

resolution; which was considered and agreed to:

S. CON. RES. 95

*Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Tuesday, January 29, 2002, it stand recessed or adjourned until noon on Monday, February 4, 2002, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Tuesday, January 29, 2002, it stand adjourned until noon on Monday, February 4, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.*

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2728. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table.

SA 2729. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2730. Mr. SPECTER (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2731. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2732. Mr. SMITH of New Hampshire proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra.

SA 2733. Mr. SMITH of New Hampshire proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra.

SA 2734. Mr. SMITH of New Hampshire proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra.

SA 2735. Mr. SMITH of New Hampshire proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra.

SA 2736. Mr. SESSIONS (for himself, Mr. ALLEN, Mr. SMITH of New Hampshire, Mr. HUTCHINSON, and Mr. BROWNBACK) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra.

SA 2737. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2738. Mrs. HUTCHISON (for herself and Mr. GRAMM) submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2739. Mr. INHOFE submitted an amendment intended to be proposed by him to the

bill H.R. 622, supra; which was ordered to lie on the table.

SA 2740. Mr. GRAMM (for himself, Mr. MILLER, Mr. KYL, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2741. Mr. GRAMM (for himself, Mr. MILLER, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2742. Mr. GRAMM (for himself, Mr. MILLER, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2743. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2744. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2745. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2746. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2747. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2748. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2749. Mr. GRAMM (for himself, Mr. MILLER, Mr. KYL, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2750. Mr. GRAMM (for himself, Mr. MILLER, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2751. Mr. GRAMM (for himself, Mr. MILLER, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2752. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2753. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2754. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2755. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698

submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2756. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2757. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2758. Mr. KYL (for himself, Mr. GRAMM, Mr. ENSIGN, Mr. NICKLES, and Mr. HUTCHINSON) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra.

SA 2759. Mrs. HUTCHISON (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2760. Ms. COLLINS (for herself, Mr. WARNER, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2761. Ms. COLLINS (for herself, Mr. WARNER, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 2728. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. —. MODIFICATIONS TO SMALL ISSUE BOND PROVISIONS.

(a) INCREASE IN AMOUNT OF QUALIFIED SMALL ISSUE BONDS PERMITTED FOR FACILITIES TO BE USED BY RELATED PRINCIPAL USERS.—

(1) IN GENERAL.—Clause (i) of section 144(a)(4)(A) (relating to \$10,000,000 limit in certain cases) is amended by striking “\$10,000,000” and inserting “\$20,000,000”.

(2) COST-OF-LIVING ADJUSTMENT.—Section 144(a)(4) is amended by adding at the end the following:

“(G) COST-OF-LIVING ADJUSTMENT.—In the case of a taxable year beginning in a calendar year after 2002, the \$20,000,000 amount under subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by  
“(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2001’ for ‘calendar year 1992’ in subparagraph (B) thereof.”.

(3) CLERICAL AMENDMENT.—The heading of paragraph (4) of section 144(a) is amended by striking “\$10,000,000” and inserting “\$20,000,000”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to—

(A) obligations issued after the date of the enactment of this Act, and

(B) capital expenditures made after such date with respect to obligations issued on or before such date.

(b) DEFINITION OF MANUFACTURING FACILITY.—

(1) IN GENERAL.—Section 144(a)(12)(C) (relating to definition of manufacturing facility) is amended to read as follows:

“(C) MANUFACTURING FACILITY.—For purposes of this paragraph, the term ‘manufacturing facility’ means any facility which is used in—

“(i) the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property),

“(ii) the manufacturing, development, or production of specifically developed software products or processes if—

“(I) it takes more than 6 months to develop or produce such products,

“(II) the development or production could not with due diligence be reasonably expected to occur in less than 6 months, and

“(III) the software product or process comprises programs, routines, and attendant documentation developed and maintained for use in computer and telecommunications technology, or

“(iii) the manufacturing, development, or production of specially developed biobased or bioenergy products or processes if—

“(I) it takes more than 6 months to develop or produce,

“(II) the development or production could not with due diligence be reasonably expected to occur in less than 6 months, and

“(III) the biobased or bioenergy product or process comprises products, processes, programs, routines, and attendant documentation developed and maintained for the utilization of biological materials in commercial or industrial products, for the utilization of renewable domestic agricultural or forestry materials in commercial or industrial products, or for the utilization of biomass materials.

“(D) RELATED FACILITIES.—For purposes of subparagraph (C), the term ‘manufacturing facility’ includes a facility which is directly and functionally related to a manufacturing facility (determined without regard to subparagraph (C)) if—

“(i) such facility, including an office facility and a research and development facility, is located on the same site as the manufacturing facility, and

“(ii) not more than 40 percent of the net proceeds of the issue are used to provide such facility,

but shall not include a facility used solely for research and development activities.”.

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

**SA 2729.** Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

**SEC. \_\_\_\_ CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.**

(a) IN GENERAL.—Subsection (e) of section 170 of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

“(7) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

“(A) CONTRIBUTIONS BY NON-CORPORATE TAXPAYERS.—In the case of a charitable contribution of food, paragraph (3) shall be applied without regard to whether or not the contribution is made by a corporation.

“(B) DETERMINATION OF FAIR MARKET VALUE.—For purposes of this section, in the case of a charitable contribution of food which is a qualified contribution (within the meaning of paragraph (3), as modified by sub-

paragraph (A) of this paragraph) and which, solely by reason of internal standards of the taxpayer, lack of market, or similar circumstances, cannot or will not be sold, the fair market value of such contribution shall be determined—

“(i) without regard to such internal standards, such lack of market, or such circumstances, and

“(ii) if applicable, by taking into account the price at which the same or similar food items are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

**SA 2730.** Mr. SPECTER (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table, as follows:

At the end of title V, add the following:

**SEC. . FUNDING FOR RAILROAD TRACK REHABILITATION, PRESERVATION, AND IMPROVEMENT.**

There is appropriated to the Department of Transportation for the Federal Railroad Administration for fiscal year 2002, out of any funds in the Treasury not otherwise appropriated, \$350,000,000 for capital grants to be made by the Secretary of Transportation for rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Funds appropriated by the preceding sentence shall remain available until expended.

**SA 2731.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE \_\_\_\_—TEMPORARY EXTENDED UNEMPLOYMENT BENEFITS**

**SEC. \_\_\_\_01. SHORT TITLE.**

This title may be cited as the “Temporary Extended Unemployment Compensation Act of 2002”.

**SEC. \_\_\_\_02. FEDERAL-STATE AGREEMENTS.**

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

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of temporary extended unemployment compensation to individuals—

(1) who—

(A) first exhausted all rights to regular compensation under the State law on or after the first day of the week that includes September 11, 2001; or

(B) have their 26th week of regular compensation under the State law end on or after the first day of the week that includes September 11, 2001;

(2) who do not have any rights to regular compensation under the State law of any other State; and

(3) who are not receiving compensation under the unemployment compensation law of any other country.

**(c) COORDINATION RULES.—**

(1) TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION TO SERVE AS SECOND-TIER BENEFITS.—Notwithstanding any other provision of law, neither regular compensation, extended compensation, nor additional compensation under any Federal or State law shall be payable to any individual for any week for which temporary extended unemployment compensation is payable to such individual.

(2) TREATMENT OF OTHER UNEMPLOYMENT COMPENSATION.—After the date on which a State enters into an agreement under this title, any regular compensation in excess of 26 weeks, any extended compensation, and any additional compensation under any Federal or State law shall be payable to an individual in accordance with the State law after such individual has exhausted any rights to temporary extended unemployment compensation under the agreement.

(d) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because the individual has received all regular compensation available to the individual based on employment or wages during the individual's base period; or

(2) the individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(e) WEEKLY BENEFIT AMOUNT, TERMS AND CONDITIONS, ETC. RELATING TO TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.—For purposes of any agreement under this title—

(1) the amount of temporary extended unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to the amount of regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary extended unemployment compensation and the payment thereof, except where inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary extended unemployment compensation payable to any individual for whom a temporary extended unemployment compensation account is established under section \_\_\_\_03 shall not exceed the amount established in such account for such individual.

**SEC. \_\_\_\_03. TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.**

(a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary extended unemployment compensation, a temporary extended unemployment compensation account.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the greater of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during

the individual's benefit year under such law; or

(B) 13 times the individual's weekly benefit amount.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of paragraph (1)(B), an individual's weekly benefit amount for any week is an amount equal to the amount of regular compensation (including dependents' allowances) under the State law payable to the individual for such week for total unemployment.

#### SEC. 04. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the temporary extended unemployment compensation paid to individuals by the State pursuant to such agreement.

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

(c) ADMINISTRATIVE EXPENSES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

#### SEC. 05. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used, in accordance with subsection (b), for the making of payments (described in section 04(a)) to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums described in section 04(a) which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account, as so established (or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, as so established) to the account of such State in the Unemployment Trust Fund (as so established).

#### SEC. 06. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received any temporary

extended unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for any further benefits under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received any temporary extended unemployment compensation under this title to which such individuals were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation or temporary extended unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the temporary extended unemployment compensation to which such individuals were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

#### SEC. 07. DEFINITIONS.

In this title, the terms "compensation", "regular compensation", "extended compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

#### SEC. 08. APPLICABILITY.

An agreement entered into under this title shall apply to weeks of unemployment—

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

(2) ending before January 6, 2003.

#### TITLE —ASSISTANCE FOR MEDICAID COVERAGE

#### SEC. 01. TEMPORARY INCREASES OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 3 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001

shall be substituted for the State's FMAP for the second, third, and fourth calendar quarters in fiscal year 2002, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FIRST CALENDAR QUARTER OF FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the first calendar quarter in fiscal year 2003, before the application of this section.

(c) GENERAL 1.50 PERCENTAGE POINTS INCREASE FOR CALENDAR YEAR 2002.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), for each State for the second, third, and fourth calendar quarters in fiscal year 2002 and the first calendar quarter of fiscal year 2003, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 1.50 percentage points.

(d) FURTHER INCREASE FOR STATES WITH HIGH UNEMPLOYMENT RATES FOR CALENDAR YEAR 2002.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), the FMAP for a high unemployment State for the second, third, and fourth calendar quarters in fiscal year 2002 and the first calendar quarter in fiscal year 2003 (and any subsequent calendar quarter in calendar year 2002 or the first calendar quarter in fiscal year 2003 regardless of whether the State continues to be a high unemployment State for any such calendar quarter) shall be increased (after the application of subsections (a), (b), and (c)) by 1.50 percentage points.

(2) HIGH UNEMPLOYMENT STATE.—

(A) IN GENERAL.—For purposes of this subsection, a State is a high unemployment State for a calendar quarter if, for any 3 consecutive months beginning on or after June 2001 and ending with the second month before the beginning of the calendar quarter, the State has an average seasonally adjusted unemployment rate that exceeds the average weighted unemployment rate during such period. Such unemployment rates for such months shall be determined based on publications of the Bureau of Labor Statistics of the Department of Labor.

(B) AVERAGE WEIGHTED UNEMPLOYMENT RATE DEFINED.—For purposes of subparagraph (A), the "average weighted unemployment rate" for a period is—

(i) the sum of the seasonally adjusted number of unemployed civilians in each State and the District of Columbia for the period; divided by

(ii) the sum of the civilian labor force in each State and the District of Columbia for the period.

(e) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, with respect to the second, third, and fourth calendar quarters fiscal year 2002 and the first calendar quarter in fiscal year 2003, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 6 percentage points of such amounts.

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

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

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

(g) **STATE ELIGIBILITY.**—A State is eligible for an increase in its FMAP under subsection (c) or (d) or an increase in a cap amount under subsection (e) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on October 1, 2001.

(h) **DEFINITIONS.**—In this section:

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

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

**SA 2732.** Mr. SMITH of New Hampshire proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

**SEC. \_\_\_\_ . WAIVER OF EARLY WITHDRAWAL PENALTY FOR DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS TO INDIVIDUALS CALLED TO ACTIVE DUTY DURING THE NATIONAL EMERGENCY DECLARED BY THE PRESIDENT ON SEPTEMBER 14, 2001.**

(a) **WAIVER FOR CERTAIN DISTRIBUTIONS.**—

(1) **IN GENERAL.**—Section 72(t)(2) of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following:

“(G) **DISTRIBUTIONS TO INDIVIDUALS PERFORMING NATIONAL EMERGENCY ACTIVE DUTY.**—Any distribution to an individual who, at the time of the distribution, is a member of a reserve component called or ordered to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, during the period of the national emergency declared by the President on September 14, 2001.”

(2) **WAIVER OF UNDERPAYMENT PENALTY.**—Section 6654(e)(3) of such Code (relating to waiver in certain cases) is amended by adding at the end the following:

“(C) **CERTAIN EARLY WITHDRAWALS FROM RETIREMENT PLANS.**—No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent such underpayment was created or increased by any distribution described in section 72(t)(2)(G).”

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to distributions made to an individual after September 13, 2001.

(b) **CATCH-UP CONTRIBUTIONS ALLOWED.**—

(1) **INDIVIDUAL RETIREMENT ACCOUNTS.**—Section 219(b)(5) of the Internal Revenue Code of 1986 (relating to deductible amount) is amended by adding at the end the following:

“(D) **CATCH-UP CONTRIBUTIONS FOR CERTAIN DISTRIBUTIONS.**—In the case of an individual who has received a distribution described in section 72(t)(2)(G), the deductible amount for any taxable year shall be increased by an amount equal to—

“(i) the aggregate amount of such distributions (not attributable to earnings) made with respect to such individual, over

“(ii) the aggregate amount of such distributions (not attributable to earnings) previously taken into account under this subparagraph or section 414(w).”

(2) **ROTH IRAS.**—Section 408A(c) of such Code (relating to treatment of contributions) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following:

“(7) **CATCH-UP CONTRIBUTIONS FOR CERTAIN DISTRIBUTIONS.**—Any contribution described in section 219(b)(5)(D) shall not be taken into account for purposes of paragraph (2).”

(3) **EMPLOYER PLANS.**—Section 414 of such Code (relating to definitions and special rules) is amended by adding at the end the following:

“(w) **CATCH-UP CONTRIBUTIONS FOR CERTAIN DISTRIBUTIONS.**—

“(1) **IN GENERAL.**—An applicable employer plan shall not be treated as failing to meet any requirement of this title solely because the plan permits an applicable participant to make additional elective deferrals in any plan year.

“(2) **LIMITATION ON AMOUNT OF ADDITIONAL DEFERRALS.**—

“(A) **IN GENERAL.**—A plan shall not permit additional elective deferrals under paragraph (1) for any year in an amount greater than the lesser of—

“(i) the applicable dollar amount, or

“(ii) the excess (if any) of—

“(I) the participant's compensation (as defined in section 415(c)(3)) for the year, over

“(II) any other elective deferrals of the participant for such year which are made without regard to this subsection.

“(B) **APPLICABLE DOLLAR AMOUNT.**—For purposes of this paragraph, the applicable dollar amount with respect to a participant shall be an amount equal to—

“(i) the aggregate amount of distributions described in section 72(t)(2)(G) (not attributable to earnings) made with respect to such participant, over

“(ii) the aggregate amount of such distributions (not attributable to earnings) previously taken into account under this subsection or section 219(b)(5)(B).

“(3) **TREATMENT OF CONTRIBUTIONS.**—Rules similar to the rules of paragraphs (3) and (4) of subsection (v) shall apply with respect to contributions made under this subsection.

“(4) **DEFINITIONS.**—For purposes of this subsection, the terms ‘applicable employer plan’ and ‘elective deferral’ have the same meanings given such terms in subsection (v)(6).”

(4) **CONFORMING AMENDMENT.**—Section 414(v)(2)(A)(ii)(II) of such Code (relating to limitation on amount of additional deferrals) is amended by inserting “(other than deferrals under subsection (w))” after “deferrals”.

(5) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to contributions in taxable years ending after December 31, 2001.

**SA 2733.** Mr. SMITH of New Hampshire proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

**SEC. \_\_\_\_ . PROHIBITION ON IMPOSITION OF INCOME TAXES BY STATES ON NON-RESIDENTS.**

(a) **IN GENERAL.**—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

“§ 116. **Prohibition on imposition of income taxes by States on nonresidents**

“Except to the extent otherwise provided in any voluntary compact between or among States, a State or political subdivision thereof may not impose a tax on income earned within such State or political subdivision by nonresidents of such State.”

(b) **CONFORMING AMENDMENT.**—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

“116. Prohibition on imposition of income taxes by States on nonresidents.”

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

**SA 2734.** Mr. SMITH of New Hampshire proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

**SEC. \_\_\_\_ . TIPS RECEIVED FOR CERTAIN SERVICES NOT SUBJECT TO INCOME OR EMPLOYMENT TAXES.**

(a) **IN GENERAL.**—Section 102 of the Internal Revenue Code of 1986 (relating to gifts and inheritances) is amended by adding at the end the following new subsection:

“(d) **TIPS RECEIVED FOR CERTAIN SERVICES.**—

“(1) **IN GENERAL.**—For purposes of subsection (a), tips received by an individual for qualified services performed by such individual shall be treated as property transferred by gift.

“(2) **QUALIFIED SERVICES.**—For purposes of this subsection, the term ‘qualified services’ means cosmetology, hospitality (including lodging and food and beverage services), recreation, baggage handling, transportation, delivery, shoe shine, and other services where tips are customary.

“(3) **ANNUAL LIMIT.**—The amount excluded from gross income for the taxable year by reason of paragraph (1) with respect to each service provider shall not exceed \$10,000.

“(4) **EMPLOYEE TAXABLE ON AT LEAST MINIMUM WAGE.**—Paragraph (1) shall not apply to tips received by an employee during any month to the extent that such tips—

“(A) are deemed to have been paid by the employer to the employee pursuant to section 3121(q) (without regard to whether such tips are reported under section 6053), and

“(B) do not exceed the excess of—

“(i) the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act), over

“(ii) the amount of the wages (excluding tips) paid by the employer to the employee during such month.

“(5) **TIPS.**—For purposes of this title, the term ‘tip’ means a gratuity paid by an individual for services performed for such individual (or for a group which includes such individual) by another individual if such services are not provided pursuant to an employment or similar contractual relationship between such individual.”

(b) **EXCLUSION FROM SOCIAL SECURITY TAXES.**—

(1) Paragraph (12) of section 3121(a) of such Code is amended to read as follows:

“(12)(A) tips paid in any medium other than cash;

“(B) cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more and then only to the extent includible in gross income after the application of section 102(d).”

(2) Paragraph (10) of section 209(a) of the Social Security Act is amended to read as follows:

“(10)(A) tips paid in any medium other than cash;

“(B) cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more and then only to the extent includible in gross income after the application of section 102(d) of the Internal Revenue Code of 1986 of such month.”; and

(3) Paragraph (3) of section 3231(e) of such Code is amended to read as follows:

“(3) Solely for purposes of the taxes imposed by section 3201 and other provisions of this chapter insofar as they relate to such taxes, the term ‘compensation’ also includes cash tips received by an employee in any calendar month in the course of his employment by an employer if the amount of such cash tips is \$20 or more and then only to the extent includible in gross income after the application of section 102(d).”.

(c) EXCLUSION FROM UNEMPLOYMENT COMPENSATION TAXES.—Submission (s) of section 3306 of such Code is amended to read as follows:

“(s) TIPS NOT TREATED AS WAGES.—For purposes of this chapter, the term ‘wages’ shall include tips received in any month only to the extent includible in gross income after the application of section 102(d) of such month.”.

(d) EXCLUSION FROM WAGE WITHHOLDING.—Paragraph (16) of section 3401(a) of such Code is amended to read as follows:

“(16)(A) as tips in any medium other than cash;

“(B) as cash tips to an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more and then only to the extent includible in gross income after the application of section 102(d).”.

(e) CONFORMING AMENDMENT.—Sections 32(c)(2)(A)(i) and 220(b)(4)(A) of such Code are each amended by striking “tips” and inserting “tips to the extent includible in gross income after the application of section 102(d)”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to tips received after the calendar month which includes the date of the enactment of this Act.

**SA 2735.** Mr. SMITH of New Hampshire proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

**SEC. . REAL PROPERTY TAX DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.**

(a) IN GENERAL.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (18) the following:

“(19) REAL PROPERTY TAXES.—The deduction allowed by section 164(a)(1).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any payment due after December 31, 2000.

**SA 2736.** Mr. SESSIONS (for himself, Mr. ALLEN, Mr. SMITH of New Hampshire, Mr. HUTCHINSON, and Mr. BROWNBACK) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the

Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the end, add the following:

**DIVISION II—AMERICAN FAMILY ECONOMIC SECURITY AND STIMULUS**

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

(a) SHORT TITLE.—This division may be cited as the “American Family Economic Security and Stimulus Act”.

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

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

**TITLE I—ADVANCE PAYMENT OF EARNED INCOME CREDIT**

Sec. 101. Additional requirements to ensure greater use of advance payment of earned income credit.

Sec. 102. Extension of advance payment of earned income credit to all eligible taxpayers.

**TITLE II—INDIVIDUAL PROVISIONS**

Sec. 201. Acceleration of 25 percent individual income tax rate.

Sec. 202. Temporary expansion of penalty-free retirement plan distributions for health insurance premiums of unemployed individuals.

Sec. 203. Increase in child tax credit.

Sec. 204. Temporary increase in deduction for capital losses of taxpayers other than corporations.

Sec. 205. Nonrefundable credit for elementary and secondary school expenses.

**TITLE III—UNEMPLOYMENT ASSISTANCE**

Sec. 301. Short title.

Sec. 302. Federal-State agreements.

Sec. 303. Temporary extended unemployment compensation account.

Sec. 304. Payments to States having agreements for the payment of temporary extended unemployment compensation.

Sec. 305. Financing provisions.

Sec. 306. Fraud and overpayments.

Sec. 307. Definitions.

Sec. 308. Applicability.

Sec. 309. Special Reed Act transfer in fiscal year 2002.

**TITLE IV—NATIONAL EMERGENCY GRANTS**

Sec. 401. National emergency grant assistance for workers.

**TITLE V—TEMPORARY BUSINESS RELIEF PROVISIONS**

Sec. 501. Special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004.

**TITLE VI—ADDITIONAL PROVISIONS**

Sec. 601. Emergency designation.

**TITLE I—ADVANCE PAYMENT OF EARNED INCOME CREDIT**

**SEC. 101. ADDITIONAL REQUIREMENTS TO ENSURE GREATER USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.**

Not later than February 1, 2002, the Secretary of the Treasury by regulation shall require—

(1) each employer of an employee who the employer determines receives wages in an amount which indicates that such employee

would be eligible for the earned income credit under section 32 of the Internal Revenue Code of 1986 to provide such employee with a simplified application for an earned income eligibility certificate, and

(2) require each employee wishing to receive the earned income tax credit to complete and return the application to the employer within 30 days of receipt.

Such regulations shall require an employer to provide such an application within 30 days of the hiring date of an employee and at least annually thereafter. Such regulations shall further provide that, upon receipt of a completed form, an employer shall provide for the advance payment of the earned income credit as provided under section 3507 of the Internal Revenue Code of 1986.

**SEC. 102. EXTENSION OF ADVANCE PAYMENT OF EARNED INCOME CREDIT TO ALL ELIGIBLE TAXPAYERS.**

(a) IN GENERAL.—Section 3507(b) of the Internal Revenue Code of 1986 (relating to earned income eligibility certificate) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3507(c)(2)(B) of the Internal Revenue Code of 1986 is amended by inserting “has 1 or more qualifying children and” before “is not married.”.

(2) Section 3507(c)(2)(C) of such Code is amended by striking “the employee” and inserting “an employee with 1 or more qualifying children”.

(3) Section 3507(f) of such Code is amended by striking “who have 1 or more qualifying children and”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

**TITLE II—INDIVIDUAL PROVISIONS**

**SEC. 201. ACCELERATION OF 25 PERCENT INDIVIDUAL INCOME TAX RATE.**

(a) IN GENERAL.—The table contained in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001) is amended—

(1) by striking “27.0%” and inserting “25.0%”, and

(2) by striking “26.0%” and inserting “25.0%”.

(b) REDUCTION NOT TO INCREASE MINIMUM TAX.—

(1) Subparagraph (A) of section 55(d)(1) is amended by striking “(\$49,000 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)” and inserting “(\$49,000 in the case of taxable years beginning in 2001, \$52,200 in the case of taxable years beginning in 2002 or 2003, and \$50,700 in the case of taxable years beginning in 2004)”.

(2) Subparagraph (B) of section 55(d)(1) is amended by striking “(\$35,750 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)” and inserting “(\$35,750 in the case of taxable years beginning in 2001, \$37,350 in the case of taxable years beginning in 2002 or 2003, and \$36,600 in the case of taxable years beginning in 2004)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) SECTION 15 NOT TO APPLY.—No amendment made by this section shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

**SEC. 202. TEMPORARY EXPANSION OF PENALTY-FREE RETIREMENT PLAN DISTRIBUTIONS FOR HEALTH INSURANCE PREMIUMS OF UNEMPLOYED INDIVIDUALS.**

(a) IN GENERAL.—Subparagraph (D) of section 72(t)(2) is amended by adding at the end the following new clause:

“(iv) SPECIAL RULES FOR INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION AFTER

SEPTEMBER 10, 2001, AND BEFORE JANUARY 1, 2003.—In the case of an individual who receives unemployment compensation for 4 consecutive weeks after September 10, 2001, and before January 1, 2003—

“(I) clause (i) shall apply to distributions from all qualified retirement plans (as defined in section 4974(c)), and

“(II) such 4 consecutive weeks shall be substituted for the 12 consecutive weeks referred to in subclause (I) of clause (i).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this division.

#### SEC. 203. INCREASE IN CHILD TAX CREDIT.

(a) IN GENERAL.—The table contained in section 24(a)(2) (relating to per child amount) is amended by striking all matter preceding the second item and inserting the following:

<b>“In the case of any taxable year beginning in—</b>	<b>“The per child amount is—</b>
2001 .....	\$1,000
2002, 2003, or 2004 .....	600”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

#### SEC. 204. TEMPORARY INCREASE IN DEDUCTION FOR CAPITAL LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 1211 (relating to limitation on capital losses for taxpayers other than corporations) is amended by adding at the end the following flush sentence:

“Paragraph (1) shall be applied by substituting ‘\$5,000’ for ‘\$3,000’ and ‘\$2,500’ for ‘\$1,500’ in the case of taxable years beginning in 2001 or 2002.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.

#### SEC. 205. NONREFUNDABLE CREDIT FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.

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

##### “SEC. 25C. CREDIT FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual who maintains a household which includes as a member one or more qualifying students (as defined in subsection (b)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified elementary and secondary education expenses with respect to such students which are paid or incurred by the taxpayer during such taxable year.

“(b) DOLLAR LIMIT ON AMOUNT CREDITABLE.—The amount of qualified elementary and secondary education expenses paid or incurred during any taxable year which may be taken into account under subsection (a) shall not exceed \$500.

“(c) QUALIFYING STUDENT.—For purposes of this section, the term ‘qualifying student’ means a dependent of the taxpayer (within the meaning of section 152) who is enrolled in school on a full-time basis.

“(d) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified elementary and secondary education expenses’ means computer technology or equipment expenses.

“(2) COMPUTER TECHNOLOGY OR EQUIPMENT.—The term ‘computer technology or equipment’ has the meaning given such term

by section 170(e)(6)(F)(i) and includes Internet access and related services and computer software if such software is predominately educational in nature.

“(e) SCHOOL.—For purposes of this section, the term ‘school’ means any public, charter, private, religious, or home school which provides elementary education or secondary education (through grade 12), as determined under State law.

“(f) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any contribution for which credit is allowed under this section.

“(g) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.

“(h) TERMINATION.—This section shall not apply to expenses paid or incurred after the date which is 90 days after the date of the enactment of this section.”

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B), as added and amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking “23 and 25B” and inserting “23, 25B, and 25C”.

(2) Section 25(e)(1)(C) is amended by striking “23 and 1400C” and by inserting “23, 25C, and 1400C”.

(3) Section 25(e)(1)(C), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by inserting “25C,” after “25B.”

(4) Section 25B, as added by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking “section 23” and inserting “sections 23 and 25C”.

(5) Section 26(a)(1), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking “and 25B” and inserting “25B, and 25C”.

(6) Section 1400C(d) is amended by inserting “and section 25C” after “this section”.

(7) Section 1400C(d), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking “and 25B” and inserting “25B, and 25C”.

(8) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 26 the following new item:

“Sec. 25C. Credit for elementary and secondary school expenses.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this division.

### TITLE III—UNEMPLOYMENT ASSISTANCE

#### SEC. 301. SHORT TITLE.

This title of this division may be cited as the “Temporary Extended Unemployment Compensation Act of 2002”.

#### SEC. 302. FEDERAL-STATE AGREEMENTS.

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

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of temporary extended unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before March 15, 2001);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(4) filed an initial claim for regular compensation on or after March 15, 2001.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual’s rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual’s base period; or

(2) such individual’s rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of temporary extended unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents’ allowances) payable to such individual during such individual’s benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary extended unemployment compensation and the payment thereof, except—

(A) that an individual shall not be eligible for temporary extended unemployment compensation under this title unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment or the equivalent in insured wages, as determined under the provisions of the State law implementing section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(B) where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary extended unemployment compensation payable to any individual for whom a temporary extended unemployment compensation account is established under section 303 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of temporary extended unemployment compensation in lieu of extended compensation to individuals who otherwise meet the requirements of this section. Such an election shall not require a State to trigger off an extended benefit period.

#### SEC. 303. TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary extended unemployment compensation, a temporary extended unemployment compensation account with respect to such individual’s benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—



(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) **REDUCTION FOR EXTENDED BENEFITS.**—The amount in an account under paragraph (1) shall be reduced (but not below zero) by the aggregate amount of extended compensation (if any) received by such individual relating to the same benefit year under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(3) **WEEKLY BENEFIT AMOUNT.**—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

**SEC. 304. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.**

(a) **GENERAL RULE.**—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the temporary extended unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) **TREATMENT OF REIMBURSABLE COMPENSATION.**—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

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

**SEC. 305. FINANCING PROVISIONS.**

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

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

(c) **ASSISTANCE TO STATES.**—There are appropriated out of the employment security

administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

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

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

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

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

**SEC. 306. FRAUD AND OVERPAYMENTS.**

(a) **IN GENERAL.**—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of temporary extended unemployment compensation under this title to which he was not entitled, such individual—

(1) shall be ineligible for further temporary extended unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) **REPAYMENT.**—In the case of individuals who have received amounts of temporary extended unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such temporary extended unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such temporary extended unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) **RECOVERY BY STATE AGENCY.**—

(1) **IN GENERAL.**—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any temporary extended unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the temporary extended unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) **OPPORTUNITY FOR HEARING.**—No repayment shall be required, and no deduction shall be made, until a determination has

been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) **REVIEW.**—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

**SEC. 307. DEFINITIONS.**

In this title, the terms "compensation", "regular compensation", "extended compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

**SEC. 308. APPLICABILITY.**

An agreement entered into under this title shall apply to weeks of unemployment—

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

(2) ending before January 1, 2003.

**SEC. 309. SPECIAL REED ACT TRANSFER IN FISCAL YEAR 2002.**

(a) **REPEAL OF CERTAIN PROVISIONS ADDED BY THE BALANCED BUDGET ACT OF 1997.**—

(1) **IN GENERAL.**—The following provisions of section 903 of the Social Security Act (42 U.S.C. 1103) are repealed:

(A) Paragraph (3) of subsection (a).

(B) The last sentence of subsection (c)(2).

(2) **SAVINGS PROVISION.**—Any amounts transferred before the date of enactment of this division under the provision repealed by paragraph (1)(A) shall remain subject to section 903 of the Social Security Act, as last in effect before such date of enactment.

(b) **SPECIAL TRANSFER IN FISCAL YEAR 2002.**—Section 903 of the Social Security Act is amended by adding at the end the following:

“Special Transfer in Fiscal Year 2002

“(d)(1) The Secretary of the Treasury shall transfer (as of the date determined under paragraph (5)) from the Federal unemployment account to the account of each State in the Unemployment Trust Fund the amount determined with respect to such State under paragraph (2).

“(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to—

“(A) the amount which would have been required to have been transferred under this section to such account at the beginning of fiscal year 2002 if—

“(i) section 709(a)(1) of the Temporary Extended Unemployment Compensation Act of 2002 had been enacted before the close of fiscal year 2001, and

“(ii) section 5402 of Public Law 105-33 (relating to increase in Federal unemployment account ceiling) had not been enacted, minus

“(B) the amount which was in fact transferred under this section to such account at the beginning of fiscal year 2002.

“(3)(A) Except as provided in paragraph (4), amounts transferred to a State account pursuant to this subsection may be used only in the payment of cash benefits—

“(i) to individuals with respect to their unemployment, and

“(ii) which are allowable under subparagraph (B) or (C).

“(B)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable as—

“(I) regular compensation, or

“(II) additional compensation, upon the exhaustion of any temporary extended unemployment compensation (if such State has

entered into an agreement under the Temporary Extended Unemployment Compensation Act of 2002), for individuals eligible for regular compensation under the unemployment compensation law of such State.

“(ii) Any additional compensation under clause (i) may not be taken into account for purposes of any determination relating to the amount of any extended compensation for which an individual might be eligible.

“(C)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable to 1 or more categories of individuals not otherwise eligible for regular compensation under the unemployment compensation law of such State, including those described in clause (iii).

“(ii) The benefits paid under this subparagraph to any individual may not, for any period of unemployment, exceed the maximum amount of regular compensation authorized under the unemployment compensation law of such State for that same period, plus any additional compensation (described in subparagraph (B)(i)) which could have been paid with respect to that amount.

“(iii) The categories of individuals described in this clause include the following:

“(I) Individuals who are seeking, or available for, only part-time (and not full-time) work.

“(II) Individuals who would be eligible for regular compensation under the unemployment compensation law of such State under an alternative base period.

“(D) Amounts transferred to a State account under this subsection may be used in the payment of cash benefits to individuals only for weeks of unemployment beginning after the date of enactment of this subsection.

“(4) Amounts transferred to a State account under this subsection may be used for the administration of its unemployment compensation law and public employment offices (including in connection with benefits described in paragraph (3) and any recipients thereof), subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to ‘subsections (a) and (b)’ in subparagraph (D) thereof to include this subsection).

“(5) Transfers under this subsection shall be made by December 31, 2001, unless this paragraph is not enacted until after that date, in which case such transfers shall be made within 10 days after the date of enactment of this paragraph.”

(C) LIMITATIONS ON TRANSFERS.—Section 903(b) of the Social Security Act shall apply to transfers under section 903(d) of such Act (as amended by this section). For purposes of the preceding sentence, such section 903(b) shall be deemed to be amended as follows:

(1) By substituting “the transfer date described in subsection (d)(5)” for “October 1 of any fiscal year”.

(2) By substituting “remain in the Federal unemployment account” for “be transferred to the Federal unemployment account as of the beginning of such October 1”.

(3) By substituting “fiscal year 2002 (after the transfer date described in subsection (d)(5))” for “the fiscal year beginning on such October 1”.

(4) By substituting “under subsection (d)” for “as of October 1 of such fiscal year”.

(5) By substituting “(as of the close of fiscal year 2002)” for “(as of the close of such fiscal year)”.

(d) TECHNICAL AMENDMENTS.—(1) Sections 3304(a)(4)(B) and 3306(f)(2) of the Internal Revenue Code of 1986 are amended by inserting “or 903(d)(4)” before “of the Social Security Act”.

(2) Section 303(a)(5) of the Social Security Act is amended in the second proviso by inserting “or 903(d)(4)” after “903(c)(2)”.

(e) REGULATIONS.—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section and the amendments made by this section.

#### TITLE IV—NATIONAL EMERGENCY GRANTS

##### SEC. 401. NATIONAL EMERGENCY GRANT ASSISTANCE FOR WORKERS.

(a) ELIGIBILITY FOR GRANTS.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

(1) in paragraph (2), by striking “and”,

(2) in paragraph (3), by striking the period and inserting “; and”, and

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

“(4) from funds appropriated under section 174(c), to a State to provide employment and training assistance and the assistance described in subsections (f) and (g) to dislocated workers affected by a plant closure, mass layoff, or multiple layoffs if the Governor certifies in the application for assistance that the attacks of September 11, 2001, contributed importantly to such plant closures, mass layoffs, and multiple layoffs, and to independently owned businesses and proprietorships.”.

(b) USE OF FUNDS.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following new subsections:

“(f) COBRA CONTINUATION COVERAGE PAYMENT REQUIREMENTS.—

“(1) IN GENERAL.—Funds made available to a State under paragraph (4) of subsection (a) may be used by the State to assist a participant in the program under such paragraph by paying up to 75 percent of the participant’s and any dependents’ contribution for COBRA continuation coverage of the participant and dependents for a period not to exceed 10 months.

“(2) DEFINITION.—For purposes of paragraph (1), the term ‘COBRA continuation coverage’ means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

“(g) GOVERNMENT INTERVENTION SUPPLEMENTS.—

“(1) PERSONAL INCOME.—Using funds made available under subsection (a)(4), a State may provide personal income compensation to a dislocated worker described in such subsection if—

“(A) the worker is unable to work due to direct Federal Government intervention, as a result of a direct response to the terrorist attacks which occurred on September 11, 2001, leading to—

“(i) closure of the facility at which the worker was employed, prior to the intervention; or

“(ii) a restriction on how business may be conducted at the facility; and

“(B) the facility is located within an area in a State in which a major disaster or emergency was certified by the Governor.

“(2) BUSINESS INCOME.—Using funds made available under subsection (a)(4), a State may provide business income compensation to an independently owned business or proprietorship if—

“(A) the business or proprietorship is unable to earn revenue due to direct Federal intervention, as a result of a direct response to the terrorist attacks which occurred on September 11, 2001, leading to—

“(i) closure of the facility at which the business or proprietorship was located, prior to the intervention; or

“(ii) a restriction on how customers may access the facility; and

“(B) the facility is located within an area in a State in which a major disaster or emergency was certified by the Governor.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following new subsection:

“(c) NATIONAL EMERGENCY GRANTS RELATING TO SEPTEMBER 11 ATTACKS.—There are authorized to be appropriated to carry out subsection (a)(4) of section 173 \$5,000,000,000 for fiscal year 2002. Funds appropriated under this subsection shall be available for obligation for a period beginning with the date of enactment of such appropriations and ending 18 months thereafter.”.

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

#### TITLE V—TEMPORARY BUSINESS RELIEF PROVISIONS

##### SEC. 501. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

“(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—

“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

“(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified property’ means property—

“(i) to which this section applies which has a recovery period of 20 years or less or which is water utility property,

“(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

“(III) which is qualified leasehold improvement property, or

“(IV) which is eligible for depreciation under section 167(g),

“(ii) the original use of which commences with the taxpayer after December 31, 2001,

“(iii) which is—

“(I) acquired by the taxpayer after December 31, 2001, and before January 1, 2004, but only if no written binding contract for the acquisition was in effect before January 1, 2002, or

“(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2001, and before January 1, 2004, and

“(iv) which is placed in service by the taxpayer before January 1, 2004, or, in the case of property described in subparagraph (B), before January 1, 2005.

“(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified property’ includes property—

“(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),



“(II) which has a recovery period of at least 10 years or is transportation property, and

“(III) which is subject to section 263A by reason of clause (ii) or (iii) of subsection (f)(1)(B) thereof.

“(ii) ONLY PRE-JANUARY 1, 2004, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2004.

“(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term ‘transportation property’ means tangible personal property used in the trade or business of transporting persons or property.

“(C) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

“(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

“(II) after application of section 280F(b) (relating to listed property with limited business use).

“(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(D) SPECIAL RULES.—

“(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2001, and before January 1, 2004.

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

“(I) is originally placed in service after December 31, 2001, by a person, and

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

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

“(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

“(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by \$4,600.

“(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

“(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified leasehold improvement property’ means any improvement to an interior portion of a building which is nonresidential real property if—

“(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

“(I) by the lessee (or any sublessee) of such portion, or

“(II) by the lessor of such portion,

“(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

“(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

“(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

“(i) the enlargement of the building,

“(ii) any elevator or escalator,

“(iii) any structural component benefiting a common area, and

“(iv) the internal structural framework of the building.

“(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

“(i) BINDING COMMITMENT TO LEASE TREATED AS LEASE.—A binding commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

“(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term ‘related persons’ means—

“(I) members of an affiliated group (as defined in section 1504), and

“(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase ‘80 percent or more’ shall be substituted for the phrase ‘more than 50 percent’ each place it appears in such subsection.

“(D) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.”.

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) of the Internal Revenue Code of 1986 (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

“(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—The deduction under section 168(k) shall be allowed.”

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) of the Internal Revenue Code of 1986 is amended by striking “clause (ii)” both places it appears and inserting “clauses (ii) and (iii)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001, in taxable years ending after such date.

#### TITLE VI—ADDITIONAL PROVISIONS

##### SEC. 602. EMERGENCY DESIGNATION.

Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this division below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this division in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

**SA 2737.** Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for

other purposes; which was ordered to lie on the table; as follows:

Strike all after “**SECTION**” and insert the following:

#### 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the “Economic Security and Recovery Act of 2002”.

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

(c) TABLE OF CONTENTS.—

#### TITLE I—ELIMINATION OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

Sec. 101. Elimination of sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001.

#### TITLE II—BUSINESS PROVISIONS

Sec. 201. Special depreciation allowance for certain property acquired after September 10, 2001, and before September 11, 2004.

#### TITLE III—UNEMPLOYMENT ASSISTANCE

Sec. 301. Short title.

Sec. 302. Federal-State agreements.

Sec. 303. Temporary extended unemployment compensation account.

Sec. 304. Payments to States having agreements for the payment of temporary extended unemployment compensation.

Sec. 305. Financing provisions.

Sec. 306. Fraud and overpayments.

Sec. 307. Definitions.

Sec. 308. Applicability.

Sec. 309. Special Reed Act transfer in fiscal year 2002.

#### TITLE IV—TEMPORARY STATE HEALTH CARE ASSISTANCE

Sec. 401. Temporary State health care assistance.

#### TITLE V—ADDITIONAL PROVISIONS

Sec. 501. Emergency designation.

#### TITLE I—ELIMINATION OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

SEC. 101. ELIMINATION OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

#### TITLE II—BUSINESS PROVISIONS

SEC. 201. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

“(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.—

“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

“(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified property’ means property—

“(i)(I) to which this section applies which has a recovery period of 20 years or less or which is water utility property, or

“(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

“(ii) the original use of which commences with the taxpayer after September 10, 2001,

“(iii) which is—

“(I) acquired by the taxpayer after September 10, 2001, and before September 11, 2004, but only if no written binding contract for the acquisition was in effect before September 11, 2001, or

“(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after September 10, 2001, and before September 11, 2004, and

“(iv) which is placed in service by the taxpayer before January 1, 2005, or, in the case of property described in subparagraph (B), before January 1, 2006.

“(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified property’ includes property—

“(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

“(II) which has a recovery period of at least 10 years or is transportation property, and

“(III) which is subject to section 263A by reason of clause (ii) or (iii) of subsection (f)(1)(B) thereof.

“(ii) ONLY PRE-SEPTEMBER 11, 2004, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before September 11, 2004.

“(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term ‘transportation property’ means tangible personal property used in the trade or business of transporting persons or property.

“(C) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

“(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

“(II) after application of section 280F(b) (relating to listed property with limited business use).

“(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(iii) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—The term ‘qualified property’ shall not include any qualified leasehold improvement property (as defined in section 168(e)(6)).

“(D) SPECIAL RULES.—

“(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before September 11, 2004.

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

“(I) is originally placed in service after September 10, 2001, by a person, and

“(II) sold and leased back by such person within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the lease-back referred to in subclause (II).

“(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

“(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by \$4,600.

“(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).”

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

“(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.—The deduction under section 168(k) shall be allowed.”

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by striking “clause (ii)” both places it appears and inserting “clauses (ii) and (iii)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after such date.

### TITLE III—UNEMPLOYMENT ASSISTANCE

#### SEC. 301. SHORT TITLE.

This title may be cited as the “Temporary Extended Unemployment Compensation Act of 2002”.

#### SEC. 302. FEDERAL-STATE AGREEMENTS.

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

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of temporary extended unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before March 15, 2001);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(4) filed an initial claim for regular compensation on or after March 15, 2001.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual’s rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual’s base period; or

(2) such individual’s rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of temporary extended unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents’ allowances) payable to such individual during such individual’s benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary extended unemployment compensation and the payment thereof, except—

(A) that an individual shall not be eligible for temporary extended unemployment compensation under this title unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment or the equivalent in insured wages, as determined under the provisions of the State law implementing section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(B) where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary extended unemployment compensation payable to any individual for whom a temporary extended unemployment compensation account is established under section 303 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of temporary extended unemployment compensation in lieu of extended compensation to individuals who otherwise meet the requirements of this section. Such an election shall not require a State to trigger off an extended benefit period.

#### SEC. 303. TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary extended unemployment compensation, a temporary extended unemployment compensation account with respect to such individual’s benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents’ allowances) payable to the individual during the individual’s benefit year under such law, or

(B) 13 times the individual’s average weekly benefit amount for the benefit year.

(2) REDUCTION FOR EXTENDED BENEFITS.—The amount in an account under paragraph (1) shall be reduced (but not below zero) by the aggregate amount of extended compensation (if any) received by such individual relating to the same benefit year under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(3) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual’s weekly benefit amount for any week is the amount

of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

**SEC. 304. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.**

(a) **GENERAL RULE.**—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the temporary extended unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) **TREATMENT OF REIMBURSABLE COMPENSATION.**—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

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

**SEC. 305. FINANCING PROVISIONS.**

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

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

(c) **ASSISTANCE TO STATES.**—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

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

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

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

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

**SEC. 306. FRAUD AND OVERPAYMENTS.**

(a) **IN GENERAL.**—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of temporary extended unemployment compensation under this title to which he was not entitled, such individual—

(1) shall be ineligible for further temporary extended unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) **REPAYMENT.**—In the case of individuals who have received amounts of temporary extended unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such temporary extended unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such temporary extended unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) **RECOVERY BY STATE AGENCY.**

(1) **IN GENERAL.**—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any temporary extended unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the temporary extended unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) **OPPORTUNITY FOR HEARING.**—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) **REVIEW.**—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

**SEC. 307. DEFINITIONS.**

In this title, the terms "compensation", "regular compensation", "extended compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

**SEC. 308. APPLICABILITY.**

An agreement entered into under this title shall apply to weeks of unemployment—

- (1) beginning after the date on which such agreement is entered into; and
- (2) ending before January 1, 2003.

**SEC. 309. SPECIAL REED ACT TRANSFER IN FISCAL YEAR 2002.**

(a) **REPEAL OF CERTAIN PROVISIONS ADDED BY THE BALANCED BUDGET ACT OF 1997.**—

(1) **IN GENERAL.**—The following provisions of section 903 of the Social Security Act (42 U.S.C. 1103) are repealed:

(A) Paragraph (3) of subsection (a).

(B) The last sentence of subsection (c)(2).

(2) **SAVINGS PROVISION.**—Any amounts transferred before the date of enactment of this Act under the provision repealed by paragraph (1)(A) shall remain subject to section 903 of the Social Security Act, as last in effect before such date of enactment.

(b) **SPECIAL TRANSFER IN FISCAL YEAR 2002.**—Section 903 of the Social Security Act is amended by adding at the end the following:

"Special Transfer in Fiscal Year 2002

"(d)(1) The Secretary of the Treasury shall transfer (as of the date determined under paragraph (5)) from the Federal unemployment account to the account of each State in the Unemployment Trust Fund the amount determined with respect to such State under paragraph (2).

"(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to—

"(A) the amount which would have been required to have been transferred under this section to such account at the beginning of fiscal year 2002 if—

"(i) section 309(a)(1) of the Temporary Extended Unemployment Compensation Act of 2002 had been enacted before the close of fiscal year 2001, and

"(ii) section 5402 of Public Law 105-33 (relating to increase in Federal unemployment account ceiling) had not been enacted, minus

"(B) the amount which was in fact transferred under this section to such account at the beginning of fiscal year 2002.

"(3)(A) Except as provided in paragraph (4), amounts transferred to a State account pursuant to this subsection may be used only in the payment of cash benefits—

"(i) to individuals with respect to their unemployment, and

"(ii) which are allowable under subparagraph (B) or (C).

"(B)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable as—

"(I) regular compensation, or

"(II) additional compensation, upon the exhaustion of any temporary extended unemployment compensation (if such State has entered into an agreement under the Temporary Extended Unemployment Compensation Act of 2002), for individuals eligible for regular compensation under the unemployment compensation law of such State.

"(ii) Any additional compensation under clause (i) may not be taken into account for purposes of any determination relating to the amount of any extended compensation for which an individual might be eligible.

"(C)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable to 1 or more categories of individuals not otherwise eligible for regular compensation under the unemployment compensation law of such State, including those described in clause (iii).

"(ii) The benefits paid under this subparagraph to any individual may not, for any period of unemployment, exceed the maximum

amount of regular compensation authorized under the unemployment compensation law of such State for that same period, plus any additional compensation (described in subparagraph (B)(i)) which could have been paid with respect to that amount.

“(iii) The categories of individuals described in this clause include the following:

“(I) Individuals who are seeking, or available for, only part-time (and not full-time) work.

“(II) Individuals who would be eligible for regular compensation under the unemployment compensation law of such State under an alternative base period.

“(D) Amounts transferred to a State account under this subsection may be used in the payment of cash benefits to individuals only for weeks of unemployment beginning after the date of enactment of this subsection.

“(4) Amounts transferred to a State account under this subsection may be used for the administration of its unemployment compensation law and public employment offices (including in connection with benefits described in paragraph (3) and any recipients thereof), subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to ‘subsections (a) and (b)’ in subparagraph (D) thereof to include this subsection).

“(5) Transfers under this subsection shall be made by December 31, 2001, unless this paragraph is not enacted until after that date, in which case such transfers shall be made within 10 days after the date of enactment of this paragraph.”

(c) LIMITATIONS ON TRANSFERS.—Section 903(b) of the Social Security Act shall apply to transfers under section 903(d) of such Act (as amended by this section). For purposes of the preceding sentence, such section 903(b) shall be deemed to be amended as follows:

(1) By substituting “the transfer date described in subsection (d)(5)” for “October 1 of any fiscal year”.

(2) By substituting “remain in the Federal unemployment account” for “be transferred to the Federal unemployment account as of the beginning of such October 1”.

(3) By substituting “fiscal year 2002 (after the transfer date described in subsection (d)(5))” for “the fiscal year beginning on such October 1”.

(4) By substituting “under subsection (d)” for “as of October 1 of such fiscal year”.

(5) By substituting “(as of the close of fiscal year 2002)” for “(as of the close of such fiscal year)”.

(d) TECHNICAL AMENDMENTS.—(1) Sections 3304(a)(4)(B) and 3306(f)(2) of the Internal Revenue Code of 1986 are amended by inserting “or 903(d)(4)” before “of the Social Security Act”.

(2) Section 303(a)(5) of the Social Security Act is amended in the second proviso by inserting “or 903(d)(4)” after “903(c)(2)”.

(e) REGULATIONS.—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section and the amendments made by this section.

#### TITLE IV—TEMPORARY STATE HEALTH CARE ASSISTANCE

##### SEC. 401. TEMPORARY STATE HEALTH CARE ASSISTANCE.

(a) IN GENERAL.—Title XXI of the Social Security Act is amended by adding at the end the following new section:

##### “SEC. 2111. TEMPORARY STATE HEALTH CARE ASSISTANCE.

“(a) IN GENERAL.—For the purpose of providing allotments to States under this section, there are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, \$4,599,667,448. Such funds shall be

available for expenditure by the State through the end of 2002. This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.

“(b) ALLOTMENT.—Funds appropriated under subsection (a) shall be allotted by the Secretary among the States in accordance with the following table:

“State	Allotment (in dollars)
Alabama	50,746,770
Alaska	31,934,026
Arizona	68,594,677
Arkansas	38,203,601
California	482,591,746
Colorado	37,469,775
Connecticut	60,039,005
Delaware	10,355,807
District of Columbia	18,321,834
Florida	164,619,369
Georgia	118,754,564
Hawaii	12,827,163
Idaho	13,031,700
Illinois	175,505,956
Indiana	66,067,368
Iowa	31,521,201
Kansas	27,288,967
Kentucky	82,759,133
Louisiana	83,907,301
Maine	22,650,838
Maryland	60,347,066
Massachusetts	121,971,140
Michigan	156,479,213
Minnesota	113,966,453
Mississippi	55,335,225
Missouri	74,675,436
Montana	10,224,652
Nebraska	31,582,786
Nevada	14,695,973
New Hampshire	15,482,962
New Jersey	115,880,093
New Mexico	39,204,714
New York	573,999,663
North Carolina	189,333,723
North Dakota	8,915,675
Ohio	166,006,936
Oklahoma	48,914,626
Oregon	71,160,353
Pennsylvania	227,183,255
Rhode Island	45,001,680
South Carolina	94,789,740
South Dakota	19,951,788
Tennessee	102,845,128
Texas	289,526,532
Utah	30,860,915
Vermont	10,291,090
Virginia	67,232,217
Washington	110,377,264
West Virginia	31,120,804
Wisconsin	93,089,086
Wyoming	12,030,459

“(c) USE OF FUNDS.—

“(1) IN GENERAL.—Funds appropriated under this section may be used by a State only to provide health care items and services (other than types of items and services for which Federal financial participation is prohibited under this title or title XIX).

“(2) LIMITATION.—Funds so appropriated may not be used to match other Federal expenditures or in any other manner that results in the expenditure of Federal funds in excess of the amounts provided under this section.

“(d) PAYMENT TO STATES.—Funds made available under this section shall be paid to the States in a form and manner and time specified by the Secretary, based upon the submission of such information as the Secretary may require. There is no requirement for the expenditure of any State funds in order to qualify for receipt of funds under this section. The previous sections of this title shall not apply with respect to funds provided under this section.

“(e) DEFINITION.—For purposes of this section, the term ‘State’ means the 50 States and the District of Columbia.”

(b) REPEAL.—Effective as of January 1, 2003, section 2111 of the Social Security Act, as inserted by subsection (a), is repealed.

#### TITLE V—ADDITIONAL PROVISIONS

##### SEC. 501. EMERGENCY DESIGNATION.

Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this Act below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this Act in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

SA 2738. Mrs. HUTCHISON (for herself and Mr. GRAMM) submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

#### TITLE —ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.

##### SEC. —01. ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.

(a) IN GENERAL.—Section 1(f) of the Internal Revenue Code of 1986 (relating to adjustments in tax tables so that inflation will not result in tax increases) is amended by adding at the end the following new paragraph:

“(8) PHASEOUT OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—

“(A) IN GENERAL.—With respect to taxable years beginning after December 31, 2001, in prescribing the tables under paragraph (1)—

“(i) the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and

“(ii) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under clause (i).

“(B) ROUNDING.—If any amount determined under subparagraph (A)(i) is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.”

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 1(f)(2) of the Internal Revenue Code of 1986 is amended by inserting “except as provided in paragraph (8),” before “by increasing”.

(2) The heading for subsection (f) of section 1 of such Code is amended by inserting “ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET;” before “ADJUSTMENTS”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

##### SEC. —02. ELIMINATION OF MARRIAGE PENALTY IN STANDARD DEDUCTION.

(a) IN GENERAL.—Paragraph (2) of section 63(c) of the Internal Revenue Code of 1986 (relating to standard deduction) is amended—

(1) by striking “\$5,000” in subparagraph (A) and inserting “200 percent of the dollar

amount in effect under subparagraph (C) for the taxable year”;

(2) by adding “or” at the end of subparagraph (B);

(3) by striking “in the case of” and all that follows in subparagraph (C) and inserting “in any other case.”; and

(4) by striking subparagraph (D).

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 1(f)(6) of the Internal Revenue Code of 1986 is amended by striking “(other than with” and all that follows through “shall be applied” and inserting “(other than with respect to sections 63(c)(4) and 151(d)(4)(A)) shall be applied”.

(2) Paragraph (4) of section 63(c) of such Code is amended by adding at the end the following flush sentence:

“The preceding sentence shall not apply to the amount referred to in paragraph (2)(A).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

#### SEC. 303. CONFORMING AMENDMENTS.

Sections 301 and 302 of the Economic Growth and Tax Relief Reconciliation Act of 2001 are repealed.

**SA 2739.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

#### SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that the legislative enactment of a Federal tax increase while the economy of the United States is in a recessionary environment would be harmful to the economy and may prolong such environment.

**SA 2740.** Mr. GRAMM (for himself, Mr. MILLER, Mr. KYL, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

#### SEC. . REPEAL OF SUNSET.

(a) IN GENERAL.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect on and after the date of the enactment of this Act.

#### SEC. . REDUCTION OF MAXIMUM CAPITAL GAINS RATES FOR INDIVIDUALS.

(a) IN GENERAL.—Section 1(h) of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended to read as follows:

“(h) MAXIMUM CAPITAL GAINS RATE.—

“(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

“(A) a tax computed on taxable income reduced by the net capital gain, at the rates and in the same manner as if this subsection had not been enacted,

“(B) 7.5 percent of so much of the taxpayer’s net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

“(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate of 15 percent or less, over

“(ii) the amount on which tax is determined under subparagraph (A), plus

“(C) 15 percent of the taxpayer’s net capital gain (or, if less, taxable income) in excess of the amount of capital gain on which tax is determined under subparagraph (B).

“(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).”.

(b) MINIMUM TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 55(b)(1) of the Internal Revenue Code of 1986 (relating to amount of tentative tax) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

“(ii) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN.—The amount determined under the first sentence of clause (i) shall not exceed the sum of—

“(I) the amount determined under such first sentence computed at the rates and in the same manner as if this clause had not been enacted on the taxable excess reduced by the net capital gain, plus

“(II) a tax of 15 percent of the lesser of the net capital gain or the taxable excess.”

(2) CONFORMING AMENDMENT.—Section 55(b) of such Code is amended by striking paragraph (3).

(c) CONFORMING AMENDMENTS.—

(1) Section 57(a)(7) of the Internal Revenue Code of 1986 is amended by striking the last sentence.

(2) Paragraph (1) of section 1445(e) of such Code is amended by striking 20 percent” and inserting 15 percent”.

(3)(A) The second sentence of section 7518(g)(6)(A) of such Code is amended by striking 20 percent” and inserting 15 percent”.

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended by striking 20 percent” and inserting 15 percent”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after December 31, 2001.

(2) WITHHOLDING.—The amendment made by subsection (c)(2) shall apply to amounts paid after the date of the enactment of this Act.

**SA 2741.** Mr. GRAMM (for himself, Mr. MILLER, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

#### SEC. . REPEAL OF SUNSET.

(a) IN GENERAL.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect on and after the date of the enactment of this Act.

**SA 2742.** Mr. GRAMM (for himself, Mr. MILLER, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

#### SEC. . REPEAL OF SUNSET ON REDUCTION IN INCOME TAX RATES FOR INDIVIDUALS.

(a) IN GENERAL.—Section 901(a) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “this Act” and inserting “this Act (other than section 101)”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on and after the date of the enactment of this Act.

**SA 2743.** Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

#### SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) is repealed in full and replaced by the following:

#### “SEC. 901. SUNSET OF PROVISIONS OF ACT.

“(a) the provisions of the table in Section 1(i)(2) of the Internal Revenue Code of 1986 (as enacted in this Act) making changes to the 39.6% tax rate shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.

“(b) All other provisions of, and amendments made by, this Act (except the provisions of Section 101 of this Act), shall not apply—

“(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

“(2) in the case of Title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

“(c) APPLICATION OF CERTAIN LAWS.—The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsections (a) and (b) as if the provisions and amendments described in those subsections had never been enacted.

**SA 2744.** Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

#### SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) is repealed in full and replaced by the following:

#### “SEC. 901. SUNSET OF PROVISIONS OF ACT.

“(a) the provisions of the table in Section 1(i)(2) of the Internal Revenue Code of 1986 (as enacted in this Act) making changes to the 39.6% and 36% tax rates shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.

“(b) All other provisions of, and amendments made by, this Act (except the provisions of Section 101 of this Act), shall not apply—

“(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

“(2) in the case of Title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

“(c) APPLICATION OF CERTAIN LAWS.—The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsections (a) and (b) as if the provisions and amendments described in those subsections had never been enacted.

**SA 2745.** Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.**

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) is repealed in full and replaced by the following:

**“SEC. 901. SUNSET OF PROVISIONS OF ACT.**

“(a) the provisions of the table in Section 1(i)(2) of the Internal Revenue Code of 1986 (as enacted in this Act) making changes to the 39.6%, 36%, and 31% tax rates shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.

“(b) All other provisions of, and amendments made by, this Act (except the provisions of Section 101 of this Act), shall not apply—

“(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

“(2) in the case of Title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

“(c) APPLICATION OF CERTAIN LAWS.—The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsections (a) and (b) as if the provisions and amendments described in those subsections had never been enacted.

**SA 2746.** Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . PRESERVATION OF THE 10% BRACKET.**

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “this Act shall not apply” in subsection (a) and inserting “this Act (other than the provisions enacting Section 1(i)(1) of the Internal Revenue Code of 1986) shall not apply.”

**SA 2747.** Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . ACCELERATED REDUCTION OF ALL MARGINAL TAX RATES.**

(a) IN GENERAL.—The table contained in paragraph (2) of section 1(i) (relating to re-

ductions in rates after June 30, 2001) is amended—

(1) by striking the items relating to 2002, 2003, 2004, and 2005; and

(2) by striking “2006 and thereafter” in the last item and inserting “2002 and thereafter”.

**(b) REDUCTION NOT TO INCREASE MINIMUM TAX.—**

(1) Subparagraph (A) of section 55(d)(1) is amended by striking “(\$49,000 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)” and inserting “(\$49,000 in the case of taxable years beginning in 2001, \$56,000 in the case of taxable years beginning in 2002 or 2003, \$51,800 in the case of taxable years beginning in 2004, and \$50,600 in the case of taxable years beginning in 2005)”.

(2) Subparagraph (B) of section 55(d)(1) is amended by striking “(\$35,750 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)” and inserting “(\$35,750 in the case of taxable years beginning in 2001, \$39,250 in the case of taxable years beginning in 2002 or 2003, \$37,150 in the case of taxable years beginning in 2004, and \$36,550 in the case of taxable years beginning in 2005)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) SECTION 15 NOT TO APPLY.—No amendment made by this section shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

**SA 2748.** Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . ACCELERATION OF 25 PERCENT INDIVIDUAL INCOME TAX RATE.**

(a) IN GENERAL.—The table contained in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001) is amended—

(1) by striking “27.0%” and inserting “25.0%”, and

(2) by striking “26.0%” and inserting “25.0%”.

**(b) REDUCTION NOT TO INCREASE MINIMUM TAX.—**

(1) Subparagraph (A) of section 55(d)(1) is amended by striking “(\$49,000 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)” and inserting “(\$49,000 in the case of taxable years beginning in 2001, \$52,200 in the case of taxable years beginning in 2002 or 2003, \$50,700 in the case of taxable years beginning in 2004, and \$50,100 in the case of taxable years beginning in 2005)”.

(2) Subparagraph (B) of section 55(d)(1) is amended by striking “(\$35,750 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)” and inserting “(\$35,750 in the case of taxable years beginning in 2001, \$37,350 in the case of taxable years beginning in 2002 or 2003, \$36,600 in the case of taxable years beginning in 2004, and \$36,300 in the case of taxable years beginning in 2005)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) SECTION 15 NOT TO APPLY.—No amendment made by this section shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

**SA 2749.** Mr. GRAMM (for himself, Mr. MILLER, Mr. KYL, and Mrs.

HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . REPEAL OF SUNSET.**

(a) IN GENERAL.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect on and after the date of the enactment of this Act.

**SEC. . REDUCTION OF MAXIMUM CAPITAL GAINS RATES FOR INDIVIDUALS.**

(a) IN GENERAL.—Section 1(h) of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended to read as follows:

“(h) MAXIMUM CAPITAL GAINS RATE.—

“(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

“(A) a tax computed on taxable income reduced by the net capital gain, at the rates and in the same manner as if this subsection had not been enacted,

“(B) 7.5 percent of so much of the taxpayer’s net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

“(i) the amount of taxable income which would (without regard to this paragraph be taxed at a rate of 15 percent or less, over

“(ii) the amount on which tax is determined under subparagraph (A), plus

“(C) 15 percent of the taxpayer’s net capital gain (or, if less, taxable income) in excess of the amount of capital gain on which tax is determined under subparagraph (B).

“(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).”.

**(b) MINIMUM TAX.—**

(1) IN GENERAL.—Subparagraph (A) of section 55(b)(1) of the Internal Revenue Code of 1986 (relating to amount of tentative tax) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

“(ii) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN.—The amount determined under the first sentence of clause (i) shall not exceed the sum of—

“(I) the amount determined under such first sentence computed at the rates and in the same manner as if this clause had not been enacted on the taxable excess reduced by the net capital gain, plus

“(II) a tax of 15 percent of the lesser of the net capital gain or the taxable excess.”

(2) CONFORMING AMENDMENT.—Section 55(b) of such Code is amended by striking paragraph (3).

**(c) CONFORMING AMENDMENTS.—**

(1) Section 57(a)(7) of the Internal Revenue Code of 1986 is amended by striking the last sentence.

(2) Paragraph (1) of section 1445(e) of such Code is amended by striking “20 percent” and inserting “15 percent”.

(3) (A) The second sentence of section 7518(g)(6)(A) of such Code is amended by striking “20 percent” and inserting “15 percent”.



(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended by striking "20 percent" and inserting "15 percent".

**(d) EFFECTIVE DATES.—**

(1) **IN GENERAL.**—The amendments made by this section shall apply to taxable years ending after December 31, 2001.

(2) **WITHHOLDING.**—The amendment made by subsection (c)(2) shall apply to amounts paid after the date of the enactment of this Act.

**SA 2750.** Mr. GRAMM (for himself, Mr. MILLER, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . REPEAL OF SUNSET.**

(A) **IN GENERAL.**—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(b) **EFFECTIVE DATE.**—The repeal made by subsection (a) shall take effect on and after the date of the enactment of this Act.

**SA 2751.** Mr. GRAMM (for himself, Mr. MILLER, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . REPEAL OF SUNSET ON REDUCTION IN COME TAX RATES FOR INDIVIDUALS.**

(a) **IN GENERAL.**—Section 901(a) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking "this Act" and inserting "this Act (other than section 101)".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on and after the date of the enactment of this Act.

**SA 2752.** Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.**

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) is repealed in full and replaced by the following:

**"SEC. 901. SUNSET OF PROVISIONS OF ACT.**

"(a) the provisions of the table in Section 1(i)(2) of the Internal Revenue Code of 1986 (as enacted in this Act) making changes to the 39.6% tax rate shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.

"(b) All other provisions of, and amendments made by, this Act (except the provi-

sions of Section 101 of this Act), shall not apply—

"(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

"(2) in the case of Title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

"(c) **APPLICATION OF CERTAIN LAWS.**—The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsections (a) and (b) as if the provisions and amendments described in those subsections had never been enacted.

**SA 2753.** Mr. GRAMM (for himself, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes, which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.**

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) is repealed in full and replaced by the following:

**"SEC. 901. SUNSET OF PROVISIONS OF ACT.**

"(a) the provisions of the table in Section 1(i)(2) of the Internal Revenue Code of 1986 (as enacted in this Act) making changes to the 39.6% and 36% tax rates shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.

"(b) All other provisions of, and amendments made by, this Act (except the provisions of Section 101 of this Act), shall not apply—

"(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

"(2) in the case of Title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

"(c) **APPLICATION OF CERTAIN LAWS.**—The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsections (a) and (b) as if the provisions and amendments described in those subsections had never been enacted.

**SA 2754.** Mr. GRAMM (for himself, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes, which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.**

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) is repealed in full and replaced by the following:

**"SEC. 901. SUNSET OF PROVISIONS OF ACT.**

"(a) the provisions of the table in Section 1(i)(2) of the Internal Revenue Code of 1986 (as enacted in this Act) making changes to the 39.6% and 36% tax rates shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.

"(b) All other provisions of, and amendments made by, this Act (except the provisions of Section 101 of this Act), shall not apply—

"(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

"(2) in the case of Title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

"(c) **APPLICATION OF CERTAIN LAWS.**—The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsections (a) and (b) as if the provisions and amendments described in those subsections had never been enacted.

**SA 2755.** Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, appropriate place insert the following:

**SEC. . PRESERVATION OF THE 10% BRACKET.**

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking "this Act shall not apply" in subsection (a) and inserting "this Act (other than the provisions enacting Section 1(i)(1) of the Internal Revenue Code of 1986) shall not apply".

**SA 2756.** Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . ACCELERATED REDUCTION OF ALL MARGINAL TAX RATES.**

(a) **IN GENERAL.**—The table contained in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001) is amended—

(1) by striking the items relating to 2002, 2003, 2004, and 2005; and

(2) by striking "2006 and thereafter" in the last item and inserting "2002 and thereafter".

(b) **REDUCTION NOT TO INCREASE MINIMUM TAX.**—

(1) Subparagraph (A) of section 55(d)(1) is amended by striking "\$49,000 in the case of taxable years beginning in 2001, 2002, 2003, and 2004" and inserting "\$49,000 in the case of taxable years beginning in 2001, \$56,000 in the case of taxable years beginning in 2002 and 2003, \$51,800 in the case of taxable years beginning in 2004, and \$50,600 in the case of taxable years beginning in 2005)".

(2) Subparagraph (B) of section 55(d)(1) is amended by striking "\$35,750 in the case of taxable years beginning in 2001, 2002, 2003, and 2004" and inserting "\$35,750 in the case of taxable years beginning in 2001, \$39,250 in the case of taxable years beginning in 2002 or 2003, \$37,150 in the case of taxable years beginning in 2004, and \$36,550 in the case of taxable years beginning in 2005)".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) SECTION 15 NOT TO APPLY.—No amendment made by this section shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

**SA 2757.** Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . ACCELERATION OF 25 PERCENT INDIVIDUAL INCOME TAX RATE.**

(a) IN GENERAL.—The table contained in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001) is amended—

(1) by striking “27.0%” and inserting “25.0%”, and

(2) by striking “26.0% and inserting “25.0%.”

(b) REDUCTION NOT TO INCREASE MINIMUM TAX.—

(1) Subparagraph (A) of section 55(d)(1) is amended by striking “(\$49,000 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)” and inserting “(\$49,000 in the case of taxable years beginning in 2001, \$52,200 in the case of taxable years beginning in 2002 or 2003, \$50,700 in the case of taxable years beginning in 2004, and \$50,100 in the case of taxable years beginning in 2005)”.

(2) Subparagraph (B) of section 55(d)(1) is amended by striking “(\$35,750 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)” and inserting “(\$35,750 in the case of taxable years beginning in 2001, \$37,350 in the case of taxable years beginning in 2002 or 2003, \$36,600 in the case of taxable years beginning in 2004, and \$36,300 in the case of taxable years beginning in 2005)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) SECTION 15 NOT TO APPLY.—NO AMENDMENT MADE BY THIS SECTION SHALL BE TREATED AS A CHANGE IN RATE OF TAX FOR PURPOSES OF SECTION 15 OF THE INTERNAL REVENUE CODE OF 1986.

**SA 2758.** Mr. KYL (for himself, Mr. GRAMM, Mr. ENSIGN, Mr. NICKLES, and Mr. HUTCHINSON) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the end, add the following:

**SEC. . PERMANENT REPEAL OF ESTATE TAXES.**

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(1) by striking “this Act” and all that follows through “2010.” in subsection (a) and inserting “this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.”, and

(2) by striking “, estates, gifts, and transfers” in subsection (b).

**SA 2759.** Mrs. HUTCHISON (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to ex-

pand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. . 2-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND.**

Section 45(c)(3)(A) of the Internal Revenue Code of 1986 (relating to wind facility) is amended by striking “January 1, 2002” and inserting “January 1, 2004”.

**SA 2760.** Ms. COLLINS (for herself Mr. WARNER, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 622 to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . ADJUSTED GROSS INCOME DETERMINED BY TAKING INTO ACCOUNT CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

(a) IN GENERAL.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following:

“(D) CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.—The deductions allowed by section 162 which consist of expenses, not in excess of \$1,000, paid or incurred by an eligible educator—

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

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

(b) ELIGIBLE EDUCATOR.—Section 62 is amended by adding at the end the following:

“(d) DEFINITION; SPECIAL RULES.—

“(1) ELIGIBLE EDUCATOR.—

“(A) IN GENERAL.—For purposes of subsection (a)(2)(D), the term ‘eligible educator’ means, with respect to any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

“(B) SCHOOL.—The term ‘school’ means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.

“(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a)(2)(D) for expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning in calendar years 2002 and 2003.

**SA 2761.** Ms. COLLINS (for herself, Mr. WARNER, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . ADJUSTED GROSS INCOME DETERMINED BY TAKING INTO ACCOUNT CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

(a) IN GENERAL.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following:

“(D) CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.—In the case of taxable years beginning during 2002 or 2003, the deductions allowed by section 162 which consist of expenses, not in excess of \$250, paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom.”.

(b) ELIGIBLE EDUCATOR.—Section 62 is amended by adding at the end the following:

“(d) DEFINITION; SPECIAL RULES.—

“(1) ELIGIBLE EDUCATOR.—

“(A) IN GENERAL.—For purposes of subsection (a)(2)(D), the term ‘eligible educator’ means, with respect to any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

“(B) SCHOOL.—The term ‘school’ means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.

“(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a)(2)(D) for expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

**NOTICES OF HEARINGS/MEETINGS**

**SUBCOMMITTEE ON NATIONAL PARKS**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, February 14, 2002, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 202 and H.R. 2440, to rename Wolf Trap Farm Park as Wolf Trap National Park for the Performing Arts;

S. 1051 and H.R. 1456, to expand the boundary of the Booker T. Washington National Monument, and for other purposes;

S. 1061 and H.R. 2238, to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes;

S. 1649, to amend the Omnibus Parks and Public Lands Management Act of 1996 to increase the authorization of appropriations for the Vancouver National Historic Reserve and for the