**—Subpart E of part IV of chapter  
19 1 (relating to rules for computing investment credit) is  
20 amended by inserting after section 48 the following new  
21 section:

22 **“SEC. 48A. BROADBAND INTERNET ACCESS CREDIT.**

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

1           “(1) the current generation broadband credit,  
2 plus

3           “(2) the next generation broadband credit.

4           “(b) CURRENT GENERATION BROADBAND CREDIT;  
5 NEXT GENERATION BROADBAND CREDIT.—For purposes  
6 of this section—

7           “(1) CURRENT GENERATION BROADBAND  
8 CREDIT.—The current generation broadband credit  
9 for any taxable year is equal to 10 percent of the  
10 qualified expenditures incurred with respect to quali-  
11 fied equipment providing current generation  
12 broadband services to qualified subscribers and  
13 taken into account with respect to such taxable year.

14           “(2) NEXT GENERATION BROADBAND CRED-  
15 IT.—The next generation broadband credit for any  
16 taxable year is equal to 20 percent of the qualified  
17 expenditures incurred with respect to qualified  
18 equipment providing next generation broadband  
19 services to qualified subscribers and taken into ac-  
20 count with respect to such taxable year.

21           “(c) WHEN EXPENDITURES TAKEN INTO AC-  
22 COUNT.—For purposes of this section—

23           “(1) IN GENERAL.—Qualified expenditures with  
24 respect to qualified equipment shall be taken into ac-

1 count with respect to the first taxable year in  
2 which—

3 “(A) current generation broadband services  
4 are provided through such equipment to quali-  
5 fied subscribers, or

6 “(B) next generation broadband services  
7 are provided through such equipment to quali-  
8 fied subscribers.

9 “(2) LIMITATION.—

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

13 “(i) the original use of which com-  
14 mences with the taxpayer, and

15 “(ii) which is placed in service,  
16 after December 31, 2002.

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

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

21 “(ii) sold and leased back by such per-  
22 son within 3 months after the date such  
23 property was originally placed in service,  
24 such property shall be treated as originally  
25 placed in service not earlier than the date on

1           which such property is used under the leaseback  
2           referred to in clause (ii).

3           “(d) SPECIAL ALLOCATION RULES.—

4           “(1) CURRENT GENERATION BROADBAND SERV-  
5           ICES.—For purposes of determining the current gen-  
6           eration broadband credit under subsection (a)(1)  
7           with respect to qualified equipment through which  
8           current generation broadband services are provided,  
9           if the qualified equipment is capable of serving both  
10          qualified subscribers and other subscribers, the  
11          qualified expenditures shall be multiplied by a frac-  
12          tion—

13                   “(A) the numerator of which is the sum of  
14                   the number of potential qualified subscribers  
15                   within the rural areas and the underserved  
16                   areas which the equipment is capable of serving  
17                   with current generation broadband services, and

18                   “(B) the denominator of which is the total  
19                   potential subscriber population of the area  
20                   which the equipment is capable of serving with  
21                   current generation broadband services.

22           “(2) NEXT GENERATION BROADBAND SERV-  
23           ICES.—For purposes of determining the next genera-  
24           tion broadband credit under subsection (a)(2) with  
25           respect to qualified equipment through which next

1 generation broadband services are provided, if the  
2 qualified equipment is capable of serving both quali-  
3 fied subscribers and other subscribers, the qualified  
4 expenditures shall be multiplied by a fraction—

5 “(A) the numerator of which is the sum  
6 of—

7 “(i) the number of potential qualified  
8 subscribers within the rural areas and un-  
9 derserved areas, plus

10 “(ii) the number of potential qualified  
11 subscribers within the area consisting only  
12 of residential subscribers not described in  
13 clause (i),

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

16 “(B) the denominator of which is the total  
17 potential subscriber population of the area  
18 which the equipment is capable of serving with  
19 next generation broadband services.

20 “(e) DEFINITIONS.—For purposes of this section—

21 “(1) ANTENNA.—The term ‘antenna’ means  
22 any device used to transmit or receive signals  
23 through the electromagnetic spectrum, including sat-  
24 ellite equipment.

1           “(2) CABLE OPERATOR.—The term ‘cable oper-  
2           ator’ has the meaning given such term by section  
3           602(5) of the Communications Act of 1934 (47  
4           U.S.C. 522(5)).

5           “(3) COMMERCIAL MOBILE SERVICE CAR-  
6           RIER.—The term ‘commercial mobile service carrier’  
7           means any person authorized to provide commercial  
8           mobile radio service as defined in section 20.3 of  
9           title 47, Code of Federal Regulations.

10          “(4) CURRENT GENERATION BROADBAND SERV-  
11          ICE.—The term ‘current generation broadband serv-  
12          ice’ means the transmission of signals at a rate of  
13          at least 1,000,000 bits per second to the subscriber  
14          and at least 128,000 bits per second from the sub-  
15          scriber.

16          “(5) MULTIPLEXING OR DEMULTIPLEXING.—  
17          The term ‘multiplexing’ means the transmission of 2  
18          or more signals over a single channel, and the term  
19          ‘demultiplexing’ means the separation of 2 or more  
20          signals previously combined by compatible multi-  
21          plexing equipment.

22          “(6) NEXT GENERATION BROADBAND SERV-  
23          ICE.—The term ‘next generation broadband service’  
24          means the transmission of signals at a rate of at  
25          least 22,000,000 bits per second to the subscriber

1 and at least 5,000,000 bits per second from the sub-  
2 scriber.

3 “(7) NONRESIDENTIAL SUBSCRIBER.—The  
4 term ‘nonresidential subscriber’ means a person who  
5 purchases broadband services which are delivered to  
6 the permanent place of business of such person.

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

11 “(9) OTHER WIRELESS CARRIER.—The term  
12 ‘other wireless carrier’ means any person (other than  
13 a telecommunications carrier, commercial mobile  
14 service carrier, cable operator, open video system op-  
15 erator, or satellite carrier) providing current genera-  
16 tion broadband services or next generation  
17 broadband service to subscribers through the wire-  
18 less transmission of energy through radio or light  
19 waves.

20 “(10) PACKET SWITCHING.—The term ‘packet  
21 switching’ means controlling or routing the path of  
22 a digitized transmission signal which is assembled  
23 into packets or cells.

24 “(11) PROVIDER.—The term ‘provider’ means,  
25 with respect to any qualified equipment—

- 1           “(A) a cable operator,  
2           “(B) a commercial mobile service carrier,  
3           “(C) an open video system operator,  
4           “(D) a satellite carrier,  
5           “(E) a telecommunications carrier, or  
6           “(F) any other wireless carrier,

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

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

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

16                   “(B) the provider is physically able to de-  
17                   liver current generation broadband services or  
18                   next generation broadband services, as applica-  
19                   ble, to such subscribers without making more  
20                   than an insignificant investment with respect to  
21                   any such subscriber,

22                   “(C) the provider has made reasonable ef-  
23                   forts to make such subscribers aware of the  
24                   availability of such services,

1           “(D) such services have been purchased by  
2 one or more such subscribers, and

3           “(E) such services are made available to  
4 such subscribers at average prices comparable  
5 to those at which the provider makes available  
6 similar services in any areas in which the pro-  
7 vider makes available such services.

8           “(13) QUALIFIED EQUIPMENT.—

9           “(A) IN GENERAL.—The term ‘qualified  
10 equipment’ means equipment which provides  
11 current generation broadband services or next  
12 generation broadband services—

13                   “(i) at least a majority of the time  
14 during periods of maximum demand to  
15 each subscriber who is utilizing such serv-  
16 ices, and

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

22           “(B) ONLY CERTAIN INVESTMENT TAKEN  
23 INTO ACCOUNT.—Except as provided in sub-  
24 paragraph (C) or (D), equipment shall be taken

1 into account under subparagraph (A) only to  
2 the extent it—

3 “(i) extends from the last point of  
4 switching to the outside of the unit, build-  
5 ing, dwelling, or office owned or leased by  
6 a subscriber in the case of a telecommuni-  
7 cations carrier,

8 “(ii) extends from the customer side  
9 of the mobile telephone switching office to  
10 a transmission/receive antenna (including  
11 such antenna) owned or leased by a sub-  
12 scriber in the case of a commercial mobile  
13 service carrier,

14 “(iii) extends from the customer side  
15 of the headend to the outside of the unit,  
16 building, dwelling, or office owned or  
17 leased by a subscriber in the case of a  
18 cable operator or open video system oper-  
19 ator, or

20 “(iv) extends from a transmission/re-  
21 ceive antenna (including such antenna)  
22 which transmits and receives signals to or  
23 from multiple subscribers, to a trans-  
24 mission/receive antenna (including such  
25 antenna) on the outside of the unit, build-

1           ing, dwelling, or office owned or leased by  
2           a subscriber in the case of a satellite car-  
3           rier or other wireless carrier, unless such  
4           other wireless carrier is also a tele-  
5           communications carrier.

6           “(C) PACKET SWITCHING EQUIPMENT.—

7           Packet switching equipment, regardless of loca-  
8           tion, shall be taken into account under subpara-  
9           graph (A) only if it is deployed in connection  
10          with equipment described in subparagraph (B)  
11          and is uniquely designed to perform the func-  
12          tion of packet switching for current generation  
13          broadband services or next generation  
14          broadband services, but only if such packet  
15          switching is the last in a series of such func-  
16          tions performed in the transmission of a signal  
17          to a subscriber or the first in a series of such  
18          functions performed in the transmission of a  
19          signal from a subscriber.

20          “(D)           MULTIPLEXING           AND

21          DEMULTIPLEXING   EQUIPMENT.—Multiplexing  
22          and demultiplexing equipment shall be taken  
23          into account under subparagraph (A) only to  
24          the extent it is deployed in connection with  
25          equipment described in subparagraph (B) and

1 is uniquely designed to perform the function of  
2 multiplexing and demultiplexing packets or cells  
3 of data and making associated application  
4 adaptations, but only if such multiplexing or  
5 demultiplexing equipment is located between  
6 packet switching equipment described in sub-  
7 paragraph (C) and the subscriber's premises.

8 “(14) QUALIFIED EXPENDITURE.—

9 “(A) IN GENERAL.—The term ‘qualified  
10 expenditure’ means any amount—

11 “(i) chargeable to capital account with  
12 respect to the purchase and installation of  
13 qualified equipment (including any up-  
14 grades thereto) for which depreciation is  
15 allowable under section 168, and

16 “(ii) incurred after December 31,  
17 2002, and before January 1, 2004.

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

22 “(15) QUALIFIED SUBSCRIBER.—The term  
23 ‘qualified subscriber’ means—

24 “(A) with respect to the provision of cur-  
25 rent generation broadband services—

1           “(i) a nonresidential subscriber main-  
2           taining a permanent place of business in a  
3           rural area or underserved area, or

4           “(ii) a residential subscriber residing  
5           in a dwelling located in a rural area or un-  
6           derserved area which is not a saturated  
7           market, and

8           “(B) with respect to the provision of next  
9           generation broadband services—

10           “(i) a nonresidential subscriber main-  
11           taining a permanent place of business in a  
12           rural area or underserved area, or

13           “(ii) a residential subscriber.

14           “(16) RESIDENTIAL SUBSCRIBER.—The term  
15           ‘residential subscriber’ means an individual who pur-  
16           chases broadband services which are delivered to  
17           such individual’s dwelling.

18           “(17) RURAL AREA.—The term ‘rural area’  
19           means any census tract which—

20           “(A) is not within 10 miles of any incor-  
21           porated or census designated place containing  
22           more than 25,000 people, and

23           “(B) is not within a county or county  
24           equivalent which has an overall population den-

1           sity of more than 500 people per square mile of  
2           land.

3           “(18) RURAL SUBSCRIBER.—The term ‘rural  
4           subscriber’ means a residential subscriber residing in  
5           a dwelling located in a rural area or nonresidential  
6           subscriber maintaining a permanent place of busi-  
7           ness located in a rural area.

8           “(19) SATELLITE CARRIER.—The term ‘sat-  
9           ellite carrier’ means any person using the facilities  
10          of a satellite or satellite service licensed by the Fed-  
11          eral Communications Commission and operating in  
12          the Fixed-Satellite Service under part 25 of title 47  
13          of the Code of Federal Regulations or the Direct  
14          Broadcast Satellite Service under part 100 of title  
15          47 of such Code to establish and operate a channel  
16          of communications for distribution of signals, and  
17          owning or leasing a capacity or service on a satellite  
18          in order to provide such distribution.

19          “(20) SATURATED MARKET.—The term ‘satu-  
20          rated market’ means any census tract in which, as  
21          of the date of the enactment of this section—

22                  “(A) current generation broadband services  
23                  have been provided by one or more providers to  
24                  85 percent or more of the total number of po-

1           tential residential subscribers residing in dwell-  
2           ings located within such census tract, and

3           “(B) such services can be utilized—

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

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

13           “(21) SUBSCRIBER.—The term ‘subscriber’  
14           means a person who purchases current generation  
15           broadband services or next generation broadband  
16           services.

17           “(22) TELECOMMUNICATIONS CARRIER.—The  
18           term ‘telecommunications carrier’ has the meaning  
19           given such term by section 3(44) of the Communica-  
20           tions Act of 1934 (47 U.S.C. 153(44)), but—

21                   “(A) includes all members of an affiliated  
22                   group of which a telecommunications carrier is  
23                   a member, and

24                   “(B) does not include a commercial mobile  
25                   service carrier.

1           “(23) TOTAL POTENTIAL SUBSCRIBER POPU-  
2           LATION.—The term ‘total potential subscriber popu-  
3           lation’ means, with respect to any area and based on  
4           the most recent census data, the total number of po-  
5           tential residential subscribers residing in dwellings  
6           located in such area and potential nonresidential  
7           subscribers maintaining permanent places of busi-  
8           ness located in such area.

9           “(24) UNDERSERVED AREA.—The term ‘under-  
10          served area’ means any census tract which is located  
11          in—

12                   “(A) an empowerment zone or enterprise  
13                   community designated under section 1391,

14                   “(B) the District of Columbia Enterprise  
15                   Zone established under section 1400,

16                   “(C) a renewal community designated  
17                   under section 1400E, or

18                   “(D) a low-income community designated  
19                   under section 45D.

20          “(25) UNDERSERVED SUBSCRIBER.—The term  
21          ‘underserved subscriber’ means a residential sub-  
22          scriber residing in a dwelling located in an under-  
23          served area or nonresidential subscriber maintaining  
24          a permanent place of business located in an under-  
25          served area.”.

1 (b) CREDIT TO BE PART OF INVESTMENT CREDIT.—  
2 Section 46 (relating to the amount of investment credit)  
3 is amended by striking “and” at the end of paragraph (2),  
4 by striking the period at the end of paragraph (3) and  
5 inserting “, and”, and by adding at the end the following:  
6 “(4) the broadband Internet access credit.”

7 (c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE  
8 TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relat-  
9 ing to list of exempt organizations) is amended by striking  
10 “or” at the end of clause (iii), by striking the period at  
11 the end of clause (iv) and inserting “, or”, and by adding  
12 at the end the following new clause:

13 “(v) from the sale of property subject  
14 to a lease described in section  
15 48A(c)(2)(B), but only to the extent such  
16 income does not in any year exceed an  
17 amount equal to the credit for qualified ex-  
18 penditures which would be determined  
19 under section 48A for such year if the mu-  
20 tual or cooperative telephone company was  
21 not exempt from taxation and was treated  
22 as the owner of the property subject to  
23 such lease.”.

24 (d) CONFORMING AMENDMENT.—The table of sec-  
25 tions for subpart E of part IV of subchapter A of chapter

1 1 is amended by inserting after the item relating to section  
2 48 the following:

“Sec. 48A. Broadband internet access credit.”.

3 (e) DESIGNATION OF CENSUS TRACTS.—

4 (1) IN GENERAL.—The Secretary of the Treas-  
5 ury shall, not later than 90 days after the date of  
6 the enactment of this Act, designate and publish  
7 those census tracts meeting the criteria described in  
8 paragraphs (17) and (24) of section 48A(e) of the  
9 Internal Revenue Code of 1986 (as added by this  
10 section). In making such designations, the Secretary  
11 of the Treasury shall consult with such other depart-  
12 ments and agencies as the Secretary determines ap-  
13 propriate.

14 (2) SATURATED MARKET.—

15 (A) IN GENERAL.—For purposes of desig-  
16 nating and publishing those census tracts meet-  
17 ing the criteria described in subsection (e)(20)  
18 of such section 48A—

19 (i) the Secretary of the Treasury shall  
20 prescribe not later than 30 days after the  
21 date of the enactment of this Act the form  
22 upon which any provider which takes the  
23 position that it meets such criteria with re-  
24 spect to any census tract shall submit a  
25 list of such census tracts (and any other

1 information required by the Secretary) not  
2 later than 60 days after the date of the  
3 publication of such form, and

4 (ii) the Secretary of the Treasury  
5 shall publish an aggregate list of such cen-  
6 sus tracts submitted and the applicable  
7 providers not later than 30 days after the  
8 last date such submissions are allowed  
9 under clause (i).

10 (B) NO SUBSEQUENT LISTS REQUIRED.—

11 The Secretary of the Treasury shall not be re-  
12 quired to publish any list of census tracts meet-  
13 ing such criteria subsequent to the list de-  
14 scribed in subparagraph (A)(ii).

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

20 (f) OTHER REGULATORY MATTERS.—

21 (1) PROHIBITION.—No Federal or State agency  
22 or instrumentality shall adopt regulations or rate-  
23 making procedures that would have the effect of  
24 confiscating any credit or portion thereof allowed  
25 under section 48A of the Internal Revenue Code of

1 1986 (as added by this section) or otherwise sub-  
2 verting the purpose of this section.

3 (2) TREASURY REGULATORY AUTHORITY.—It is  
4 the intent of Congress in providing the broadband  
5 Internet access credit under section 48A of the In-  
6 ternal Revenue Code of 1986 (as added by this sec-  
7 tion) to provide incentives for the purchase, installa-  
8 tion, and connection of equipment and facilities of-  
9 fering expanded broadband access to the Internet for  
10 users in certain low income and rural areas of the  
11 United States, as well as to residential users nation-  
12 wide, in a manner that maintains competitive neu-  
13 trality among the various classes of providers of  
14 broadband services. Accordingly, the Secretary of  
15 the Treasury shall prescribe such regulations as may  
16 be necessary or appropriate to carry out the pur-  
17 poses of section 48A of such Code, including—

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

22 (B) regulations describing the information,  
23 records, and data taxpayers are required to pro-  
24 vide the Secretary to substantiate compliance

1 with the requirements of section 48A of such  
2 Code.

3 (g) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to expenditures incurred after De-  
5 cember 31, 2002, and before January 1, 2004.

## 6 **TITLE III—STATE FISCAL RELIEF**

### 7 **SEC. 301. GENERAL REVENUE SHARING WITH STATES AND** 8 **THEIR LOCAL GOVERNMENTS.**

9 (a) APPROPRIATION.—There is authorized to be ap-  
10 propriated and is appropriated to carry out this section  
11 \$15,000,000,000 for fiscal year 2003.

12 (b) ALLOTMENTS.—From the amount appropriated  
13 under subsection (a) for fiscal year 2003, the Secretary  
14 of the Treasury shall, as soon as practicable after the date  
15 of the enactment of this Act, allot to each of the States  
16 as follows, except that no State shall receive less than  $\frac{1}{2}$   
17 of 1 percent of such amount:

18 (1) STATE LEVEL.—\$12,000,000,000 shall be  
19 allotted among such States on the basis of the rel-  
20 ative population of each such State, as determined  
21 by the Secretary on the basis of the most recent sat-  
22 isfactory data.

23 (2) LOCAL GOVERNMENT LEVEL.—  
24 \$3,000,000,000 shall be allotted among such States  
25 as determined under paragraph (1) for distribution

1 to the various units of general local government  
2 within such States on the basis of the relative popu-  
3 lation of each such unit within each such State, as  
4 determined by the Secretary on the basis of the most  
5 recent satisfactory data.

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

7 (1) STATE.—The term “State” means any of  
8 the several States, the District of Columbia, and the  
9 Commonwealth of Puerto Rico.

10 (2) UNIT OF GENERAL LOCAL GOVERNMENT.—

11 (A) IN GENERAL.—The term “unit of gen-  
12 eral local government” means—

13 (i) a county, parish, township, city, or  
14 political subdivision of a county, parish,  
15 township, or city, that is a unit of general  
16 local government as determined by the Sec-  
17 retary of Commerce for general statistical  
18 purposes; and

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

1 (B) TREATMENT OF SUBSUMED AREAS.—

2 For purposes of determining a unit of general  
3 local government under this section, the rules  
4 under section 6720(c) of title 31, United States  
5 Code, shall apply.

6 **SEC. 302. HOMELAND SECURITY.**

7 (a) SHORT TITLE; PURPOSE.—

8 (1) SHORT TITLE.—This section may be cited  
9 as the “First Responders Partnership Grant Act of  
10 2003”.

11 (2) PURPOSE.—The purpose of this section is  
12 to support first responders to protect homeland se-  
13 curity and prevent and respond to acts of terrorism.

14 (b) DEFINITIONS.—In this section:

15 (1) INDIAN TRIBE.—The term “Indian tribe”  
16 has the same meaning as in section 4(e) of the In-  
17 dian Self-Determination and Education Assistance  
18 Act (25 U.S.C. 450b(e)).

19 (2) LAW ENFORCEMENT OFFICER.—The term  
20 “law enforcement officer” means any officer, agent,  
21 or employee of a State, unit of local government,  
22 public or private college or university, or Indian  
23 tribe authorized by law or by a government agency  
24 to engage in or supervise the prevention, detection,  
25 or investigation of any violation of criminal law, or

1 authorized by law to supervise sentenced criminal of-  
2 fenders.

3 (3) PUBLIC SAFETY OFFICER.—The term “pub-  
4 lic safety officer” means any person serving a public  
5 or private agency with or without compensation as  
6 a law enforcement officer, as a firefighter, or as a  
7 member of a rescue squad or ambulance crew.

8 (4) STATE.—The term “State” means each of  
9 the 50 States, the District of Columbia, and the  
10 Commonwealth of Puerto Rico.

11 (5) UNIT OF LOCAL GOVERNMENT.—The term  
12 “unit of local government” means a county, munici-  
13 pality, town, township, village, parish, borough, or  
14 other unit of general government below the State  
15 level.

16 (c) FIRST RESPONDERS PARTNERSHIP GRANT PRO-  
17 GRAM FOR PUBLIC SAFETY OFFICERS.—

18 (1) IN GENERAL.—The Secretary of Homeland  
19 Security (referred to in this section as the “Sec-  
20 retary”) is authorized to make grants to States,  
21 units of local government, and Indian tribes to sup-  
22 port public safety officers in their efforts to protect  
23 homeland security and prevent and respond to acts  
24 of terrorism.

1           (2) USE OF FUNDS.—Grants awarded under  
2 this subsection shall be—

3           (A) distributed directly to the State, unit  
4 of local government, or Indian tribe; and

5           (B) used to fund personnel expenses,  
6 equipment, training, and facilities to support  
7 public safety officers in their efforts to protect  
8 homeland security and prevent and respond to  
9 acts of terrorism.

10          (3) ALLOCATION AND DISTRIBUTION OF  
11 FUNDS.—

12           (A) SET-ASIDE FOR INDIAN TRIBES.—

13           (i) IN GENERAL.—The Secretary shall  
14 reserve 1 percent of the amount appro-  
15 priated for grants pursuant to this Act to  
16 be used for grants to Indian tribes.

17           (ii) SELECTION OF INDIAN TRIBES.—

18           (I) IN GENERAL.—The Secretary  
19 shall award grants under this sub-  
20 paragraph to Indian tribes on the  
21 basis of a competition conducted pur-  
22 suant to specific criteria.

23           (II) RULEMAKING.—The criteria  
24 under subclause (I) shall be contained  
25 in a regulation promulgated by the

1 Attorney General after notice and  
2 public comment.

3 (B) SET-ASIDE FOR RURAL STATES.—

4 (i) IN GENERAL.—The Secretary shall  
5 reserve 5 percent of the amount appro-  
6 priated for grants pursuant to this Act to  
7 be used for grants to rural States.

8 (ii) SELECTION OF RURAL STATES.—

9 The Secretary shall award grants under  
10 this subparagraph to rural States (as de-  
11 fined in section 1501(b) of the Omnibus  
12 Crime Control and Safe Streets Act of  
13 1968 (42 U.S.C. 3796bb(b))).

14 (C) MINIMUM AMOUNT.—The Secretary  
15 shall allocate, from the total amount appro-  
16 priated for grants to States under this sub-  
17 section—

18 (i) not less than 0.75 percent for each  
19 State; and

20 (ii) not less than 0.25 percent for  
21 American Samoa, Guam, the Northern  
22 Mariana Islands, and the United States  
23 Virgin Islands, respectively.

24 (D) ALLOCATION TO METROPOLITAN CIT-  
25 IES AND URBAN COUNTIES.—

1 (i) ALLOCATION PERCENTAGE.—The  
2 balance of the total amount appropriated  
3 for grants to States under this subsection  
4 after allocations have been made to Indian  
5 tribes, rural States, and the minimum  
6 amount to each State pursuant to subpara-  
7 graphs (A) through (C), shall be allocated  
8 by the Secretary to metropolitan cities and  
9 urban counties.

10 (E) COMPUTATION OF AMOUNT ALLO-  
11 CATED TO METROPOLITAN CITIES.—

12 (i) COMPUTATION RATIOS.—The Sec-  
13 retary shall determine the amount to be al-  
14 located to each metropolitan city, which  
15 shall bear the same ratio to the allocation  
16 for all metropolitan cities as the weighted  
17 average of—

18 (I) the population of the metro-  
19 politan city divided by the population  
20 of all metropolitan cities;

21 (II) the potential chemical secu-  
22 rity risk of the metropolitan city di-  
23 vided by the potential chemical secu-  
24 rity risk of all metropolitan cities;

1 (III) the proximity of the metro-  
2 politan city to the nearest operating  
3 nuclear power plant compared to the  
4 proximity of all metropolitan cities to  
5 the nearest operating nuclear power  
6 plant to each such city;

7 (IV) the proximity of the metro-  
8 politan cities to the nearest United  
9 States land or water port compared  
10 with the proximity of all metropolitan  
11 cities to the nearest United States  
12 land or water port to each such city;

13 (V) the proximity of the metro-  
14 politan city to the nearest inter-  
15 national border compared with the  
16 proximity of all metropolitan cities to  
17 the nearest international border to  
18 each such city; and

19 (VI) the proximity of the metro-  
20 politan city to the nearest Disaster  
21 Medical Assistance Team (referred to  
22 in this subsection as “DMAT”) com-  
23 pared with the proximity of all metro-  
24 politan cities to the nearest DMAT to  
25 each such city.

1 (ii) CLARIFICATION OF COMPUTATION  
2 RATIOS.—

3 (I) RELATIVE WEIGHT OF FAC-  
4 TOR.—In determining the average of  
5 the ratios under clause (i)—

6 (aa) the ratio involving pop-  
7 ulation shall constitute 50 per-  
8 cent of the formula in calculating  
9 the allocation; and

10 (bb) the remaining factors  
11 shall be equally weighted.

12 (II) POTENTIAL CHEMICAL SEC-  
13 URITY RISK.—If a metropolitan city is  
14 within the vulnerable zone of a worst-  
15 case chemical release (as specified in  
16 the most recent risk management  
17 plans filed with the Environmental  
18 Protection Agency, or another instru-  
19 ment developed by the Environmental  
20 Protection Agency or the Homeland  
21 Security Department that captures  
22 the same information for the same fa-  
23 cilities), the ratio under clause (i)(II)  
24 shall be 1 divided by the total number

1 of metropolitan cities that are within  
2 such a zone.

3 (III) PROXIMITY AS IT PERTAINS  
4 TO NUCLEAR SECURITY.—If a metro-  
5 politan city is located within 50 miles  
6 of an operating nuclear power plant  
7 (as identified by the Nuclear Regu-  
8 latory Commission), the ratio under  
9 clause (i)(III) shall be 1 divided by  
10 the total number of metropolitan cit-  
11 ies, not to exceed 100, which are lo-  
12 cated within 50 miles of an operating  
13 nuclear power plant.

14 (IV) PROXIMITY AS IT PERTAINS  
15 TO PORT SECURITY.—If a metropoli-  
16 tan city is located within 50 miles of  
17 1 of the 100 largest United States  
18 ports (as stated by the Department of  
19 Transportation, Bureau of Transpor-  
20 tation Statistics, United States Port  
21 Report by All Land Modes), or within  
22 50 miles of 1 of the 30 largest United  
23 States water ports by metric tons and  
24 value (as stated by the Department of  
25 Transportation, Maritime Administra-

1 tion, United States Foreign Water-  
2 borne Transportation Statistics), the  
3 ratio under clause (i)(IV) shall be 1  
4 divided by the total number of metro-  
5 politan cities that are located within  
6 50 miles of a United States land or  
7 water port.

8 (V) PROXIMITY TO INTER-  
9 NATIONAL BORDER.—If a metropoli-  
10 tan city is located within 50 miles of  
11 an international border, the ratio  
12 under clause (i)(V) shall be 1 divided  
13 by the total number of metropolitan  
14 cities that are located within 50 miles  
15 of an international border.

16 (VI) PROXIMITY TO DISASTER  
17 MEDICAL ASSISTANCE TEAM.—If a  
18 metropolitan city is located within 50  
19 miles of a DMAT, as organized by the  
20 National Disaster Medical System, the  
21 ratio under clause (i)(VI) shall be 1  
22 divided by the total number of metro-  
23 politan cities that are located within  
24 50 miles of a DMAT.

1 (F) COMPUTATION OF AMOUNT ALLO-  
2 CATED TO URBAN COUNTIES.—

3 (i) COMPUTATION RATIOS.—The Sec-  
4 retary shall determine the amount to be al-  
5 located to each urban county, which shall  
6 bear the same ratio to the allocation for all  
7 urban counties as the weighted average  
8 of—

9 (I) the population of the urban  
10 county divided by the population of all  
11 urban counties;

12 (II) the potential chemical secu-  
13 rity risk of the urban county divided  
14 by the potential chemical security risk  
15 of all urban counties;

16 (III) the proximity of the urban  
17 county to the nearest operating nu-  
18 clear power plant compared to the  
19 proximity of all urban counties to the  
20 nearest operating nuclear power plant  
21 to each such city;

22 (IV) the proximity of the urban  
23 counties to the nearest United States  
24 land or water port compared with the  
25 proximity of all urban counties to the

1 nearest United States land or water  
2 port to each such city;

3 (V) the proximity of the urban  
4 county to the nearest international  
5 border compared with the proximity of  
6 all urban counties to the nearest  
7 international border to each such city;  
8 and

9 (VI) the proximity of the urban  
10 county to the nearest Disaster Med-  
11 ical Assistance Team (referred to in  
12 this subsection as “DMAT”) com-  
13 pared with the proximity of all urban  
14 counties to the nearest DMAT to each  
15 such city.

16 (ii) CLARIFICATION OF COMPUTATION  
17 RATIOS.—

18 (I) RELATIVE WEIGHT OF FAC-  
19 TOR.—In determining the average of  
20 the ratios under clause (i)—

21 (aa) the ratio involving pop-  
22 ulation shall constitute 50 per-  
23 cent of the formula in calculating  
24 the allocation; and

1 (bb) the remaining factors  
2 shall be equally weighted.

3 (II) POTENTIAL CHEMICAL SECUR-  
4 RITY RISK.—If an urban county is  
5 within the vulnerable zone of a worst-  
6 case chemical release (as specified in  
7 the most recent risk management  
8 plans filed with the Environmental  
9 Protection Agency, or another instru-  
10 ment developed by the Environmental  
11 Protection Agency or the Homeland  
12 Security Department that captures  
13 the same information for the same fa-  
14 cilities), the ratio under clause (i)(II)  
15 shall be 1 divided by the total number  
16 of urban counties that are within such  
17 a zone.

18 (III) PROXIMITY AS IT PERTAINS  
19 TO NUCLEAR SECURITY.—If an urban  
20 county is located within 50 miles of  
21 an operating nuclear power plant (as  
22 identified by the Nuclear Regulatory  
23 Commission), the ratio under clause  
24 (i)(III) shall be 1 divided by the total  
25 number of urban counties, not to ex-

1           ceed 100, which are located within 50  
2           miles of an operating nuclear power  
3           plant.

4                   (IV) PROXIMITY AS IT PERTAINS  
5           TO PORT SECURITY.—If an urban  
6           county is located within 50 miles of 1  
7           of the 100 largest United States ports  
8           (as stated by the Department of  
9           Transportation, Bureau of Transpor-  
10          tation Statistics, United States Port  
11          Report by All Land Modes), or within  
12          50 miles of 1 of the 30 largest United  
13          States water ports by metric tons and  
14          value (as stated by the Department of  
15          Transportation, Maritime Administra-  
16          tion, United States Foreign Water-  
17          borne Transportation Statistics), the  
18          ratio under clause (i)(IV) shall be 1  
19          divided by the total number of urban  
20          counties that are located within 50  
21          miles of a United States land or water  
22          port.

23                   (V) PROXIMITY TO INTER-  
24          NATIONAL BORDER.—If an urban  
25          county is located within 50 miles of

1 an international border, the ratio  
2 under clause (i)(V) shall be 1 divided  
3 by the total number of urban counties  
4 that are located within 50 miles of an  
5 international border.

6 (VI) PROXIMITY TO DISASTER  
7 MEDICAL ASSISTANCE TEAM.—If an  
8 urban county is located within 50  
9 miles of a DMAT, as organized by the  
10 National Disaster Medical System, the  
11 ratio under clause (i)(VI) shall be 1  
12 divided by the total number of urban  
13 counties that are located within 50  
14 miles of a DMAT.

15 (G) EXCLUSIONS.—

16 (i) IN GENERAL.—In computing  
17 amounts or exclusions under subparagraph  
18 (F) with respect to any urban county,  
19 units of general local government located  
20 in the county shall be excluded if the popu-  
21 lations of such units are not counted to de-  
22 termine the eligibility of the urban county  
23 to receive a grant under this subsection.

24 (ii) INDEPENDENT CITIES.—

1 (I) IN GENERAL.—In computing  
2 amounts under clause (i), there shall  
3 be included any independent city (as  
4 defined by the Bureau of the Census)  
5 which—

6 (aa) is not part of any coun-  
7 ty;

8 (bb) is not eligible for a  
9 grant;

10 (cc) is contiguous to the  
11 urban county;

12 (dd) has entered into co-  
13 operation agreements with the  
14 urban county which provide that  
15 the urban county is to undertake  
16 or to assist in the undertaking of  
17 essential community development  
18 and housing assistance activities  
19 with respect to such independent  
20 city; and

21 (ee) is not included as a  
22 part of any other unit of general  
23 local government for purposes of  
24 this subsection.

1 (II) LIMITATION.—Any inde-  
2 pendent city that is included in the  
3 computation under this clause (i) shall  
4 not be eligible to receive assistance  
5 under this subsection for the fiscal  
6 year for which such computation is  
7 used to allocate such assistance.

8 (H) INCLUSION.—

9 (i) LOCAL GOVERNMENT STRADDLING  
10 COUNTY LINE.—In computing amounts or  
11 exclusions under subparagraph (F) with  
12 respect to any urban county, all of the area  
13 of any unit of local government shall be in-  
14 cluded, which is part of, but is not located  
15 entirely within the boundaries of, such  
16 urban county if—

17 (I) the part of such unit of local  
18 government that is within the bound-  
19 aries of such urban county would oth-  
20 erwise be included in computing the  
21 amount for such urban county under  
22 this paragraph; and

23 (II) the part of such unit of local  
24 government that is not within the  
25 boundaries of such urban county is

1 not included as a part of any other  
2 unit of local government for the pur-  
3 pose of this paragraph.

4 (ii) USE OF GRANT FUNDS OUTSIDE  
5 URBAN COUNTY.—Any amount received  
6 under this subsection by an urban county  
7 described under clause (i) may be used  
8 with respect to the part of such unit of  
9 local government that is outside the bound-  
10 aries of such urban county.

11 (I) POPULATION.—

12 (i) EFFECT OF CONSOLIDATION.—  
13 Where data are available, the amount to be  
14 allocated to a metropolitan city that has  
15 been formed by the consolidation of 1 or  
16 more metropolitan cities within an urban  
17 county shall be equal to the sum of the  
18 amounts that would have been allocated to  
19 the urban county or cities and the balance  
20 of the consolidated government if such con-  
21 solidation had not occurred.

22 (ii) LIMITATION.—Clause (i) shall  
23 apply only to a consolidation that—

24 (I) included all metropolitan cit-  
25 ies that received grants under this

1 subsection for the fiscal year pre-  
2 ceding such consolidation and that  
3 were located within the urban county;

4 (II) included the entire urban  
5 county that received a grant under  
6 this subsection for the fiscal year pre-  
7 ceding such consolidation; and

8 (III) took place on or after Janu-  
9 ary 1, 2003

10 (iii) GROWTH RATE.—The population  
11 growth rate of all metropolitan cities de-  
12 fined in this subsection shall be based on  
13 the population of—

14 (I) metropolitan cities other than  
15 consolidated governments the grant  
16 for which is determined under this  
17 paragraph; and

18 (II) cities that were metropolitan  
19 cities before their incorporation into  
20 consolidated governments.

21 (4) MAXIMUM AMOUNT PER GRANTEE.—

22 (A) IN GENERAL.—A qualifying State, unit  
23 of local government, or Indian tribe may not re-  
24 ceive more than 5 percent of the total amount  
25 appropriated for grants under this section.

1 (B) AGGREGATE AMOUNT PER STATE.—A  
2 State, together with the grantees within the  
3 State may not receive more than 20 percent of  
4 the total amount appropriated for grants under  
5 this section.

6 (5) MATCHING FUNDS.—

7 (A) IN GENERAL.—The portion of the  
8 costs of a program provided by a grant under  
9 paragraph (1) may not exceed 90 percent.

10 (B) WAIVER.—If the Secretary determines  
11 that a grantee is experiencing fiscal hardship,  
12 the Secretary may waive, in whole or in part,  
13 the matching requirement under subparagraph  
14 (A).

15 (C) EXCEPTION.—Any funds appropriated  
16 by Congress for the activities of any agency of  
17 an Indian tribal government or the Bureau of  
18 Indian Affairs performing law enforcement  
19 functions on any Indian lands may be used to  
20 provide the non-Federal share of a matching re-  
21 quirement under subparagraph (A).

22 (d) APPLICATIONS.—

23 (1) IN GENERAL.—To request a grant under  
24 this section, the chief executive of a State, unit of  
25 local government, or Indian tribe shall submit an ap-

1       plication to the Secretary of the Bureau of Justice  
2       Assistance in such form and containing such infor-  
3       mation as the Secretary may reasonably require.

4           (2) REGULATIONS.—Not later than 90 days  
5       after the date of enactment of this Act, the Attorney  
6       General shall promulgate regulations to implement  
7       this section (including the information that must be  
8       included and the requirements that the States, units  
9       of local government, and Indian tribes must meet) in  
10      submitting the applications required under this sec-  
11      tion.

12      (e) AUTHORIZATION AND APPROPRIATIONS.—There  
13      are authorized to be appropriated and are appropriated  
14      \$5,000,000,000 for fiscal year 2003 to carry out this sec-  
15      tion.

16      **SEC. 303. FUNDING FOR EDUCATION.**

17      (a) BASIC PROGRAMS OPERATED BY LOCAL EDU-  
18      CATIONAL AGENCIES.—In addition to amounts appro-  
19      priated under the Departments of Labor, Health and  
20      Human Services, and Education, and Related Agencies  
21      Appropriations Act, 2003, the following sums are appro-  
22      priated, out of any money in the Treasury not otherwise  
23      appropriated, for the fiscal year ending September 30,  
24      2003, for carrying out part A of title I of the Elementary  
25      and Secondary Education Act of 1965, \$4,250,000,000.

1 The Secretary of Education shall reserve 1 percent of such  
2 amount for the Secretary of the Interior for programs  
3 under part B of title I of such Act in schools operated  
4 or funded by the Bureau of Indian Affairs.

5 (b) HIGH QUALITY TEACHERS AND PRINCIPALS.—  
6 In addition to amounts appropriated under the Depart-  
7 ments of Labor, Health and Human Services, and Edu-  
8 cation, and Related Agencies Appropriations Act, 2003,  
9 the following sums are appropriated, out of any money in  
10 the Treasury not otherwise appropriated, for the fiscal  
11 year ending September 30, 2003, for carrying out part  
12 A of title II (other than subpart 5) of the Elementary and  
13 Secondary Education Act of 1965, \$550,000,000. The  
14 Secretary of Education shall reserve 1 percent of such  
15 amount for the Secretary of the Interior for programs  
16 under such part A in schools operated or funded by the  
17 Bureau of Indian Affairs.

18 (c) LANGUAGE INSTRUCTION FOR LIMITED ENGLISH  
19 PROFICIENT AND IMMIGRANT STUDENTS.—In addition to  
20 amounts appropriated under the Departments of Labor,  
21 Health and Human Services, and Education, and Related  
22 Agencies Appropriations Act, 2003, the following sums are  
23 appropriated, out of any money in the Treasury not other-  
24 wise appropriated, for the fiscal year ending September  
25 30, 2003, for carrying out title III (other than subpart

1 4 of part B) of the Elementary and Secondary Education  
2 Act of 1965, \$410,000,000. The Secretary of Education  
3 shall reserve 1 percent of such amount for payment of en-  
4 tities under section 3112(a) of such Act.

5 (d) 21ST CENTURY COMMUNITY LEARNING CEN-  
6 TERS.—In addition to amounts appropriated under the  
7 Departments of Labor, Health and Human Services, and  
8 Education, and Related Agencies Appropriations Act,  
9 2003, the following sums are appropriated, out of any  
10 money in the Treasury not otherwise appropriated, for the  
11 fiscal year ending September 30, 2003, for carrying out  
12 part B of title IV of the Elementary and Secondary Edu-  
13 cation Act of 1965, \$500,000,000. The Secretary of Edu-  
14 cation shall reserve 1 percent of such amount for pay-  
15 ments to the Bureau of Indian Affairs to enable the Bu-  
16 reau to carry out the purposes of such part B.

17 (e) RURAL EDUCATION INITIATIVE.—In addition to  
18 amounts appropriated under the Departments of Labor,  
19 Health and Human Services, and Education, and Related  
20 Agencies Appropriations Act, 2003, the following sums are  
21 appropriated, out of any money in the Treasury not other-  
22 wise appropriated, for the fiscal year ending September  
23 30, 2003, for carrying out part B of title VI of the Ele-  
24 mentary and Secondary Education Act of 1965,  
25 \$131,000,000.

1 (f) STUDENT FINANCIAL ASSISTANCE.—

2 (1) IN GENERAL.—In addition to amounts ap-  
3 propriated under the Departments of Labor, Health  
4 and Human Services, and Education, and Related  
5 Agencies Appropriations Act, 2003, the following  
6 sums are appropriated, out of any money in the  
7 Treasury not otherwise appropriated, for the fiscal  
8 year ending September 30, 2003, for carrying out  
9 subpart 1 of part A of title IV of the Higher Edu-  
10 cation Act of 1965, \$200,000,000.

11 (2) MAXIMUM PELL GRANT.—The maximum  
12 Pell Grant for which a student shall be eligible dur-  
13 ing award year 2003–2004 shall be \$4,100.

14 **SEC. 304. TEMPORARY STATE FMAP RELIEF.**

15 (a) PERMITTING MAINTENANCE OF FISCAL YEAR  
16 2002 FMAP FOR LAST 3 CALENDAR QUARTERS OF FIS-  
17 CAL YEAR 2003.—Notwithstanding any other provision of  
18 law, but subject to subsection (e), if the FMAP deter-  
19 mined without regard to this subsection for a State for  
20 fiscal year 2003 is less than the FMAP as so determined  
21 for fiscal year 2002, the FMAP for the State for fiscal  
22 year 2002 shall be substituted for the State’s FMAP for  
23 the second, third, and fourth calendar quarters of fiscal  
24 year 2003, before the application of this section.

1 (b) PERMITTING MAINTENANCE OF FISCAL YEAR  
2 2003 FMAP FOR FIRST CALENDAR QUARTER OF FISCAL  
3 YEAR 2004.—Notwithstanding any other provision of law,  
4 but subject to subsection (e), if the FMAP determined  
5 without regard to this subsection for a State for fiscal year  
6 2004 is less than the FMAP as so determined for fiscal  
7 year 2003, the FMAP for the State for fiscal year 2003  
8 shall be substituted for the State’s FMAP for the first  
9 calendar quarter of fiscal year 2004, before the application  
10 of this section.

11 (c) GENERAL 3.76 PERCENTAGE POINTS INCREASE  
12 FOR LAST 3 CALENDAR QUARTERS OF FISCAL YEAR 2003  
13 AND FIRST CALENDAR QUARTER OF FISCAL YEAR  
14 2004.—Notwithstanding any other provision of law, but  
15 subject to subsections (e) and (f), for each State for the  
16 second, third, and fourth calendar quarters of fiscal year  
17 2003 and the first calendar quarter of fiscal year 2004,  
18 the FMAP (taking into account the application of sub-  
19 sections (a) and (b)) shall be increased by 3.76 percentage  
20 points.

21 (d) INCREASE IN CAP ON MEDICAID PAYMENTS TO  
22 TERRITORIES.—Notwithstanding any other provision of  
23 law, but subject to subsection (f), with respect to the sec-  
24 ond, third, and fourth calendar quarters of fiscal year  
25 2003 and the first calendar quarter of fiscal year 2004,

1 the amounts otherwise determined for Puerto Rico, the  
2 Virgin Islands, Guam, the Northern Mariana Islands, and  
3 American Samoa under subsections (f) and (g) of section  
4 1108 of the Social Security Act (42 U.S.C. 1308) shall  
5 each be increased by an amount equal to 7.52 percent of  
6 such amounts.

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

11 (1) disproportionate share hospital payments  
12 described in section 1923 of such Act (42 U.S.C.  
13 1396r-4);

14 (2) payments under title IV or XXI of such Act  
15 (42 U.S.C. 601 et seq. and 1397aa et seq.); or

16 (3) the percentage described in the third sen-  
17 tence of section 1905(b) of the Social Security Act  
18 (42 U.S.C. 1396d(b)) (relating to amounts expended  
19 as medical assistance for services received through  
20 an Indian Health Service facility whether operated  
21 by the Indian Health Service or by an Indian tribe  
22 or tribal organization (as defined in section 4 of the  
23 Indian Health Care Improvement Act)).

24 (f) STATE ELIGIBILITY.—

1           (1) IN GENERAL.—Subject to paragraph (2), a  
2 State is eligible for an increase in its FMAP under  
3 subsection (c) or an increase in a cap amount under  
4 subsection (d) only if the eligibility under its State  
5 plan under title XIX of the Social Security Act (in-  
6 cluding any waiver under such title or under section  
7 1115 of such Act (42 U.S.C. 1315)) is no more re-  
8 strictive than the eligibility under such plan (or  
9 waiver) as in effect on July 1, 2003.

10           (2) STATE REINSTATEMENT OF ELIGIBILITY  
11 PERMITTED.—A State that has restricted eligibility  
12 under its State plan under title XIX of the Social  
13 Security Act (including any waiver under such title  
14 or under section 1115 of such Act (42 U.S.C.  
15 1315)) after July 1, 2003, but prior to the date of  
16 enactment of this Act is eligible for an increase in  
17 its FMAP under subsection (c) or an increase in a  
18 cap amount under subsection (d) in the first cal-  
19 endar quarter (and any subsequent calendar quar-  
20 ters) in which the State has reinstated eligibility  
21 that is no more restrictive than the eligibility under  
22 such plan (or waiver) as in effect on July 1, 2003.

23           (3) RULE OF CONSTRUCTION.—Nothing in  
24 paragraph (1) or (2) shall be construed as affecting  
25 a State’s flexibility with respect to benefits offered

1 under the State medicaid program under title XIX  
2 of the Social Security Act (42 U.S.C. 1396 et seq.)  
3 (including any waiver under such title or under sec-  
4 tion 1115 of such Act (42 U.S.C. 1315)).

5 (g) DEFINITIONS.—In this section:

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

10 (2) STATE.—The term “State” has the mean-  
11 ing given such term for purposes of title XIX of the  
12 Social Security Act (42 U.S.C. 1396 et seq.).

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

15 **SEC. 305. FUNDING FOR TRANSPORTATION INFRASTRUC-**  
16 **TURE.**

17 (a) HIGHWAY PROGRAMS.—

18 (1) APPROPRIATIONS.—Subject to subsection  
19 (d), in addition to amounts appropriated under the  
20 Department of Transportation and Related Agencies  
21 Appropriations Act, 2003, there are appropriated to  
22 the Secretary of Transportation, out of any money  
23 in the Treasury not otherwise appropriated, for the  
24 fiscal year ending September 30, 2003—

25 (A) \$2,480,000,000—

1 (i) to be apportioned among the  
2 States in accordance with the formula  
3 specified in section 104(b)(3) of title 23,  
4 United States Code; and

5 (ii) to be used for projects eligible  
6 under section 133 of that title, without re-  
7 gard to section 133(d) of that title;

8 (B) \$80,000,000, to be used by the Sec-  
9 retary in the same manner as funds are used  
10 under section 118(c) of that title, except that  
11 section 118(c)(2)(A) of that title shall not apply  
12 to funds appropriated under this subparagraph;

13 (C) \$80,000,000, to be used by the Sec-  
14 retary in the same manner as funds are used  
15 under section 144(g)(2) of that title;

16 (D) \$80,000,000, to be used by the Sec-  
17 retary in the same manner as funds are used  
18 under subsections (a) through (c) and (e) of  
19 section 202 of that title;

20 (E) \$80,000,000, to be used by the Sec-  
21 retary in the same manner as funds are used  
22 under section 202(d) of that title; and

23 (F) \$80,000,000, to be used by the Sec-  
24 retary in the same manner as funds are used  
25 under sections 1118 and 1119 of the Transpor-

1           tation Equity Act for the 21st Century (23  
2           U.S.C. 101 note; 112 Stat. 161).

3           (2) REDISTRIBUTION OF UNUSED OBLIGATION  
4           AUTHORITY.—Funds made available under para-  
5           graph (1)(A) that are not obligated within 180 days  
6           after the date of enactment of this Act shall be re-  
7           distributed in the manner described in section  
8           1102(d) of the Transportation Equity Act for the  
9           21st Century (23 U.S.C. 104 note; 112 Stat. 117).

10          (b) TRANSIT PROGRAM.—

11           (1) APPROPRIATIONS.—Subject to subsection  
12           (d)(1), in addition to amounts appropriated under  
13           the Department of Transportation and Related  
14           Agencies Appropriations Act, 2003, there are appro-  
15           priated to the Secretary of Transportation, out of  
16           any money in the Treasury not otherwise appro-  
17           priated, for the fiscal year ending September 30,  
18           2003, \$720,000,000—

19           (A) to be distributed between and used for  
20           projects eligible under sections 5307 and 5311  
21           of title 49, United States Code, in the same  
22           ratio as funds were distributed under section  
23           5338 of that title for fiscal years 1998 through  
24           2003; and

1 (B) to be apportioned among the States in  
2 accordance with the formulas specified in sec-  
3 tions 5307 and 5311 of title 49, United States  
4 Code.

5 (2) REDISTRIBUTION OF UNUSED OBLIGATION  
6 AUTHORITY.—Funds made available under para-  
7 graph (1) that are not obligated within 180 days  
8 after the date of enactment of this Act shall be re-  
9 distributed among the States giving priority to those  
10 States having large unobligated balances of funds  
11 apportioned under sections 5307 and 5311 of title  
12 49, United States Code.

13 (c) AIRPORT PROGRAMS.—Subject to subsection (d),  
14 in addition to any amounts appropriated for fiscal year  
15 2003, there is appropriated \$400,000,000 out of any  
16 money in the Treasury not otherwise appropriated for the  
17 fiscal year ending September 30, 2003, to the Secretary  
18 of Transportation as discretionary funds to be used by the  
19 Secretary for grants to make safety and security improve-  
20 ments at airports in the same manner as funds are used  
21 under subtitle VII of title 49, United States Code, except  
22 that none of the funds may be used to expedite a letter  
23 of intent in effect on the date of enactment of this Act.

24 (d) GENERAL PROVISIONS.—Notwithstanding any  
25 other provision of law—

1           (1) the Federal share of the cost of a project  
2 carried out with funds made available under this  
3 section shall be 100 percent; and

4           (2) funds made available under subparagraphs  
5 (B) through (F) of subsection (a)(1) and under sub-  
6 section (c) shall be—

7                   (A) obligated not later than 180 days after  
8 the date of enactment of this Act; and

9                   (B) expended as expeditiously as prac-  
10 ticable.

11           **TITLE IV—UNEMPLOYMENT**  
12                           **ASSISTANCE**

13           **Subtitle A—Additional Weeks of**  
14                   **Temporary Extended Unemploy-**  
15                   **ment Compensation**

16           **SEC. 401. ENTITLEMENT TO ADDITIONAL WEEKS OF TEM-**  
17                           **PORARY EXTENDED UNEMPLOYMENT COM-**  
18                           **PENSATION.**

19           (a) ENTITLEMENT TO ADDITIONAL WEEKS.—

20                   (1) IN GENERAL.—Paragraph (1) of section  
21 203(b) of the Temporary Extended Unemployment  
22 Compensation Act of 2002 (Public Law 107–147;  
23 116 Stat. 28) is amended—

24                           (A) in subparagraph (A), by striking “50  
25 percent” and inserting “100 percent”; and

1 (B) in subparagraph (B), by striking “13  
2 times” and inserting “26 times”.

3 (2) REPEAL OF RESTRICTION ON AUGMENTA-  
4 TION DURING TRANSITIONAL PERIOD.—Section  
5 208(b) of the Temporary Extended Unemployment  
6 Compensation Act of 2002 (Public Law 107–147),  
7 as amended by Public Law 108–1 (117 Stat. 3), is  
8 amended—

9 (A) in paragraph (1)—

10 (i) by striking “paragraphs (2) and  
11 (3)” and inserting “paragraph (2)”; and

12 (ii) by inserting before the period at  
13 the end the following: “, including such  
14 compensation by reason of amounts depos-  
15 ited in such account after such date pursu-  
16 ant to the application of subsection (e) of  
17 such section”;

18 (B) by striking paragraph (2); and

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

21 (3) EXTENSION OF TRANSITION LIMITATION.—  
22 Section 208(b)(2) of the Temporary Extended Un-  
23 employment Compensation Act of 2002 (Public Law  
24 107–147), as amended by Public Law 108–1 (117  
25 Stat. 3) and as redesignated by paragraph (2), is

1 amended by striking “August 30, 2003” and insert-  
2 ing “December 31, 2003”.

3 (4) CONFORMING AMENDMENT FOR AUG-  
4 MENTED BENEFITS.—Section 203(c)(1) of the Tem-  
5 porary Extended Unemployment Compensation Act  
6 of 2002 (Public Law 107–147; 116 Stat. 28) is  
7 amended by striking “the amount originally estab-  
8 lished in such account (as determined under sub-  
9 section (b)(1))” and inserting “7 times the individ-  
10 ual’s average weekly benefit amount for the benefit  
11 year”.

12 (b) EFFECTIVE DATE AND APPLICATION.—

13 (1) IN GENERAL.—The amendments made by  
14 subsection (a) shall apply with respect to weeks of  
15 unemployment beginning on or after the date of en-  
16 actment this Act.

17 (2) TEUC–X AMOUNTS DEPOSITED IN AC-  
18 COUNT PRIOR TO DATE OF ENACTMENT DEEMED TO  
19 BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY  
20 THIS SECTION.—In applying the amendments made  
21 by subsection (a) under the Temporary Extended  
22 Unemployment Compensation Act of 2002 (Public  
23 Law 107–147; 116 Stat. 26), the Secretary of Labor  
24 shall deem any amounts deposited into an individ-  
25 ual’s temporary extended unemployment compensa-

1       tion account by reason of section 203(c) of such Act  
2       (commonly known as “TEUC–X amounts”) prior to  
3       the date of enactment of this Act to be amounts de-  
4       posited in such account by reason of section 203(b)  
5       of such Act, as amended by subsection (a) (com-  
6       monly known as “TEUC amounts”).

7               (3) APPLICATION TO EXHAUSTEES AND CUR-  
8       RENT BENEFICIARIES.—

9               (A) EXHAUSTEES.—In the case of any in-  
10       dividual—

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

15               (ii) who exhausted such individual’s  
16       rights to such compensation (by reason of  
17       the payment of all amounts in such indi-  
18       vidual’s temporary extended unemployment  
19       compensation account) before such date,  
20       such individual’s eligibility for any additional  
21       weeks of temporary extended unemployment  
22       compensation by reason of the amendments  
23       made by subsection (a) shall apply with respect  
24       to weeks of unemployment beginning on or  
25       after the date of enactment of this Act.

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

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

7 (ii) as to whom the condition de-  
8 scribed in subparagraph (A)(ii) does not  
9 apply,

10 such individual shall be eligible for temporary  
11 extended unemployment compensation (in ac-  
12 cordance with the provisions of the Temporary  
13 Extended Unemployment Compensation Act of  
14 2002, as amended by subsection (a)) with re-  
15 spect to weeks of unemployment beginning on  
16 or after the date of enactment of this Act.

17 (4) REDETERMINATION OF ELIGIBILITY FOR  
18 AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM  
19 SUCH A DETERMINATION WAS MADE PRIOR TO THE  
20 DATE OF ENACTMENT.—Any determination of  
21 whether the individual's State is in an extended ben-  
22 efit period under section 203(c) of the Temporary  
23 Extended Unemployment Compensation Act of 2002  
24 (Public Law 107–147; 116 Stat. 28) made prior to  
25 the date of enactment of this Act shall be dis-

1       regarded and the determination under such section  
2       shall be made as follows:

3               (A) INDIVIDUALS WHO EXHAUSTED 13  
4               TEUC AND 13 TEUX-X WEEKS PRIOR TO THE  
5               DATE OF ENACTMENT.—In the case of an indi-  
6               vidual who, prior to the date of enactment of  
7               this Act, received 26 times the individual’s aver-  
8               age weekly benefit amount through an account  
9               established under section 203 of the Temporary  
10              Extended Unemployment Compensation Act of  
11              2002 (Public Law 107–147; 116 Stat. 28) (by  
12              reason of augmentation under subsection (c) of  
13              such section), the determination shall be made  
14              as of the date of enactment of this Act.

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

1 **Subtitle B—Temporary Enhanced**  
2 **Regular Unemployment Com-**  
3 **pensation**

4 **SEC. 411. FEDERAL-STATE AGREEMENTS.**

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

11 (b) PROVISIONS OF AGREEMENT.—

12 (1) IN GENERAL.—Subject to paragraph (3),  
13 any agreement under subsection (a) shall provide  
14 that the State agency of the State, in addition to  
15 any amounts of regular compensation to which an  
16 individual may be entitled under the State law, shall  
17 make payments of temporary enhanced regular un-  
18 employment compensation to an individual in an  
19 amount and to the extent that the individual would  
20 be entitled to regular compensation if the State law  
21 were applied with the modifications described in  
22 paragraph (2).

23 (2) MODIFICATIONS DESCRIBED.—The modi-  
24 fications described in this paragraph are as follows:

1 (A) In the case of an individual who is not  
2 eligible for regular compensation under the  
3 State law because of the use of a definition of  
4 base period that does not count wages earned  
5 in the most recently completed calendar quar-  
6 ter, then eligibility for compensation shall be  
7 determined by applying a base period ending at  
8 the close of the most recently completed cal-  
9 endar quarter.

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

21 (3) REDUCTION OF AMOUNTS OF REGULAR  
22 COMPENSATION AVAILABLE FOR INDIVIDUALS WHO  
23 SOUGHT PART-TIME WORK OR FAILED TO ACCEPT  
24 FULL-TIME WORK.—Any agreement under sub-  
25 section (a) shall provide that the State agency of the

1 State shall reduce the amount of regular compensa-  
 2 tion available to an individual who has received tem-  
 3 porary enhanced regular unemployment compensa-  
 4 tion as a result of the application of the modification  
 5 described in paragraph (2)(B) by the amount of  
 6 such temporary enhanced regular unemployment  
 7 compensation.

8 (c) COORDINATION RULE.—The modifications de-  
 9 scribed in subsection (b)(2) shall also apply in determining  
 10 the amount of benefits payable under any Federal law to  
 11 the extent that those benefits are determined by reference  
 12 to regular compensation payable under the State law of  
 13 the State involved.

14 **SEC. 412. PAYMENTS TO STATES HAVING AGREEMENTS**  
 15 **UNDER THIS TITLE.**

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

19 (1) 100 percent of any temporary enhanced reg-  
 20 ular unemployment compensation; and

21 (2) 100 percent of any regular compensation  
 22 which is paid to individuals by such State by reason  
 23 of the fact that its State law contains provisions  
 24 comparable to the modifications described in sub-  
 25 paragraphs (A) and (B) of section 411(b)(2), but

1       only to the extent that those amounts would, if such  
2       amounts were instead payable by virtue of the State  
3       law's being deemed to be so modified pursuant to  
4       section 411(b)(1), have been reimbursable under  
5       paragraph (1).

6       (b) DETERMINATION OF AMOUNT.—Sums under sub-  
7       section (a) payable to any State by reason of such State  
8       having an agreement under this title shall be payable, ei-  
9       ther in advance or by way of reimbursement (as may be  
10      determined by the Secretary), in such amounts as the Sec-  
11      retary estimates the State will be entitled to receive under  
12      this title for each calendar month, reduced or increased,  
13      as the case may be, by any amount by which the Secretary  
14      finds that the Secretary's estimates for any prior calendar  
15      month were greater or less than the amounts which should  
16      have been paid to the State. Such estimates may be made  
17      on the basis of such statistical, sampling, or other method  
18      as may be agreed upon by the Secretary and the State  
19      agency of the State involved.

20   **SEC. 413. FINANCING PROVISIONS.**

21       (a) IN GENERAL.—Funds in the extended unemploy-  
22      ment compensation account (as established by section  
23      905(a) of the Social Security Act (42 U.S.C. 1105(a))),  
24      and the Federal unemployment account (as established by  
25      section 904(g) of such Act (42 U.S.C. 1104(g))), of the

1 Unemployment Trust Fund (as established by section  
2 904(a) of such Act (42 U.S.C. 1104(a))) shall be used  
3 for the making of payments to States having agreements  
4 entered into under this title.

5 (b) CERTIFICATION.—The Secretary shall from time  
6 to time certify to the Secretary of the Treasury for pay-  
7 ment to each State the sums which are payable to such  
8 State under this title. The Secretary of the Treasury, prior  
9 to audit or settlement by the General Accounting Office,  
10 shall make payments to the State in accordance with such  
11 certification by transfers from the extended unemployment  
12 compensation account (as so established), or, to the extent  
13 that there are insufficient funds in that account, from the  
14 Federal unemployment account, to the account of such  
15 State in the Unemployment Trust Fund (as so estab-  
16 lished).

17 (c) ASSISTANCE TO STATES.—There are appro-  
18 priated out of the employment security administration ac-  
19 count of the Unemployment Trust Fund (as established  
20 by section 901(a) of the Social Security Act (42 U.S.C.  
21 1101(a))) \$500,000,000 to reimburse States for the costs  
22 of the administration of agreements under this title (in-  
23 cluding any improvements in technology in connection  
24 therewith) and to provide reemployment services to unem-  
25 ployment compensation claimants in States having agree-

1 ments under this title. Each State’s share of the amount  
 2 appropriated by the preceding sentence shall be deter-  
 3 mined by the Secretary according to the factors described  
 4 in section 302(a) of the Social Security Act (42 U.S.C.  
 5 502(a)) and certified by the Secretary to the Secretary  
 6 of the Treasury.

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

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

16 (2) compensation payable on the basis of serv-  
 17 ices to which section 3309(a)(1) of the Internal Rev-  
 18 enue Code of 1986 applies.

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

21 **SEC. 414. DEFINITIONS.**

22 For purposes of this title, the terms “compensation”,  
 23 “base period”, “regular compensation”, “State”, “State  
 24 agency”, “State law”, and “week” have the respective  
 25 meanings given such terms under section 205 of the Fed-

1 eral-State Extended Unemployment Compensation Act of  
2 1970.

3 **SEC. 415. APPLICABILITY.**

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

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

9 (2) ending before July 1, 2004.

10 (b) PHASE-OUT OF TERUC.—

11 (1) IN GENERAL.—Subject to paragraph (2), in  
12 the case of an individual who has established eligi-  
13 bility for temporary enhanced regular unemployment  
14 compensation, but who has not exhausted all rights  
15 to such compensation, as of the last day of the week  
16 ending before July 1, 2004, such compensation shall  
17 continue to be payable to such individual for any  
18 week beginning after such date for which the indi-  
19 vidual meets the eligibility requirements of this title.

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

1 **SEC. 416. COORDINATION WITH THE TEMPORARY EX-**  
2 **TENDED UNEMPLOYMENT COMPENSATION**  
3 **ACT OF 2002.**

4 (a) IN GENERAL.—The Temporary Extended Unem-  
5 ployment Compensation Act of 2002 (Public Law 107–  
6 147; 116 Stat. 30) is amended—

7 (1) in section 202(b)(1), by inserting “, and  
8 who have exhausted all rights to temporary en-  
9 hanced regular unemployment compensation” before  
10 the semicolon at the end;

11 (2) in section 202(b)(2), by inserting “, tem-  
12 porary enhanced regular unemployment compensa-  
13 tion,” after “regular compensation”;

14 (3) in section 202(c), by inserting “(or, as the  
15 case may be, such individual’s rights to temporary  
16 enhanced regular unemployment compensation)”  
17 after “State law” in the matter preceding paragraph  
18 (1);

19 (4) in section 202(c)(1), by inserting “and no  
20 payments of temporary enhanced regular unemploy-  
21 ment compensation can be made” after “under such  
22 law”;

23 (5) in section 202(d)(1), by inserting “or the  
24 amount of any temporary enhanced regular unem-  
25 ployment compensation (including dependents’ allow-

1       ances) payable to such individual for such a week,”  
2       after “total unemployment”;

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

6               (7) in section 203(b)(1)(A), by inserting “plus  
7       the amount of any temporary enhanced regular un-  
8       employment compensation payable to such individual  
9       for such week,” after “under such law”; and

10              (8) in section 203(b)(2), by inserting “or the  
11       amount of any temporary enhanced regular unem-  
12       ployment compensation payable to such individual  
13       for such week,” after “total unemployment”.

14       (b) AMOUNT OF TEUC OFFSET BY AMOUNT OF  
15       TERUC.—Section 203(b)(1) of the Temporary Extended  
16       Unemployment Compensation Act of 2002 (Public Law  
17       107–147; 116 Stat. 28) is amended—

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

20              (2) by adding at the end the following:

21       “minus the number of weeks in which the individual  
22       was entitled to temporary enhanced regular unem-  
23       ployment compensation as a result of the application  
24       of the modification described in section 411(b)(2)(A)  
25       of the Economic Recovery Act of 2003 (relating to

1 the alternative base period) multiplied by the indi-  
2 vidual's average weekly benefit amount for the ben-  
3 efit year.”.

4 (c) TEMPORARY ENHANCED REGULAR UNEMPLOY-  
5 MENT COMPENSATION DEFINED.—Section 207 of the  
6 Temporary Extended Unemployment Compensation Act of  
7 2002 (Public Law 107–147; 116 Stat. 30) is amended to  
8 read as follows:

9 **“SEC. 207. DEFINITIONS.**

10 “In this title:

11 “(1) GENERAL DEFINITIONS.—The terms ‘com-  
12 pensation’, ‘regular compensation’, ‘extended com-  
13 pensation’, ‘additional compensation’, ‘benefit year’,  
14 ‘base period’, ‘State’, ‘State agency’, ‘State law’, and  
15 ‘week’ have the respective meanings given such  
16 terms under section 205 of the Federal-State Ex-  
17 tended Unemployment Compensation Act of 1970  
18 (26 U.S.C. 3304 note).

19 “(2) TEMPORARY ENHANCED REGULAR UNEM-  
20 PLOYMENT COMPENSATION.—The term ‘temporary  
21 enhanced regular unemployment compensation’  
22 means temporary enhanced regular unemployment  
23 benefits payable under title IV of the Economic Re-  
24 covery Act of 2003.”.

1     **TITLE V—LONG-TERM FISCAL**  
2             **DISCIPLINE**  
3     **Subtitle A—Provisions Designed To**  
4             **Curtail Tax Shelters**

5     **SEC. 501. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**  
6             **TRINE.**

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

10            “(m) CLARIFICATION OF ECONOMIC SUBSTANCE  
11     DOCTRINE; ETC.—

12                    “(1) GENERAL RULES.—

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

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

19                                    “(i) IN GENERAL.—A transaction has  
20                                    economic substance only if—

21    “(I) the transaction changes in a  
22    meaningful way (apart from Federal  
23    tax effects and, if there is any Federal  
24    tax effects, also apart from any for-

1           eign, State, or local tax effects) the  
2           taxpayer's economic position, and

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

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

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

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

23          “(C) TREATMENT OF FEES AND FOREIGN  
24          TAXES.—Fees and other transaction expenses  
25          and foreign taxes shall be taken into account as

1 expenses in determining pre-tax profit under  
2 subparagraph (B)(ii).

3 “(2) SPECIAL RULES FOR TRANSACTIONS WITH  
4 TAX-INDIFFERENT PARTIES.—

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

21 “(B) ARTIFICIAL INCOME SHIFTING AND  
22 BASIS ADJUSTMENTS.—The form of a trans-  
23 action with a tax-indifferent party shall not be  
24 respected if—

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

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

9           “(3) DEFINITIONS AND SPECIAL RULES.—For  
10          purposes of this subsection—

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

18           “(B) TAX-INDIFFERENT PARTY.—The  
19          term ‘tax-indifferent party’ means any person  
20          or entity not subject to tax imposed by subtitle  
21          A. A person shall be treated as a tax-indifferent  
22          party with respect to a transaction if the items  
23          taken into account with respect to the trans-  
24          action have no substantial impact on such per-  
25          son’s liability under subtitle A.

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

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

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

23          “(5) REGULATIONS.—The Secretary shall pre-  
24          scribe such regulations as may be necessary or ap-  
25          propriate to carry out the purposes of this sub-

1 section. Such regulations may include exemptions  
2 from the application of this subsection.”

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

6 **SEC. 502. PENALTY FOR FAILING TO DISCLOSE REPORT-**  
7 **ABLE TRANSACTION.**

8 (a) IN GENERAL.—Part I of subchapter B of chapter  
9 68 (relating to assessable penalties) is amended by insert-  
10 ing after section 6707 the following new section:

11 **“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORT-**  
12 **ABLE TRANSACTION INFORMATION WITH RE-**  
13 **TURN OR STATEMENT.**

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

20 “(b) AMOUNT OF PENALTY.—

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

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

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

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

8                   “(i) a large entity, or

9                   “(ii) a high net worth individual,

10 the penalty under paragraph (1) or (2) shall be  
11 twice the amount determined without regard to  
12 this paragraph.

13           “(B) LARGE ENTITY.—For purposes of  
14 subparagraph (A), the term ‘large entity’  
15 means, with respect to any taxable year, a per-  
16 son (other than a natural person) with gross re-  
17 cepts in excess of \$10,000,000 for the taxable  
18 year in which the reportable transaction occurs  
19 or the preceding taxable year. Rules similar to  
20 the rules of paragraph (2) and subparagraphs  
21 (B), (C), and (D) of paragraph (3) of section  
22 448(c) shall apply for purposes of this subpara-  
23 graph.

24           “(C) HIGH NET WORTH INDIVIDUAL.—The  
25 term ‘high net worth individual’ means, with re-

1           spect to a transaction, a natural person whose  
2           net worth exceeds \$2,000,000 immediately be-  
3           fore the transaction.

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

5           “(1) REPORTABLE TRANSACTION.—The term  
6           ‘reportable transaction’ means any transaction with  
7           respect to which information is required to be in-  
8           cluded with a return or statement because, as deter-  
9           mined under regulations prescribed under section  
10          6011, such transaction is of a type which the Sec-  
11          retary determines as having a potential for tax  
12          avoidance or evasion.

13          “(2) LISTED TRANSACTION.—Except as pro-  
14          vided in regulations, the term ‘listed transaction’  
15          means a reportable transaction which is the same as,  
16          or substantially similar to, a transaction specifically  
17          identified by the Secretary as a tax avoidance trans-  
18          action for purposes of section 6011.

19          “(d) AUTHORITY TO RESCIND PENALTY.—

20          “(1) IN GENERAL.—The Commissioner of In-  
21          ternal Revenue may rescind all or any portion of any  
22          penalty imposed by this section with respect to any  
23          violation if—

1           “(A) the violation is with respect to a re-  
2           portable transaction other than a listed trans-  
3           action,

4           “(B) the person on whom the penalty is  
5           imposed has a history of complying with the re-  
6           quirements of this title,

7           “(C) it is shown that the violation is due  
8           to an unintentional mistake of fact;

9           “(D) imposing the penalty would be  
10          against equity and good conscience, and

11          “(E) rescinding the penalty would promote  
12          compliance with the requirements of this title  
13          and effective tax administration.

14          “(2) DISCRETION.—The exercise of authority  
15          under paragraph (1) shall be at the sole discretion  
16          of the Commissioner and may be delegated only to  
17          the head of the Office of Tax Shelter Analysis. The  
18          Commissioner, in the Commissioner’s sole discretion,  
19          may establish a procedure to determine if a penalty  
20          should be referred to the Commissioner or the head  
21          of such Office for a determination under paragraph  
22          (1).

23          “(3) NO APPEAL.—Notwithstanding any other  
24          provision of law, any determination under this sub-

1 section may not be reviewed in any administrative or  
2 judicial proceeding.

3 “(4) RECORDS.—If a penalty is rescinded under  
4 paragraph (1), the Commissioner shall place in the  
5 file in the Office of the Commissioner the opinion of  
6 the Commissioner or the head of the Office of Tax  
7 Shelter Analysis with respect to the determination,  
8 including—

9 “(A) the facts and circumstances of the  
10 transaction,

11 “(B) the reasons for the rescission, and

12 “(C) the amount of the penalty rescinded.

13 “(5) REPORT.—The Commissioner shall each  
14 year report to the Committee on Ways and Means  
15 of the House of Representatives and the Committee  
16 on Finance of the Senate—

17 “(A) a summary of the total number and  
18 aggregate amount of penalties imposed, and re-  
19 scinded, under this section, and

20 “(B) a description of each penalty re-  
21 scinded under this subsection and the reasons  
22 therefor.

23 “(e) PENALTY REPORTED TO SEC.—In the case of  
24 a person—

1           “(1) which is required to file periodic reports  
2           under section 13 or 15(d) of the Securities Ex-  
3           change Act of 1934 or is required to be consolidated  
4           with another person for purposes of such reports,  
5           and

6           “(2) which—

7                   “(A) is required to pay a penalty under  
8                   this section with respect to a listed transaction,

9                   “(B) is required to pay a penalty under  
10                   section 6662A with respect to any reportable  
11                   transaction at a rate prescribed under section  
12                   6662A(c), or

13                   “(C) is required to pay a penalty under  
14                   section 6662B with respect to any noneconomic  
15                   substance transaction,

16 the requirement to pay such penalty shall be disclosed in  
17 such reports filed by such person for such periods as the  
18 Secretary shall specify. Failure to make a disclosure in  
19 accordance with the preceding sentence shall be treated  
20 as a failure to which the penalty under subsection (b)(2)  
21 applies.

22           “(f) COORDINATION WITH OTHER PENALTIES.—The  
23 penalty imposed by this section is in addition to any pen-  
24 alty imposed under this title.”

1 (b) CONFORMING AMENDMENT.—The table of sec-  
 2 tions for part I of subchapter B of chapter 68 is amended  
 3 by inserting after the item relating to section 6707 the  
 4 following:

“Sec. 6707A. Penalty for failure to include reportable transaction  
 information with return or statement.”

5 (c) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to returns and statements the due  
 7 date for which is after the date of the enactment of this  
 8 Act.

9 **SEC. 503. ACCURACY-RELATED PENALTY FOR LISTED**  
 10 **TRANSACTIONS AND OTHER REPORTABLE**  
 11 **TRANSACTIONS HAVING A SIGNIFICANT TAX**  
 12 **AVOIDANCE PURPOSE.**

13 (a) IN GENERAL.—Subchapter A of chapter 68 is  
 14 amended by inserting after section 6662 the following new  
 15 section:

16 **“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PEN-**  
 17 **ALTY ON UNDERSTATEMENTS WITH RESPECT**  
 18 **TO REPORTABLE TRANSACTIONS.**

19 “(a) IMPOSITION OF PENALTY.—If a taxpayer has a  
 20 reportable transaction understatement for any taxable  
 21 year, there shall be added to the tax an amount equal to  
 22 20 percent of the amount of such understatement.

23 “(b) REPORTABLE TRANSACTION UNDERSTATE-  
 24 MENT.—For purposes of this section—

1           “(1) IN GENERAL.—The term ‘reportable trans-  
2           action understatement’ means the sum of—

3                   “(A) the product of—

4                           “(i) the amount of the increase (if  
5                           any) in taxable income which results from  
6                           a difference between the proper tax treat-  
7                           ment of an item to which this section ap-  
8                           plies and the taxpayer’s treatment of such  
9                           item (as shown on the taxpayer’s return of  
10                          tax), and

11                          “(ii) the highest rate of tax imposed  
12                          by section 1 (section 11 in the case of a  
13                          taxpayer which is a corporation), and

14                          “(B) the amount of the decrease (if any)  
15                          in the aggregate amount of credits determined  
16                          under subtitle A which results from a difference  
17                          between the taxpayer’s treatment of an item to  
18                          which this section applies (as shown on the tax-  
19                          payer’s return of tax) and the proper tax treat-  
20                          ment of such item.

21           For purposes of subparagraph (A), any reduction of  
22           the excess of deductions allowed for the taxable year  
23           over gross income for such year, and any reduction  
24           in the amount of capital losses which would (without

1 regard to section 1211) be allowed for such year,  
2 shall be treated as an increase in taxable income.

3 “(2) ITEMS TO WHICH SECTION APPLIES.—This  
4 section shall apply to any item which is attributable  
5 to—

6 “(A) any listed transaction, and

7 “(B) any reportable transaction (other  
8 than a listed transaction) if a significant pur-  
9 pose of such transaction is the avoidance or  
10 evasion of Federal income tax.

11 “(c) HIGHER PENALTY FOR NONDISCLOSED LISTED  
12 AND OTHER AVOIDANCE TRANSACTIONS.—

13 “(1) IN GENERAL.—Subsection (a) shall be ap-  
14 plied by substituting ‘30 percent’ for ‘20 percent’  
15 with respect to the portion of any reportable trans-  
16 action understatement with respect to which the re-  
17 quirement of section 6664(d)(2)(A) is not met.

18 “(2) RULES APPLICABLE TO COMPROMISE OF  
19 PENALTY.—

20 “(A) IN GENERAL.—If the 1st letter of  
21 proposed deficiency which allows the taxpayer  
22 an opportunity for administrative review in the  
23 Internal Revenue Service Office of Appeals has  
24 been sent with respect to a penalty to which  
25 paragraph (1) applies, only the Commissioner

1 of Internal Revenue may compromise all or any  
2 portion of such penalty.

3 “(B) APPLICABLE RULES.—The rules of  
4 paragraphs (2), (3), (4), and (5) of section  
5 6707A(d) shall apply for purposes of subpara-  
6 graph (A).

7 “(d) DEFINITIONS OF REPORTABLE AND LISTED  
8 TRANSACTIONS.—For purposes of this section, the terms  
9 ‘reportable transaction’ and ‘listed transaction’ have the  
10 respective meanings given to such terms by section  
11 6707A(e).

12 “(e) SPECIAL RULES.—

13 “(1) COORDINATION WITH PENALTIES, ETC.,  
14 ON OTHER UNDERSTATEMENTS.—In the case of an  
15 understatement (as defined in section 6662(d)(2))—

16 “(A) the amount of such understatement  
17 (determined without regard to this paragraph)  
18 shall be increased by the aggregate amount of  
19 reportable transaction understatements and  
20 noneconomic substance transaction understate-  
21 ments for purposes of determining whether  
22 such understatement is a substantial under-  
23 statement under section 6662(d)(1), and

24 “(B) the addition to tax under section  
25 6662(a) shall apply only to the excess of the

1 amount of the substantial understatement (if  
2 any) after the application of subparagraph (A)  
3 over the aggregate amount of reportable trans-  
4 action understatements and noneconomic sub-  
5 stance transaction understatements.

6 “(2) COORDINATION WITH OTHER PEN-  
7 ALTIES.—

8 “(A) APPLICATION OF FRAUD PENALTY.—  
9 References to an underpayment in section 6663  
10 shall be treated as including references to a re-  
11 portable transaction understatement and a non-  
12 economic substance transaction understatement.

13 “(B) NO DOUBLE PENALTY.—This section  
14 shall not apply to any portion of an understate-  
15 ment on which a penalty is imposed under sec-  
16 tion 6662B or 6663.

17 “(3) SPECIAL RULE FOR AMENDED RE-  
18 TURNS.—Except as provided in regulations, in no  
19 event shall any tax treatment included with an  
20 amendment or supplement to a return of tax be  
21 taken into account in determining the amount of any  
22 reportable transaction understatement or non-  
23 economic substance transaction understatement if  
24 the amendment or supplement is filed after the ear-  
25 lier of the date the taxpayer is first contacted by the

1 Secretary regarding the examination of the return or  
2 such other date as is specified by the Secretary.

3 “(4) NONECONOMIC SUBSTANCE TRANSACTION  
4 UNDERSTATEMENT.—For purposes of this sub-  
5 section, the term ‘noneconomic substance trans-  
6 action understatement’ has the meaning given such  
7 term by section 6662B(c).

8 “(5) CROSS REFERENCE.—

**“For reporting of section 6662A(c) penalty to the  
Securities and Exchange Commission, see section  
6707A(e).”**

9 (b) DETERMINATION OF OTHER UNDERSTATE-  
10 MENTS.—Subparagraph (A) of section 6662(d)(2) is  
11 amended by adding at the end the following flush sen-  
12 tence:

13 “The excess under the preceding sentence shall  
14 be determined without regard to items to which  
15 section 6662A applies and without regard to  
16 items with respect to which a penalty is im-  
17 posed by section 6662B.”

18 (c) REASONABLE CAUSE EXCEPTION.—

19 (1) IN GENERAL.—Section 6664 is amended by  
20 adding at the end the following new subsection:

21 “(d) REASONABLE CAUSE EXCEPTION FOR REPORT-  
22 ABLE TRANSACTION UNDERSTATEMENTS.—

23 “(1) IN GENERAL.—No penalty shall be im-  
24 posed under section 6662A with respect to any por-

1 tion of a reportable transaction understatement if it  
2 is shown that there was a reasonable cause for such  
3 portion and that the taxpayer acted in good faith  
4 with respect to such portion.

5 “(2) SPECIAL RULES.—Paragraph (1) shall not  
6 apply to any reportable transaction understatement  
7 unless—

8 “(A) the relevant facts affecting the tax  
9 treatment of the item are adequately disclosed  
10 in accordance with the regulations prescribed  
11 under section 6011,

12 “(B) there is or was substantial authority  
13 for such treatment, and

14 “(C) the taxpayer reasonably believed that  
15 such treatment was more likely than not the  
16 proper treatment.

17 A taxpayer failing to adequately disclose in accord-  
18 ance with section 6011 shall be treated as meeting  
19 the requirements of subparagraph (A) if the penalty  
20 for such failure was rescinded under section  
21 6707A(d).

22 “(3) RULES RELATING TO REASONABLE BE-  
23 LIEF.—For purposes of paragraph (2)(C)—

24 “(A) IN GENERAL.—A taxpayer shall be  
25 treated as having a reasonable belief with re-

1 spect to the tax treatment of an item only if  
2 such belief—

3 “(i) is based on the facts and law that  
4 exist at the time the return of tax which  
5 includes such tax treatment is filed, and

6 “(ii) relates solely to the taxpayer’s  
7 chances of success on the merits of such  
8 treatment and does not take into account  
9 the possibility that a return will not be au-  
10 dited, such treatment will not be raised on  
11 audit, or such treatment will be resolved  
12 through settlement if it is raised.

13 “(B) CERTAIN OPINIONS MAY NOT BE RE-  
14 LIED UPON.—

15 “(i) IN GENERAL.—An opinion of a  
16 tax advisor may not be relied upon to es-  
17 tablish the reasonable belief of a taxpayer  
18 if—

19 “(I) the tax advisor is described  
20 in clause (ii), or

21 “(II) the opinion is described in  
22 clause (iii).

23 “(ii) DISQUALIFIED TAX ADVISORS.—  
24 A tax advisor is described in this clause if  
25 the tax advisor—

1           “(I) is a material advisor (within  
2           the meaning of section 6111(b)(1))  
3           who participates in the organization,  
4           management, promotion, or sale of  
5           the transaction or who is related  
6           (within the meaning of section 267(b)  
7           or 707(b)(1)) to any person who so  
8           participates,

9           “(II) is compensated directly or  
10          indirectly by a material advisor with  
11          respect to the transaction,

12          “(III) has a fee arrangement  
13          with respect to the transaction which  
14          is contingent on all or part of the in-  
15          tended tax benefits from the trans-  
16          action being sustained, or

17          “(IV) as determined under regu-  
18          lations prescribed by the Secretary,  
19          has a continuing financial interest  
20          with respect to the transaction.

21          “(iii) DISQUALIFIED OPINIONS.—For  
22          purposes of clause (i), an opinion is dis-  
23          qualified if the opinion—

1           “(I) is based on unreasonable  
2           factual or legal assumptions (includ-  
3           ing assumptions as to future events),

4           “(II) unreasonably relies on rep-  
5           resentations, statements, findings, or  
6           agreements of the taxpayer or any  
7           other person,

8           “(III) does not identify and con-  
9           sider all relevant facts, or

10           “(IV) fails to meet any other re-  
11           quirement as the Secretary may pre-  
12           scribe.”

13           (2) CONFORMING AMENDMENT.—The heading  
14           for subsection (c) of section 6664 is amended by in-  
15           serting “FOR UNDERPAYMENTS” after “EXCEP-  
16           TION”.

17           (d) CONFORMING AMENDMENTS.—

18           (1) Subparagraph (C) of section 461(i)(3) is  
19           amended by striking “section 6662(d)(2)(C)(iii)”  
20           and inserting “section 1274(b)(3)(C)”.

21           (2) Paragraph (3) of section 1274(b) is amend-  
22           ed—

23           (A) by striking “(as defined in section  
24           6662(d)(2)(C)(iii))” in subparagraph (B)(i),  
25           and

1 (B) by adding at the end the following new  
2 subparagraph:

3 “(C) TAX SHELTER.—For purposes of sub-  
4 paragraph (B), the term ‘tax shelter’ means—

5 “(i) a partnership or other entity,

6 “(ii) any investment plan or arrange-  
7 ment, or

8 “(iii) any other plan or arrangement,  
9 if a significant purpose of such partnership, en-  
10 tity, plan, or arrangement is the avoidance or  
11 evasion of Federal income tax.”

12 (3) Section 6662(d)(2) is amended by striking  
13 subparagraphs (C) and (D).

14 (4) Section 6664(c)(1) is amended by striking  
15 “this part” and inserting “section 6662 or 6663”.

16 (5) Subsection (b) of section 7525 is amended  
17 by striking “section 6662(d)(2)(C)(iii)” and insert-  
18 ing “section 1274(b)(3)(C)”.

19 (6)(A) The heading for section 6662 is amend-  
20 ed to read as follows:

21 **“SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY**  
22 **ON UNDERPAYMENTS.”**

23 (B) The table of sections for part II of sub-  
24 chapter A of chapter 68 is amended by striking the

1 item relating to section 6662 and inserting the fol-  
 2 lowing new items:

“Sec. 6662. Imposition of accuracy-related penalty on underpay-  
 ments.

“Sec. 6662A. Imposition of accuracy-related penalty on under-  
 statements with respect to reportable transactions.”

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

6 **SEC. 504. PENALTY FOR UNDERSTATEMENTS ATTRIB-**  
 7 **UTABLE TO TRANSACTIONS LACKING ECO-**  
 8 **NOMIC SUBSTANCE, ETC.**

9 (a) **IN GENERAL.**—Subchapter A of chapter 68 is  
 10 amended by inserting after section 6662A the following  
 11 new section:

12 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**  
 13 **UTABLE TO TRANSACTIONS LACKING ECO-**  
 14 **NOMIC SUBSTANCE, ETC.**

15 “(a) **IMPOSITION OF PENALTY.**—If a taxpayer has an  
 16 noneconomic substance transaction understatement for  
 17 any taxable year, there shall be added to the tax an  
 18 amount equal to 40 percent of the amount of such under-  
 19 statement.

20 “(b) **REDUCTION OF PENALTY FOR DISCLOSED**  
 21 **TRANSACTIONS.**—Subsection (a) shall be applied by sub-  
 22 stituting ‘20 percent’ for ‘40 percent’ with respect to the  
 23 portion of any noneconomic substance transaction under-

1 statement with respect to which the relevant facts affect-  
2 ing the tax treatment of the item are adequately disclosed  
3 in the return or a statement attached to the return.

4 “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-  
5 DERSTATEMENT.—For purposes of this section—

6 “(1) IN GENERAL.—The term ‘noneconomic  
7 substance transaction understatement’ means any  
8 amount which would be an understatement under  
9 section 6662A(b)(1) if section 6662A were applied  
10 by taking into account items attributable to non-  
11 economic substance transactions rather than items  
12 to which section 6662A applies.

13 “(2) NONECONOMIC SUBSTANCE TRANS-  
14 ACTION.—The term ‘noneconomic substance trans-  
15 action’ means any transaction if—

16 “(A) there is a lack of economic substance  
17 (within the meaning of section 7701(m)(1)) for  
18 the transaction giving rise to the claimed ben-  
19 efit or the transaction was not respected under  
20 section 7701(m)(2), or

21 “(B) the transaction fails to meet the re-  
22 quirements of any similar rule of law.

23 “(d) RULES APPLICABLE TO COMPROMISE OF PEN-  
24 ALTY.—

1           “(1) IN GENERAL.—If the 1st letter of pro-  
 2           posed deficiency which allows the taxpayer an oppor-  
 3           tunity for administrative review in the Internal Rev-  
 4           enue Service Office of Appeals has been sent with  
 5           respect to a penalty to which this section applies,  
 6           only the Commissioner of Internal Revenue may  
 7           compromise all or any portion of such penalty.

8           “(2) APPLICABLE RULES.—The rules of para-  
 9           graphs (2), (3), (4), and (5) of section 6707A(d)  
 10          shall apply for purposes of paragraph (1).

11          “(e) COORDINATION WITH OTHER PENALTIES.—EX-  
 12          cept as otherwise provided in this part, the penalty im-  
 13          posed by this section shall be in addition to any other pen-  
 14          alty imposed by this title.

15          “(f) CROSS REFERENCES.—

**“(1) For coordination of penalty with understatement-  
 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).”**

16          (b) CLERICAL AMENDMENT.—The table of sections  
 17          for part II of subchapter A of chapter 68 is amended by  
 18          inserting after the item relating to section 6662A the fol-  
 19          lowing new item:

          “Sec. 6662B. Penalty for understatements attributable to trans-  
 actions lacking economic substance, etc.”

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to transactions entered into after  
3 February 15, 2004.

4 **SEC. 505. MODIFICATIONS OF SUBSTANTIAL UNDERSTATE-**  
5 **MENT PENALTY FOR NONREPORTABLE**  
6 **TRANSACTIONS.**

7 (a) SUBSTANTIAL UNDERSTATEMENT OF CORPORA-  
8 TIONS.—Section 6662(d)(1)(B) (relating to special rule  
9 for corporations) is amended to read as follows:

10 “(B) SPECIAL RULE FOR CORPORA-  
11 TIONS.—In the case of a corporation other than  
12 an S corporation or a personal holding company  
13 (as defined in section 542), there is a substan-  
14 tial understatement of income tax for any tax-  
15 able year if the amount of the understatement  
16 for the taxable year exceeds the lesser of—

17 “(i) 10 percent of the tax required to  
18 be shown on the return for the taxable  
19 year (or, if greater, \$10,000), or

20 “(ii) \$10,000,000.”

21 (b) REDUCTION FOR UNDERSTATEMENT OF TAX-  
22 PAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED  
23 ITEM.—

1           (1) IN GENERAL.—Section 6662(d)(2)(B)(i)  
2           (relating to substantial authority) is amended to  
3           read as follows:

4                         “(i) the tax treatment of any item by  
5                         the taxpayer if the taxpayer had reason-  
6                         able belief that the tax treatment was more  
7                         likely than not the proper treatment, or”.

8           (2) CONFORMING AMENDMENT.—Section  
9           6662(d) is amended by adding at the end the fol-  
10          lowing new paragraph:

11                       “(3) SECRETARIAL LIST.—For purposes of this  
12                       subsection, section 6664(d)(2), and section  
13                       6694(a)(1), the Secretary may prescribe a list of po-  
14                       sitions for which the Secretary believes there is not  
15                       substantial authority or there is no reasonable belief  
16                       that the tax treatment is more likely than not the  
17                       proper tax treatment. Such list (and any revisions  
18                       thereof) shall be published in the Federal Register  
19                       or the Internal Revenue Bulletin.”

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

1 **SEC. 506. TAX SHELTER EXCEPTION TO CONFIDENTIALITY**  
 2 **PRIVILEGES RELATING TO TAXPAYER COM-**  
 3 **MUNICATIONS.**

4 (a) IN GENERAL.—Section 7525(b) (relating to sec-  
 5 tion not to apply to communications regarding corporate  
 6 tax shelters) is amended to read as follows:

7 “(b) SECTION NOT TO APPLY TO COMMUNICATIONS  
 8 REGARDING TAX SHELTERS.—The privilege under sub-  
 9 section (a) shall not apply to any written communication  
 10 which is—

11 “(1) between a federally authorized tax practi-  
 12 tioner and—

13 “(A) any person,

14 “(B) any director, officer, employee, agent,  
 15 or representative of the person, or

16 “(C) any other person holding a capital or  
 17 profits interest in the person, and

18 “(2) in connection with the promotion of the di-  
 19 rect or indirect participation of the person in any  
 20 tax shelter (as defined in section 1274(b)(3)(C)).”

21 (b) EFFECTIVE DATE.—The amendment made by  
 22 this section shall apply to communications made on or  
 23 after the date of the enactment of this Act.

24 **SEC. 507. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

25 (a) IN GENERAL.—Section 6111 (relating to registra-  
 26 tion of tax shelters) is amended to read as follows:

1 **“SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

2       “(a) IN GENERAL.—Each material advisor with re-  
3 spect to any reportable transaction shall make a return  
4 (in such form as the Secretary may prescribe) setting  
5 forth—

6           “(1) information identifying and describing the  
7 transaction,

8           “(2) information describing any potential tax  
9 benefits expected to result from the transaction, and

10          “(3) such other information as the Secretary  
11 may prescribe.

12 Such return shall be filed not later than the date specified  
13 by the Secretary.

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

15           “(1) MATERIAL ADVISOR.—

16           “(A) IN GENERAL.—The term ‘material  
17 advisor’ means any person—

18           “(i) who provides any material aid,  
19 assistance, or advice with respect to orga-  
20 nizing, promoting, selling, implementing,  
21 or carrying out any reportable transaction,  
22 and

23           “(ii) who directly or indirectly derives  
24 gross income in excess of the threshold  
25 amount for such advice or assistance.

1           “(B) THRESHOLD AMOUNT.—For purposes  
2 of subparagraph (A), the threshold amount is—

3           “(i) \$50,000 in the case of a report-  
4 able transaction substantially all of the tax  
5 benefits from which are provided to nat-  
6 ural persons, and

7           “(ii) \$250,000 in any other case.

8           “(2) REPORTABLE TRANSACTION.—The term  
9 ‘reportable transaction’ has the meaning given to  
10 such term by section 6707A(c).

11          “(c) REGULATIONS.—The Secretary may prescribe  
12 regulations which provide—

13           “(1) that only 1 person shall be required to  
14 meet the requirements of subsection (a) in cases in  
15 which 2 or more persons would otherwise be re-  
16 quired to meet such requirements,

17           “(2) exemptions from the requirements of this  
18 section, and

19           “(3) such rules as may be necessary or appro-  
20 priate to carry out the purposes of this section.”

21 (b) CONFORMING AMENDMENTS.—

22           (1) The item relating to section 6111 in the  
23 table of sections for subchapter B of chapter 61 is  
24 amended to read as follows:

“Sec. 6111. Disclosure of reportable transactions.”

1           (2)(A) So much of section 6112 as precedes  
2           subsection (c) thereof is amended to read as follows:

3   **“SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANS-**  
4                           **ACTIONS MUST KEEP LISTS OF ADVISEES.**

5           “(a) IN GENERAL.—Each material advisor (as de-  
6           fined in section 6111) with respect to any reportable  
7           transaction (as defined in section 6707A(e)) shall main-  
8           tain, in such manner as the Secretary may by regulations  
9           prescribe, a list—

10           “(1) identifying each person with respect to  
11           whom such advisor acted as such a material advisor  
12           with respect to such transaction, and

13           “(2) containing such other information as the  
14           Secretary may by regulations require.

15           This section shall apply without regard to whether a mate-  
16           rial advisor is required to file a return under section 6111  
17           with respect to such transaction.”

18           (B) Section 6112 is amended by redesignating  
19           subsection (c) as subsection (b).

20           (C) Section 6112(b), as redesignated by sub-  
21           paragraph (B), is amended—

22           (i) by inserting “written” before “request”  
23           in paragraph (1)(A), and

24           (ii) by striking “shall prescribe” in para-  
25           graph (2) and inserting “may prescribe”.

1 (D) The item relating to section 6112 in the  
 2 table of sections for subchapter B of chapter 61 is  
 3 amended to read as follows:

“Sec. 6112. Material advisors of reportable transactions must  
 keep lists of advisees.”

4 (3)(A) The heading for section 6708 is amend-  
 5 ed to read as follows:

6 **“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES**  
 7 **WITH RESPECT TO REPORTABLE TRANS-**  
 8 **ACTIONS.”**

9 (B) The item relating to section 6708 in the  
 10 table of sections for part I of subchapter B of chap-  
 11 ter 68 is amended to read as follows:

“Sec. 6708. Failure to maintain lists of advisees with respect to  
 reportable transactions.”

12 (c) EFFECTIVE DATE.—The amendments made by  
 13 this section shall apply to transactions with respect to  
 14 which material aid, assistance, or advice referred to in sec-  
 15 tion 6111(b)(1)(A)(i) of the Internal Revenue Code of  
 16 1986 (as added by this section) is provided after the date  
 17 of the enactment of this Act.

18 **SEC. 508. MODIFICATIONS TO PENALTY FOR FAILURE TO**  
 19 **REGISTER TAX SHELTERS.**

20 (a) IN GENERAL.—Section 6707 (relating to failure  
 21 to furnish information regarding tax shelters) is amended  
 22 to read as follows:

1 **“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARD-**  
2 **ING REPORTABLE TRANSACTIONS.**

3 “(a) IN GENERAL.—If a person who is required to  
4 file a return under section 6111(a) with respect to any  
5 reportable transaction—

6 “(1) fails to file such return on or before the  
7 date prescribed therefor, or

8 “(2) files false or incomplete information with  
9 the Secretary with respect to such transaction,  
10 such person shall pay a penalty with respect to such return  
11 in the amount determined under subsection (b).

12 “(b) AMOUNT OF PENALTY.—

13 “(1) IN GENERAL.—Except as provided in para-  
14 graph (2), the penalty imposed under subsection (a)  
15 with respect to any failure shall be \$50,000.

16 “(2) LISTED TRANSACTIONS.—The penalty im-  
17 posed under subsection (a) with respect to any listed  
18 transaction shall be an amount equal to the greater  
19 of—

20 “(A) \$200,000, or

21 “(B) 50 percent of the gross income de-  
22 rived by such person with respect to aid, assist-  
23 ance, or advice which is provided with respect  
24 to the reportable transaction before the date the  
25 return including the transaction is filed under  
26 section 6111.

1 Subparagraph (B) shall be applied by substituting  
 2 ‘75 percent’ for ‘50 percent’ in the case of an inten-  
 3 tional failure or act described in subsection (a).

4 “(c) RESCISSION AUTHORITY.—The provisions of  
 5 section 6707A(d) (relating to authority of Commissioner  
 6 to rescind penalty) shall apply to any penalty imposed  
 7 under this section.

8 “(d) REPORTABLE AND LISTED TRANSACTIONS.—  
 9 The terms ‘reportable transaction’ and ‘listed transaction’  
 10 have the respective meanings given to such terms by sec-  
 11 tion 6707A(c).”.

12 (b) CLERICAL AMENDMENT.—The item relating to  
 13 section 6707 in the table of sections for part I of sub-  
 14 chapter B of chapter 68 is amended by striking “tax shel-  
 15 ters” and inserting “reportable transactions”.

16 (c) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply to returns the due date for which  
 18 is after the date of the enactment of this Act.

19 **SEC. 509. MODIFICATION OF PENALTY FOR FAILURE TO**  
 20 **MAINTAIN LISTS OF INVESTORS.**

21 (a) IN GENERAL.—Subsection (a) of section 6708 is  
 22 amended to read as follows:

23 “(a) IMPOSITION OF PENALTY.—

24 “(1) IN GENERAL.—If any person who is re-  
 25 quired to maintain a list under section 6112(a) fails

1 to make such list available upon written request to  
2 the Secretary in accordance with section  
3 6112(b)(1)(A) within 20 business days after the  
4 date of the Secretary's request, such person shall  
5 pay a penalty of \$10,000 for each day of such fail-  
6 ure after such 20th day.

7 “(2) REASONABLE CAUSE EXCEPTION.—No  
8 penalty shall be imposed by paragraph (1) with re-  
9 spect to the failure on any day if such failure is due  
10 to reasonable cause.”

11 (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to requests made after the date  
13 of the enactment of this Act.

14 **SEC. 510. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN**  
15 **CONDUCT RELATED TO TAX SHELTERS AND**  
16 **REPORTABLE TRANSACTIONS.**

17 (a) IN GENERAL.—Section 7408 (relating to action  
18 to enjoin promoters of abusive tax shelters, etc.) is amend-  
19 ed by redesignating subsection (c) as subsection (d) and  
20 by striking subsections (a) and (b) and inserting the fol-  
21 lowing new subsections:

22 “(a) AUTHORITY TO SEEK INJUNCTION.—A civil ac-  
23 tion in the name of the United States to enjoin any person  
24 from further engaging in specified conduct may be com-  
25 menced at the request of the Secretary. Any action under

1 this section shall be brought in the district court of the  
2 United States for the district in which such person resides,  
3 has his principal place of business, or has engaged in spec-  
4 ified conduct. The court may exercise its jurisdiction over  
5 such action (as provided in section 7402(a)) separate and  
6 apart from any other action brought by the United States  
7 against such person.

8 “(b) ADJUDICATION AND DECREE.—In any action  
9 under subsection (a), if the court finds—

10 “(1) that the person has engaged in any speci-  
11 fied conduct, and

12 “(2) that injunctive relief is appropriate to pre-  
13 vent recurrence of such conduct,

14 the court may enjoin such person from engaging in such  
15 conduct or in any other activity subject to penalty under  
16 this title.

17 “(c) SPECIFIED CONDUCT.—For purposes of this  
18 section, the term ‘specified conduct’ means any action, or  
19 failure to take action, subject to penalty under section  
20 6700, 6701, 6707, or 6708.”

21 (b) CONFORMING AMENDMENTS.—

22 (1) The heading for section 7408 is amended to  
23 read as follows:

1 **“SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RE-**  
2 **LATED TO TAX SHELTERS AND REPORTABLE**  
3 **TRANSACTIONS.”**

4 (2) The table of sections for subchapter A of  
5 chapter 67 is amended by striking the item relating  
6 to section 7408 and inserting the following new  
7 item:

“Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.”

8 (c) **EFFECTIVE DATE.**—The amendment made by  
9 this section shall take effect on the day after the date of  
10 the enactment of this Act.

11 **SEC. 511. UNDERSTATEMENT OF TAXPAYER’S LIABILITY BY**  
12 **INCOME TAX RETURN PREPARER.**

13 (a) **STANDARDS CONFORMED TO TAXPAYER STAND-**  
14 **ARDS.**—Section 6694(a) (relating to understatements due  
15 to unrealistic positions) is amended—

16 (1) by striking “realistic possibility of being  
17 sustained on its merits” in paragraph (1) and in-  
18 serting “reasonable belief that the tax treatment in  
19 such position was more likely than not the proper  
20 treatment”,

21 (2) by striking “or was frivolous” in paragraph  
22 (3) and inserting “or there was no reasonable basis  
23 for the tax treatment of such position”, and



1 any civil penalty imposed under subpara-  
2 graph (A) shall not exceed \$5,000.

3 “(ii) REASONABLE CAUSE EXCEP-  
4 TION.—No penalty shall be imposed under  
5 subparagraph (A) with respect to any vio-  
6 lation if—

7 “(I) such violation was due to  
8 reasonable cause, and

9 “(II) the amount of the trans-  
10 action or the balance in the account  
11 at the time of the transaction was  
12 properly reported.

13 “(C) WILLFUL VIOLATIONS.—In the case  
14 of any person willfully violating, or willfully  
15 causing any violation of, any provision of sec-  
16 tion 5314—

17 “(i) the maximum penalty under sub-  
18 paragraph (B)(i) shall be increased to the  
19 greater of—

20 “(I) \$25,000, or

21 “(II) the amount (not exceeding  
22 \$100,000) determined under subpara-  
23 graph (D), and

24 “(ii) subparagraph (B)(ii) shall not  
25 apply.

1           “(D) AMOUNT.—The amount determined  
2           under this subparagraph is—

3                   “(i) in the case of a violation involving  
4                   a transaction, the amount of the trans-  
5                   action, or

6                   “(ii) in the case of a violation involv-  
7                   ing a failure to report the existence of an  
8                   account or any identifying information re-  
9                   quired to be provided with respect to an  
10                  account, the balance in the account at the  
11                  time of the violation.”

12          (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to violations occurring after the  
14 date of the enactment of this Act.

15 **SEC. 513. FRIVOLOUS TAX SUBMISSIONS.**

16          (a) CIVIL PENALTIES.—Section 6702 is amended to  
17 read as follows:

18 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

19          “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-  
20 TURNS.—A person shall pay a penalty of \$5,000 if—

21                  “(1) such person files what purports to be a re-  
22                  turn of a tax imposed by this title but which—

23                          “(A) does not contain information on  
24                          which the substantial correctness of the self-as-  
25                          sessment may be judged, or

1           “(B) contains information that on its face  
2 indicates that the self-assessment is substan-  
3 tially incorrect; and

4           “(2) the conduct referred to in paragraph (1)—

5           “(A) is based on a position which the Sec-  
6 retary has identified as frivolous under sub-  
7 section (c), or

8           “(B) reflects a desire to delay or impede  
9 the administration of Federal tax laws.

10       “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS  
11 SUBMISSIONS.—

12           “(1) IMPOSITION OF PENALTY.—Except as pro-  
13 vided in paragraph (3), any person who submits a  
14 specified frivolous submission shall pay a penalty of  
15 \$5,000.

16           “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For  
17 purposes of this section—

18           “(A) SPECIFIED FRIVOLOUS SUBMIS-  
19 SION.—The term ‘specified frivolous submis-  
20 sion’ means a specified submission if any por-  
21 tion of such submission—

22           “(i) is based on a position which the  
23 Secretary has identified as frivolous under  
24 subsection (c), or

1 “(ii) reflects a desire to delay or im-  
2 pede the administration of Federal tax  
3 laws.

4 “(B) SPECIFIED SUBMISSION.—The term  
5 ‘specified submission’ means—

6 “(i) a request for a hearing under—

7 “(I) section 6320 (relating to no-  
8 tice and opportunity for hearing upon  
9 filing of notice of lien), or

10 “(II) section 6330 (relating to  
11 notice and opportunity for hearing be-  
12 fore levy), and

13 “(ii) an application under—

14 “(I) section 6159 (relating to  
15 agreements for payment of tax liabil-  
16 ity in installments),

17 “(II) section 7122 (relating to  
18 compromises), or

19 “(III) section 7811 (relating to  
20 taxpayer assistance orders).

21 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-  
22 SION.—If the Secretary provides a person with no-  
23 tice that a submission is a specified frivolous sub-  
24 mission and such person withdraws such submission  
25 within 30 days after such notice, the penalty im-

1 posed under paragraph (1) shall not apply with re-  
 2 spect to such submission.

3 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-  
 4 retary shall prescribe (and periodically revise) a list of po-  
 5 sitions which the Secretary has identified as being frivo-  
 6 lous for purposes of this subsection. The Secretary shall  
 7 not include in such list any position that the Secretary  
 8 determines meets the requirement of section  
 9 6662(d)(2)(B)(ii)(II).

10 “(d) REDUCTION OF PENALTY.—The Secretary may  
 11 reduce the amount of any penalty imposed under this sec-  
 12 tion if the Secretary determines that such reduction would  
 13 promote compliance with and administration of the Fed-  
 14 eral tax laws.

15 “(e) PENALTIES IN ADDITION TO OTHER PEN-  
 16 ALTIES.—The penalties imposed by this section shall be  
 17 in addition to any other penalty provided by law.”

18 (b) TREATMENT OF FRIVOLOUS REQUESTS FOR  
 19 HEARINGS BEFORE LEVY.—

20 (1) FRIVOLOUS REQUESTS DISREGARDED.—  
 21 Section 6330 (relating to notice and opportunity for  
 22 hearing before levy) is amended by adding at the  
 23 end the following new subsection:

24 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—  
 25 Notwithstanding any other provision of this section, if the

1 Secretary determines that any portion of a request for a  
2 hearing under this section or section 6320 meets the re-  
3 quirement of clause (i) or (ii) of section 6702(b)(2)(A),  
4 then the Secretary may treat such portion as if it were  
5 never submitted and such portion shall not be subject to  
6 any further administrative or judicial review.”

7 (2) PRECLUSION FROM RAISING FRIVOLOUS  
8 ISSUES AT HEARING.—Section 6330(c)(4) is amend-  
9 ed—

10 (A) by striking “(A)” and inserting  
11 “(A)(i)”;

12 (B) by striking “(B)” and inserting “(ii)”;

13 (C) by striking the period at the end of the  
14 first sentence and inserting “; or”; and

15 (D) by inserting after subparagraph (A)(ii)  
16 (as so redesignated) the following:

17 “(B) the issue meets the requirement of  
18 clause (i) or (ii) of section 6702(b)(2)(A).”

19 (3) STATEMENT OF GROUNDS.—Section  
20 6330(b)(1) is amended by striking “under sub-  
21 section (a)(3)(B)” and inserting “in writing under  
22 subsection (a)(3)(B) and states the grounds for the  
23 requested hearing”.

1 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR  
2 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section  
3 6320 is amended—

4 (1) in subsection (b)(1), by striking “under sub-  
5 section (a)(3)(B)” and inserting “in writing under  
6 subsection (a)(3)(B) and states the grounds for the  
7 requested hearing”, and

8 (2) in subsection (c), by striking “and (e)” and  
9 inserting “(e), and (g)”.

10 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR  
11 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-  
12 MENTS.—Section 7122 is amended by adding at the end  
13 the following new subsection:

14 “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-  
15 standing any other provision of this section, if the Sec-  
16 retary determines that any portion of an application for  
17 an offer-in-compromise or installment agreement sub-  
18 mitted under this section or section 6159 meets the re-  
19 quirement of clause (i) or (ii) of section 6702(b)(2)(A),  
20 then the Secretary may treat such portion as if it were  
21 never submitted and such portion shall not be subject to  
22 any further administrative or judicial review.”

23 (e) CLERICAL AMENDMENT.—The table of sections  
24 for part I of subchapter B of chapter 68 is amended by

1 striking the item relating to section 6702 and inserting  
2 the following new item:

“Sec. 6702. Frivolous tax submissions.”

3 (f) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to submissions made and issues  
5 raised after the date on which the Secretary first pre-  
6 scribes a list under section 6702(c) of the Internal Rev-  
7 enue Code of 1986, as amended by subsection (a).

8 **SEC. 514. REGULATION OF INDIVIDUALS PRACTICING BE-**  
9 **FORE THE DEPARTMENT OF TREASURY.**

10 (a) **CENSURE; IMPOSITION OF PENALTY.**—

11 (1) **IN GENERAL.**—Section 330(b) of title 31,  
12 United States Code, is amended—

13 (A) by inserting “, or censure,” after “De-  
14 partment”, and

15 (B) by adding at the end the following new  
16 flush sentence:

17 “The Secretary may impose a monetary penalty on any  
18 representative described in the preceding sentence. If the  
19 representative was acting on behalf of an employer or any  
20 firm or other entity in connection with the conduct giving  
21 rise to such penalty, the Secretary may impose a monetary  
22 penalty on such employer, firm, or entity if it knew, or  
23 reasonably should have known, of such conduct. Such pen-  
24 alty shall not exceed the gross income derived (or to be  
25 derived) from the conduct giving rise to the penalty and

1 may be in addition to, or in lieu of, any suspension, disbar-  
2 ment, or censure.”

3 (2) EFFECTIVE DATE.—The amendments made  
4 by this subsection shall apply to actions taken after  
5 the date of the enactment of this Act.

6 (b) TAX SHELTER OPINIONS, ETC.—Section 330 of  
7 such title 31 is amended by adding at the end the fol-  
8 lowing new subsection:

9 “(d) Nothing in this section or in any other provision  
10 of law shall be construed to limit the authority of the Sec-  
11 retary of the Treasury to impose standards applicable to  
12 the rendering of written advice with respect to any entity,  
13 transaction plan or arrangement, or other plan or arrange-  
14 ment, which is of a type which the Secretary determines  
15 as having a potential for tax avoidance or evasion.”

16 **SEC. 515. PENALTY ON PROMOTERS OF TAX SHELTERS.**

17 (a) PENALTY ON PROMOTING ABUSIVE TAX SHEL-  
18 TERS.—Section 6700(a) is amended by adding at the end  
19 the following new sentence: “Notwithstanding the first  
20 sentence, if an activity with respect to which a penalty  
21 imposed under this subsection involves a statement de-  
22 scribed in paragraph (2)(A), the amount of the penalty  
23 shall be equal to 50 percent of the gross income derived  
24 (or to be derived) from such activity by the person on  
25 which the penalty is imposed.”

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

4 **SEC. 516. STATUTE OF LIMITATIONS FOR TAXABLE YEARS**  
5 **FOR WHICH LISTED TRANSACTIONS NOT RE-**  
6 **PORTED.**

7 (a) IN GENERAL.—Section 6501(e)(1) (relating to  
8 substantial omission of items for income taxes) is amended  
9 by adding at the end the following new subparagraph:

10 “(C) LISTED TRANSACTIONS.—If a tax-  
11 payer fails to include on any return or state-  
12 ment for any taxable year any information with  
13 respect to a listed transaction (as defined in  
14 section 6707A(e)(2)) which is required under  
15 section 6011 to be included with such return or  
16 statement, the tax for such taxable year may be  
17 assessed, or a proceeding in court for collection  
18 of such tax may be begun without assessment,  
19 at any time within 6 years after the time the  
20 return is filed. This subparagraph shall not  
21 apply to any taxable year if the time for assess-  
22 ment or beginning the proceeding in court has  
23 expired before the time a transaction is treated  
24 as a listed transaction under section 6011.”

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

4 **SEC. 517. DENIAL OF DEDUCTION FOR INTEREST ON UN-**  
5 **DERPAYMENTS ATTRIBUTABLE TO NONDIS-**  
6 **CLOSED REPORTABLE AND NONECONOMIC**  
7 **SUBSTANCE TRANSACTIONS.**

8 (a) IN GENERAL.—Section 163 (relating to deduction  
9 for interest) is amended by redesignating subsection (m)  
10 as subsection (n) and by inserting after subsection (l) the  
11 following new subsection:

12 “(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE  
13 TO NONDISCLOSED REPORTABLE TRANSACTIONS AND  
14 NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduc-  
15 tion shall be allowed under this chapter for any interest  
16 paid or accrued under section 6601 on any underpayment  
17 of tax which is attributable to—

18 “(1) the portion of any reportable transaction  
19 understatement (as defined in section 6662A(b))  
20 with respect to which the requirement of section  
21 6664(d)(2)(A) is not met, or

22 “(2) any noneconomic substance transaction  
23 understatement (as defined in section 6662B(c)).”

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to transactions in taxable years  
 3 beginning after the date of the enactment of this Act.

4 **SEC. 518. AUTHORIZATION OF APPROPRIATIONS FOR TAX**  
 5 **LAW ENFORCEMENT.**

6 There is authorized to be appropriated \$300,000,000  
 7 for each fiscal year beginning after September 30, 2002,  
 8 for the purpose of carrying out tax law enforcement to  
 9 combat tax avoidance transactions and other tax shelters,  
 10 including the use of offshore financial accounts to conceal  
 11 taxable income.

12 **Subtitle B—Other Provisions**

13 **SEC. 521. AFFIRMATION OF CONSOLIDATED RETURN REGU-**  
 14 **LATION AUTHORITY.**

15 (a) IN GENERAL.—Section 1502 (relating to consoli-  
 16 dated return regulations) is amended by adding at the end  
 17 the following new sentence: “In prescribing such regula-  
 18 tions, the Secretary may prescribe rules applicable to cor-  
 19 porations filing consolidated returns under section 1501  
 20 that are different from other provisions of this title that  
 21 would apply if such corporations filed separate returns.”

22 (b) RESULT NOT OVERTURNED.—Notwithstanding  
 23 subsection (a), the Internal Revenue Code of 1986 shall  
 24 be construed by treating Treasury regulation § 1.1502-  
 25 20(c)(1)(iii) (as in effect on January 1, 2001) as being

1 inapplicable to the type of factual situation in 255 F.3d  
2 1357 (Fed. Cir. 2001).

3 (c) EFFECTIVE DATE.—The provisions of this section  
4 shall apply to taxable years beginning before, on, or after  
5 the date of the enactment of this Act.

6 **SEC. 522. SIGNING OF CORPORATE TAX RETURNS BY CHIEF**  
7 **EXECUTIVE OFFICER.**

8 (a) IN GENERAL.—Section 6062 (relating to signing  
9 of corporation returns) is amended by striking the first  
10 sentence and inserting the following new sentence: “The  
11 return of a corporation with respect to income shall be  
12 signed by the chief executive officer of such corporation  
13 (or other such officer of the corporation as the Secretary  
14 may designate if the corporation does not have a chief ex-  
15 ecutive officer). The preceding sentence shall not apply to  
16 any return of a regulated investment company (within the  
17 meaning of section 851).”.

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

21 **SEC. 523. DISCLOSURE OF TAX SHELTERS TO CORPORATE**  
22 **AUDIT COMMITTEE.**

23 (a) IN GENERAL.—Subchapter B of chapter 61 (re-  
24 lating to information and returns) is amended by inserting  
25 after section 6111 the following new section:

1 **“SEC. 6111A. DISCLOSURE OF REPORTABLE TRANSACTIONS**  
2 **TO CORPORATE AUDIT COMMITTEE.**

3 “If a corporation is required under section 6011 to  
4 include on any return or statement any information with  
5 respect to a reportable transaction (as defined in section  
6 6707A(c)), the chief executive officer of such corporation  
7 (or other such officer of the corporation as the Secretary  
8 may designate if the corporation does not have a chief ex-  
9 ecutive officer) shall disclose such information in a state-  
10 ment to the audit committee of the board of directors of  
11 such corporation or any similar committee or entity per-  
12 forming auditing functions on behalf of such corpora-  
13 tion.”.

14 (b) PENALTY FOR FAILURE TO DISCLOSE.—Section  
15 6707A(a) (relating to penalty for failure to include report-  
16 able transaction information with return or statement) is  
17 amended by inserting “, or fails to file a statement re-  
18 quired under section 6111A,” before “shall pay”.

19 (c) CLERICAL AMENDMENT.—The table of sections  
20 for subchapter B of chapter 61 is amended by inserting  
21 after the item relating to section 6111 the following new  
22 item:

“Sec. 6111A. Disclosure of reportable transactions to corporate  
audit committee.”

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to transactions in taxable years  
3 beginning after the date of the enactment of this Act.

#### 4 **Subtitle C—Budget Points of Order**

##### 5 **SEC. 531. EXTENSION OF PAY-AS-YOU-GO ENFORCEMENT IN** 6 **THE SENATE.**

7 Section 2 of Senate Resolution 304 (107th Congress)  
8 is amended—

9 (1) in subsection (a)(1), by striking “April 15,  
10 2003” and inserting “the end of the 108th Con-  
11 gress”; and

12 (2) in subsection (b)(1)(B), by striking “April  
13 15, 2003” and inserting “at the end of the 108th  
14 Congress”.

○