

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 2790. Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON, of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBAC, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) 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 2791. 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 2792. Mr. LUGAR (for himself and Mr. LEAHY) 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 2793. 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 2794. Mr. DURBIN 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 2795. Mr. BOND 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 2796. Mr. BUNNING 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 2797. Mr. BOND 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 2798. Mr. GRAHAM 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 2799. Mr. GRAHAM 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 2800. Mr. FRIST 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 2801. Mr. SCHUMER (for himself and Mrs. CLINTON) 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 2802. Mr. CRAIG 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 2803. Mr. THURMOND 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 2804. Mr. SESSIONS 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 2805. Mr. SESSIONS 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 2806. 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 2807. Mr. SESSIONS (for Mr. KYL (for himself, Mr. NICKLES, and Mr. SESSIONS)) proposed an amendment to amendment SA 2721 submitted by Mr. REID and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE to the bill (H.R. 622) supra.

SA 2808. Mr. DORGAN (for himself, Mr. REID, Mr. INOUE, and Mr. CONRAD) proposed an amendment to amendment SA 2764 submitted by Mr. REID and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE to the bill (H.R. 622) supra.

SA 2809. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2773 submitted by Mr. GRASSLEY and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2810. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2773 submitted by Mr. GRASSLEY and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2811. Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBAC, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) submitted an amendment intended to be proposed to amendment SA 2700 submitted by Mr. MCCAIN and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2812. Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON, of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBAC, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) submitted an amendment intended to be proposed to amendment SA 2790 submitted by Mr. NICKLES and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2813. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 2779. Mr. KERRY 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 In-

ternal 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, insert the following:

#### TITLE VI—SMALL BUSINESS EMERGENCY RELIEF

##### SEC. 601. SHORT TITLE.

This title may be cited as the "American Small Business Emergency Relief and Recovery Act of 2001".

##### SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Nation's 25,000,000 small businesses employ more than 58 percent of the private workforce, and create 75 percent of all net new jobs;

(2) as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, many small businesses nationwide suffered—

(A) directly because—

(i) they are, or were as of September 11, 2001, located in or near the World Trade Center or the Pentagon, or in a disaster area declared by the President or the Administrator of the Small Business Administration;

(ii) they were closed or their business was suspended for National security purposes at the mandate of the Federal Government; or

(iii) they are, or were as of September 11, 2001, located in an airport that has been closed; and

(B) indirectly because—

(i) they supplied or provided services to businesses that were located in or near the World Trade Center or the Pentagon;

(ii) they are, or were as of September 11, 2001, a supplier, service provider, or complementary industry to any business or industry adversely affected by the terrorist attacks perpetrated against the United States on September 11, 2001, in particular, the financial, hospitality, and travel industries; or

(iii) they are, or were as of September 11, 2001, integral to or dependent upon a business or business sector closed or suspended for national security purposes by mandate of the Federal Government; and

(3) small business owners adversely affected by the terrorist attacks are finding it difficult or impossible—

(A) to make loan payments on existing debts;

(B) to pay their employees;

(C) to pay their vendors;

(D) to purchase materials, supplies, or inventory;

(E) to pay their rent, mortgage, or other operating expenses; or

(F) to secure financing for their businesses.

(b) PURPOSE.—The purpose of this title is to strengthen the loan, investment, procurement assistance, and management education programs of the Small Business Administration, in order to help small businesses meet their existing obligations, finance their businesses, and maintain and create jobs, thereby providing stability to the national economy.

##### SEC. 603. DEFINITIONS RELATING TO TERRORIST ATTACKS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(r) DEFINITIONS RELATING TO TERRORISM RELIEF.—In this Act, the following definitions shall apply with respect to the provision of assistance under this Act in response to the terrorist attacks perpetrated against the United States on September 11, 2001, pursuant to the American Small Business Emergency Relief and Recovery Act of 2001:

"(1) DIRECTLY AFFECTED.—A small business concern is directly affected by the terrorist attacks perpetrated against the United States on September 11, 2001, if it—

“(A) is, or was as of September 11, 2001, located in or near the World Trade Center or the Pentagon, or in a disaster area declared by the President or the Administrator related to those terrorist attacks;

“(B) was closed or its business was suspended for national security purposes at the mandate of the Federal Government; or

“(C) is, or was as of September 11, 2001, located in an airport that has been closed.

“(2) INDIRECTLY AFFECTED.—A small business concern is indirectly affected by the terrorist attacks perpetrated against the United States on September 11, 2001, if it—

“(A) supplied or provided services to any business that was located in or near the World Trade Center or the Pentagon, or in a disaster area declared by the President or the Administrator related to those terrorist attacks;

“(B) is, or was as of September 11, 2001, a supplier, service provider, or complementary industry to any business or industry adversely affected by the terrorist acts perpetrated against the United States on September 11, 2001, in particular, the financial, hospitality, and travel industries; or

“(C) it is, or was as of September 11, 2001, integral to or dependent upon a business or business sector closed or suspended for national security purposes by mandate of the Federal Government.

“(3) ADVERSELY AFFECTED.—The term ‘adversely affected’ means having suffered economic harm to or disruption of the business operations of a small business concern as a direct or indirect result of the terrorist attacks perpetrated against the United States on September 11, 2001.

“(4) SUBSTANTIAL ECONOMIC INJURY.—As used in section 7(b)(4), the term ‘substantial economic injury’ means an economic harm to a small business concern that results in the inability of the small business concern—

“(A) to meet its obligations on an ongoing basis;

“(B) to pay its ordinary and necessary operating expenses; or

“(C) to market, produce, or provide a product or service ordinarily marketed, produced, or provided by the small business concern.”.

#### SEC. 604. DISASTER LOANS AFTER TERRORIST ATTACKS.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately before the undesignated material following paragraph (3) the following:

“(4) DISASTER LOANS AFTER TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—

“(A) LOAN AUTHORITY.—In addition to any other loan authorized by this section, the Administration may make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to a small business concern that has been directly affected and suffered, or that is likely to suffer, substantial economic injury as the result of the terrorist attacks on September 11, 2001, including due to the closure or suspension of its business for National security purposes at the mandate of the Federal Government.

“(B) DEFERMENT OF LOAN PAYMENTS.—

“(i) IN GENERAL.—Notwithstanding any other provision of law, payments of principal and interest on a loan made under this paragraph (other than a refinancing under subparagraph (D)) or paragraph (1) as a result of the terrorist attacks on September 11, 2001, shall be deferred, and no interest shall accrue with respect to such loan, during the 2-year period following the date of issuance of such loan.

“(ii) RESUMPTION OF PAYMENTS.—At the end of the 2-year period described in clause

(i), the payment of periodic installments of principal and interest shall be required with respect to such loan, in the same manner and subject to the same terms and conditions as would otherwise be applicable to any other loan made under this subsection.

“(C) REFINANCING DISASTER LOANS.—

“(i) IN GENERAL.—Any loan made under this subsection that was outstanding as to principal or interest on September 11, 2001, may be refinanced by a small business concern that is also eligible to receive a loan under this paragraph, and the refinanced amount shall be considered to be part of the new loan for purposes of this clause.

“(ii) NO EFFECT ON ELIGIBILITY.—A refinancing under clause (i) by a small business concern shall be in addition to any other loan eligibility for that small business concern under this Act.

“(D) REFINANCING BUSINESS DEBT.—

“(i) IN GENERAL.—Any business debt of a small business concern that was outstanding as to principal or interest on September 11, 2001, may be refinanced by the small business concern if it is also eligible to receive a loan under this paragraph. With respect to a refinancing under this clause, payments of principal shall be deferred, and interest may accrue notwithstanding subparagraph (B), during the 1-year period following the date of refinancing.

“(ii) RESUMPTION OF PAYMENTS.—At the end of the 1-year period described in clause (i), the payment of periodic installments of principal and interest shall be required with respect to such loan, in the same manner and subject to the same terms and conditions as would otherwise be applicable to any other loan made under this subsection.

“(E) TERMS.—A loan under this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2). Any reasonable doubt concerning the repayment ability of an applicant under this paragraph shall be resolved in favor of the applicant.

“(F) NO DISASTER DECLARATION REQUIRED.—For purposes of assistance under this paragraph, no declaration of a disaster area is required for those small business concerns directly affected by the terrorist attacks on September 11, 2001.

“(G) SIZE STANDARD ADJUSTMENTS.—Notwithstanding any other provision of law, for purposes of providing assistance under this paragraph to businesses located in areas of New York, Virginia, and the contiguous areas designated by the President or the Administrator as a disaster area following the terrorist attacks on September 11, 2001, a business shall be considered to be a ‘small business concern’ if it meets otherwise applicable size regulations promulgated by the Administration, and, with respect to the applicable size standard, it is—

“(i) a restaurant having not more than \$8,000,000 in annual receipts;

“(ii) a law firm having not more than \$8,000,000 in annual receipts;

“(iii) a certified public accounting business having not more than \$8,000,000 in annual receipts;

“(iv) a performing arts business having not more than \$8,000,000 in annual receipts;

“(v) a warehousing or storage business having not more than \$25,000,000 in annual receipts;

“(vi) a contracting business having a size standard under the North American Industry Classification System, Subsector 235, and having not more than \$15,000,000 in annual receipts;

“(vii) a food manufacturing business having not more than 1,000 employees;

“(viii) an apparel manufacturing business having not more than 1,000 employees; or

“(ix) a travel agency having not more than \$2,500,000 in annual receipts.

“(5) AUTHORITY TO INCREASE OR WAIVE SIZE STANDARDS AND SIZE REGULATIONS.—

“(A) IN GENERAL.—At the discretion of the Administrator, the Administrator may increase or waive otherwise applicable size standards or size regulations with respect to businesses applying for assistance under this Act in response to the terrorist attacks on September 11, 2001.

“(B) EXEMPTION FROM ADMINISTRATIVE PROCEDURES.—The provisions of subchapter II of chapter 5, of title 5, United States Code, shall not apply to any increase or waiver by the Administrator under subparagraph (A).

“(6) INCREASED LOAN CAPS.—

“(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and in addition to amounts otherwise authorized by this Act, the loan amount outstanding and committed to a borrower may not exceed—

“(i) with respect to a small business concern located in the areas of New York, Virginia, or the contiguous areas designated by the President or the Administrator as a disaster area following the terrorist attacks on September 11, 2001—

“(I) \$6,000,000 in total obligations under paragraph (1); and

“(II) \$6,000,000 in total obligations under paragraph (4); and

“(ii) with respect to a small business concern that is not located in an area described in clause (i) and that is eligible for assistance under paragraph (4), \$5,000,000 in total obligations under paragraph (4).

“(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, waive the aggregate loan amounts established under subparagraph (A).

“(7) EXTENDED APPLICATION PERIOD.—Notwithstanding any other provision of law, the Administrator shall accept applications for assistance under paragraphs (1) and (4) until September 10, 2002, with respect to applicants for such assistance as a result of the terrorist attacks on September 11, 2001.

“(8) LIMITATION ON SALES OF LOANS.—No loan under paragraph (1) or (4), made as a result of the terrorist attacks on September 11, 2001, shall be sold until 4 years after the date of the final loan disbursement.”.

(b) CLERICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended in the undesignated matter at the end—

(1) by striking “, (2), and (4)” and inserting “and (2)”;

(2) by striking “, (2), or (4)” and inserting “(2)”.

#### SEC. 605. EMERGENCY RELIEF LOAN PROGRAM.

(a) LOAN PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

“(31) TEMPORARY LOAN AUTHORITY FOLLOWING TERRORIST ATTACKS.—

“(A) IN GENERAL.—During the 1-year period beginning on the date of enactment of this paragraph, the Administration may make loans under this subsection to a small business concern that has been, or that is likely to be directly or indirectly adversely affected.

“(B) LOAN TERMS.—With respect to a loan under this paragraph—

“(i) for purposes of paragraph (2)(A), participation by the Administration shall be equal to 85 percent of the balance of the financing outstanding at the time of disbursement of the loan;

“(ii) the Administrator shall collect an annual fee in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan, notwithstanding paragraph (23)(A);

“(iii) no fee may be collected or charged under paragraph (18);

“(iv) the applicable rate of interest shall not exceed a rate that is 2 percentage points above the prime lending rate;

“(v) no such loan shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower under this paragraph—

“(I) would exceed \$1,000,000; or

“(II) at the discretion of the Administrator, and upon notice to the Congress, would exceed \$2,000,000, as necessary to provide relief in high-cost areas or to high-cost industries that have been adversely affected; or

“(vi) no such loan shall be made if the gross amount of the loan would exceed \$3,000,000;

“(vii) upon request of the borrower, repayment of principal due on a loan made under this paragraph may be deferred during the 1-year period beginning on the date of issuance of the loan; and

“(viii) any reasonable doubt concerning the repayment ability of an applicant for a loan under this paragraph shall be resolved in favor of the applicant.

“(C) APPLICABILITY.—The loan terms described in subparagraph (B) shall apply to a loan under this paragraph notwithstanding any other provision of this subsection, and except as specifically provided in this paragraph, a loan under this paragraph shall otherwise be subject to the same terms and conditions as any other loan under this subsection.

“(D) TRAVEL AGENCIES.—For purposes of loans made under this paragraph, the size standard for a travel agency shall be \$2,500,000 in annual receipts.”

(b) CONFORMING AMENDMENT.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by inserting “other than a loan under paragraph (31) or a loan described in paragraph (2)(E),” after “this subsection.”

#### SEC. 606. BUSINESS LOAN ASSISTANCE FOLLOWING TERRORIST ATTACKS.

(a) ONE-YEAR WAIVER OF SECTION 7(a) FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

“(C) ONE-YEAR WAIVER OF FEES FOLLOWING TERRORIST ATTACKS.—For loans approved during the 1-year period following the date of enactment of the American Small Business Emergency Relief and Recovery Act of 2001, a fee equal to not more than one half of the amount otherwise required by this paragraph shall be collected or charged under this paragraph.”

(b) ONE-YEAR INCREASE IN PARTICIPATION LEVELS.—Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended—

(1) in subparagraph (A), by striking “subparagraph (B)” and inserting “subparagraphs (B) and (E)”; and

(2) by adding at the end the following:

“(E) TEMPORARY PARTICIPATION LEVELS FOLLOWING TERRORIST ATTACKS.—For loans under this subsection, other than paragraph (31), that are approved during the 1-year period following the date of enactment of the American Small Business Emergency Relief and Recovery Act of 2001—

“(i) the guarantee percentage specified by clause (i) of subparagraph (A) shall be increased to 85 percent (except with respect to loans approved under the SBA Express Pilot Program); and

“(ii) the Administrator shall collect an annual fee in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan, notwithstanding paragraph (23)(A).”

(c) REDUCTION OF SECTION 504 FEES.—

(1) IN GENERAL.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(A) in subsection (b)(7)(A)—

(i) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(ii) by striking “not exceed the lesser” and inserting “not exceed—

“(i) the lesser”; and

(iii) by adding at the end the following:

“(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the 1-year period following the date of enactment of the American Small Business Emergency Relief and Recovery Act of 2001, for the life of the loan; and”; and

(B) by adding at the end the following:

“(i) ONE-YEAR WAIVER OF FEES FOLLOWING TERRORIST ATTACKS.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the 1-year period following the date of enactment of the American Small Business Emergency Relief and Recovery Act of 2001.”

(2) USE OF FUNDS FOR SECTION 504 PROGRAM.—The provisions of subsections (b)(7)(A), (d)(2), and (i) of section 503 of the Small Business Investment Act of 1958, as amended by this subsection, shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of making guarantees under those amended provisions.

(d) BUDGETARY TREATMENT OF LOANS AND FINANCINGS.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) or 7(b)(4) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title III or V of the Small Business Investment Act of 1958 (15 U.S.C. 697a), during the 1-year period beginning on the date of enactment of this Act, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(e) USE OF FUNDS FOR 7(a) AND 7(a) EMERGENCY RELIEF LOAN PROGRAMS.—The provisions of paragraphs (2), (18), and (31) of section 7(a) of the Small Business Act, as amended by this title, shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of making guarantees under those amended provisions.

#### SEC. 607. APPROVAL PROCESS.

Notwithstanding any other provision of law, the Administrator of the Small Business Administration may adopt such approval processes as the Administrator determines, after consultation with the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, to be appropriate in order to make assistance under this title and the amendments made by this title available to all eligible small business concerns.

#### SEC. 608. OTHER SPECIALIZED ASSISTANCE AND MONITORING AUTHORIZED.

(a) ADDITIONAL SBDC AUTHORITY.—

(1) IN GENERAL.—Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(A) in subparagraph (S), by striking “and” at the end;

(B) in subparagraph (T), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(U) providing individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small

business concerns adversely affected, directly or indirectly, by the terrorist attacks on September 11, 2001.”

(2) WAIVER OF MATCHING REQUIREMENTS.—Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended by inserting before the period the following: “, except that the matching requirements of this paragraph do not apply with respect to any assistance provided under subsection (c)(3)(U)”.

(b) ADDITIONAL SCORE AUTHORITY.—Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)) is amended—

(1) by inserting “(i)” after “(B)”; and

(2) by adding at the end the following:

“(ii) The functions of the Service Corps of Retired Executives (SCORE) shall include the provision of individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns adversely affected by the terrorist attacks on September 11, 2001.”

(c) ADDITIONAL MICROLOAN PROGRAM AUTHORITY.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following:

“(14) ASSISTANCE AFTER TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—Amounts made available under this subsection may be used by intermediaries to provide individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns adversely affected by the terrorist attacks on September 11, 2001.”

(d) ADDITIONAL WOMEN'S BUSINESS DEVELOPMENT CENTER AUTHORITY.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns owned and controlled by women that were adversely affected by the terrorist attacks on September 11, 2001.”; and

(2) in subsection (c), by adding at the end the following:

“(5) WAIVER OF MATCHING REQUIREMENTS.—A recipient organization shall not be subject to the non-Federal funding requirements of paragraph (1) with respect to assistance provided under subsection (b)(4).”

(e) ADDITIONAL SBIC AUTHORITY.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended by adding at the end the following:

“(k) AUTHORITY AFTER TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—Small business investment companies are authorized and encouraged to provide equity capital and to make loans to small business concerns pursuant to sections 304(a) and 305(a) of the Small Business Investment Act of 1958, respectively, for the purpose of providing assistance to small business concerns adversely affected by the terrorist attacks on September 11, 2001.”

#### SEC. 609. STUDY AND REPORT ON EFFECTS ON SMALL BUSINESS CONCERNS.

(a) STUDY.—

(1) IN GENERAL.—The Office of Advocacy of the Small Business Administration shall conduct annual studies for a 5-year period on the impact of the terrorist attacks perpetrated against the United States on September 11, 2001, on small business concerns, and the effects of assistance provided under this title on such small business concerns.

(2) CONTENTS.—The study conducted under paragraph (1) shall include information regarding—

(A) bankruptcies and business failures that occurred as a result of the events of September 11, 2001, as compared to those that occurred in 1999 and 2000;

(B) the loss of jobs, revenue, and profits in small business concerns as a result of those events, as compared to those that occurred in 1999 and 2000;

(C) the impact of assistance provided under this title to small business concerns adversely affected by those attacks, including information regarding whether—

(i) small business concerns that received such assistance would have remained in business without such assistance;

(ii) jobs were saved due to such assistance; and

(iii) small business concerns that remained in business had increases in employment and sales since receiving assistance.

(b) **REPORT.**—The Office of Advocacy shall submit a report to Congress on the studies required by subsection (a)(1), specifically addressing the requirements of subsection (a)(2) in September of each of fiscal years 2002 through 2006.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section, \$500,000 for each of fiscal years 2002 through 2006.

#### **SEC. 610. EMERGENCY EQUITABLE RELIEF FOR FEDERAL CONTRACTORS.**

(a) **GUIDANCE REQUIRED.**—

(1) **IN GENERAL.**—Under guidance issued by the Administrator for Federal Procurement Policy in conjunction with the Administrator of the Small Business Administration, the head of a contracting agency of the United States may increase the price of a contract entered into by the agency that is performed by a small business concern (as defined in section 3 of the Small Business Act) to the extent determined equitable under this section on the basis of loss resulting from security measures taken by the Federal Government at Federal facilities as a result of the terrorist attacks on September 11, 2001.

(2) **EXPEDITED ISSUANCE.**—Guidance required by paragraph (1) shall be issued under expedited procedures, not later than 20 days after the date of enactment of this Act.

(b) **EXPEDITED PROCEDURES.**—

(1) **IN GENERAL.**—The Administrator for Federal Procurement Policy shall prescribe expedited procedures for considering whether to grant an equitable adjustment in the case of a contract of an agency under subsection (a).

(2) **REQUIREMENTS.**—The procedures required by paragraph (1) shall provide for—

(A) an initial review of the merits of a contractor's request by the contracting officer concerned with the contract;

(B) a final determination of the merits of the contractor's request, including the value of any price adjustment, by the Head of the Contracting Agency, in consultation with the Administrator of the Small Business Administration, taking into consideration the initial review under subparagraph (A); and

(C) payment from the fund established under subsection (d) for the contract's price adjustment.

(3) **TIMING.**—The procedures required by paragraph (1) shall require completion of action on a contractor's request for adjustment not later than 30 days after the date on which the contractor submits the request to the contracting officer concerned.

(c) **AUTHORIZED REMEDIES.**—In addition to making a price adjustment under subsection (a), the time for performance of a contract may be extended under this section.

(d) **PAYMENT OF ADJUSTED PRICE.**—

(1) **FUND ESTABLISHED.**—The Administrator of the Small Business Administration shall establish a fund for the payment of contract

price adjustments under this section. Payments of amounts for price adjustments shall be made out of the fund.

(2) **AVAILABILITY.**—Notwithstanding any other provision of law, amounts in the fund under this subsection shall remain available until expended.

(e) **TERMINATION OF AUTHORITY.**—

(1) **REQUESTS.**—No request for adjustment under this section may be accepted more than 330 days after the date of enactment of this Act.

(2) **TERMINATION.**—The authority under this section shall terminate 1 year after the date of enactment of this Act.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Small Business Administration to carry out this section, \$100,000,000, including funds for administrative expenses and costs. Any funds remaining in the fund established under subsection (d) 1 year after the date of enactment of this Act shall be transferred to the disaster loan account of the United States Small Business Administration.

#### **SEC. 611. REPORTS TO CONGRESS.**

(a) **REPORTS REQUIRED.**—The Administrator of the Small Business Administration shall submit regular reports to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the implementation of this title and the amendments made by this title, including program delivery, staffing, and administrative expenses related to such implementation.

(b) **FREQUENCY OF REPORTS.**—The reports required by subsection (a) shall be submitted 20 days after the date of enactment of this Act and monthly thereafter until 1 year after the date of enactment of this Act, at which time the reports shall be submitted on a quarterly basis through December 31, 2003.

#### **SEC. 612. EXPEDITED ISSUANCE OF IMPLEMENTING GUIDELINES.**

Not later than 20 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue interim final rules and guidelines to implement this title and the amendments made by this title.

#### **SEC. 613. SPECIAL AUTHORIZATIONS OF APPROPRIATIONS.**

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end the following:

“(j) **SPECIAL AUTHORIZATIONS OF APPROPRIATIONS FOLLOWING TERRORIST ATTACKS.**—In addition to any other amounts authorized by this Act for any fiscal year, there are authorized to be appropriated to the Administration, to remain available until expended—

“(1) for fiscal year 2002 and each fiscal year thereafter, such sums as may be necessary to carry out paragraph (4) of section 7(b), including necessary loan capital and funds for administrative expenses related to making and servicing loans pursuant to that paragraph;

“(2) for fiscal year 2002, \$25,000,000, to be used for activities of small business development centers pursuant to section 21(c)(3)(U)—

“(A) \$2,500,000 of which shall be used to assist small business concerns (as that term is defined for purposes of section 7(b)(4)) located in the areas of New York and the contiguous areas designated by the President as a disaster area following the terrorist attacks on September 11, 2001; and

“(B) \$1,500,000 of which shall be used to assist small business concerns located in areas of Virginia and the contiguous areas designated by the President as a disaster area following those terrorist attacks;

“(3) for fiscal year 2002, \$2,000,000, to be used under the Service Corps of Retired Ex-

ecutives program authorized by section 8(b)(1) for the activities described in section 8(b)(1)(B)(ii);

“(4) for fiscal year 2002, \$5,000,000 for microloan technical assistance authorized under section 7(m)(14);

“(5) for fiscal year 2002, \$2,000,000 to be used for activities of women's business centers authorized by section 29(b)(4);

“(6) for fiscal year 2002 and each fiscal year thereafter, such sums as may be necessary to carry out paragraphs (2)(E), (18)(C), and (31) of section 7(a), including any funds necessary to offset fees and amounts waived or reduced under those provisions, necessary loan capital, and funds for administrative expenses; and

“(7) for fiscal year 2002, and each fiscal year thereafter, such sums as may be necessary to carry out the 1-year suspension of fees under subsections (b)(7)(A), (d)(2), and (i) of section 503 of the Small Business Investment Act of 1958, in response to the terrorist attacks on September 11, 2001, including any funds necessary to offset fees and amounts waived under those provisions and including funds for administrative expenses.”.

**SA 2780.** Mr. BROWNBACK 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:

Strike clause (iii) of section 168(k)(2)(B) of the Internal Revenue Code of 1986, as added by section 201(a), and insert the following:

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

**SA 2781.** Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 2764 proposed by Mr. REID to the amendment SA 2698 submitted by Mr. REID 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, add the following:

#### **TITLE —TRAVEL INDUSTRY STABILIZATION**

##### **SECTION .01. SHORT TITLE.**

This title may be cited as the “American Travel Industry Stabilization Act”.

##### **SEC. .02. TRAVEL INDUSTRY DISASTER RELIEF.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the President shall take the actions described in subsection (b) to compensate eligible travel-related businesses.

(b) **ACTIONS DESCRIBED.**—

(1) **IN GENERAL.**—Subject to such terms and conditions as the President deems necessary, and upon application, the President is authorized to issue Federal credit instruments to eligible travel-related businesses described in subsection (c) that do not, in the aggregate, exceed \$2,000,000,000 and provide the subsidy amounts necessary for such instruments in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(2) **TIME FOR APPLICATION.**—An application for a Federal credit instrument shall be filed by an eligible travel-related business not later than 1 year after the promulgation of regulations.

(3) **TERMS OF CREDIT INSTRUMENTS.**—A loan guaranteed under this title may be used exclusively for the purpose of meeting obligations and expenses to the extent that an applicant demonstrates—

(A) business operations were directly and adversely affected by the events of September 11, 2001;

(B) the loan guarantee is necessary to meet such obligations;

(C) the inability of the applicant to meet such obligations or expenses is directly attributable to the impact of September 11, 2001; and

(D) the applicant has the ability to repay the loan.

(c) **DEFINITIONS.**—In this title:

(1) **BOARD.**—The term “Board” means the Air Transportation Stabilization Board established under the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note; P.L. 107-42).

(2) **ELIGIBLE TRAVEL-RELATED BUSINESS.**—The term “eligible travel-related business” means a business that was injured by the Government shutdown of the airline industry following the terrorist attacks on the United States that occurred on September 11, 2001, and that on such date—

(A) had a contractual arrangement with an air carrier to provide goods or services, including those with a contractual relationship with the Airline Reporting Corporation; or

(B) was a nonaeronautical for-profit business operating at an airport engaged in the sale of consumer goods or services to the public under an arrangement with the airport or the airport’s governing body.

(3) **FEDERAL CREDIT INSTRUMENT.**—The term “Federal credit instrument” means any guarantee or other pledge by the Board issued under section 202(b) to pledge the full faith and credit of the United States to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(4) **FINANCIAL OBLIGATION.**—The term “financial obligation” means any note, bond, debenture, or other debt obligation issued by an obligor in connection with financing under this section and section 202(b).

(5) **LENDER.**—The term “lender” means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulatory) known as rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c))) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d))) that is a qualified institutional buyer.

(6) **OBLIGOR.**—The term “obligor” means a party primarily liable for payment of the principal of, or interest on, a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(d) **EMERGENCY DESIGNATION.**—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

### SEC. 203. ADDITIONAL FUNCTIONS FOR THE AIRLINE STABILIZATION BOARD.

(a) **ADDITIONAL FUNCTIONS TO STABILIZE THE TRAVEL INDUSTRY.**—The Board shall review and make recommendations to the President with respect to applications for Federal credit instruments submitted under section 202(b).

(b) **FEDERAL CREDIT INSTRUMENTS.**—

(1) **IN GENERAL.**—The Board may enter into agreements with 1 or more obligors to issue Federal credit instruments under section 202(b) if the Board determines, in its discretion, that—

(A) the obligor is an entity in a travel-related business for which credit is not reasonably available at the time of the transaction;

(B) the intended obligation by the obligor is prudently incurred; and

(C) such agreement is a necessary part of maintaining a safe, efficient, and viable travel industry in the United States.

(2) **TERMS AND LIMITATIONS.**—

(A) **FORMS, TERMS, AND CONDITIONS.**—A Federal credit instrument shall be issued under section 202(b) in such form and such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Board determines appropriate, provided that—

(i) a loan shall be repaid over a period not to exceed 5 years from the date that the loan is guaranteed under this title;

(ii) the Government guarantee shall cover not less than 80 percent of the value of the loan;

(iii) loan guarantees under this title shall be extended based upon the ability of the eligible travel-related business to repay the loan without regard to collateral; and

(iv) any loan origination fee may not exceed 1 percent of the loan value.

(B) **PROCEDURES.**—Not later than 14 days after the date of enactment of this title, the Director of the Office of Management and Budget, in consultation with the Board, shall issue regulations setting forth procedures for application and minimum requirements.

(c) **FINANCIAL PROTECTION OF GOVERNMENT.**—

(1) **IN GENERAL.**—To the extent feasible and practicable, as provided in paragraphs (2) and (3), the Board shall ensure that the Government is compensated for the risk assumed in making guarantees under this title.

(2) **GOVERNMENT PARTICIPATION IN GAINS.**—To the extent to which any participating corporation accepts financial assistance, in the form of accepting the proceeds of any loans guaranteed by the Government under this title, the Board is authorized to enter into contracts under which the Government, contingent on the financial success of the participating corporation, would participate in the gains of the participating corporation or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments.

(3) **DEPOSIT IN TREASURY.**—All amounts collected by the Secretary of the Treasury under this subsection shall be deposited in the Treasury as miscellaneous receipts.

(e) **AUTHORIZATION OF FUNDS.**—Congress authorizes and hereby appropriates such sums as are necessary to carry out the purposes of this title.

**SA 2782.** Mr. WYDEN 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. 2000. TREATMENT OF PAYMENTS UNDER EMERGENCY SUPPLEMENTAL ACT, 2000.

(a) **IN GENERAL.**—Chapter 2 of title II of the Emergency Supplemental Act, 2000 (Public Law 106-246; 114 Stat. 547) is amended by adding at the end the following new section:

“SEC. 2205. TREATMENT OF CERTAIN PAYMENTS. (a) PAYMENTS EXCLUDED FROM GROSS INCOME.—

“(1) **IN GENERAL.**—For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount of any payment under this chapter with respect to west coast groundfish fishery not otherwise excludable from gross income under such Code.

“(2) **DENIAL OF DOUBLE BENEFIT.**—Paragraph (1) shall not apply to any amount if under such Code—

“(A) a deduction or credit is allowed with respect to such amount, or

“(B) an increase in the adjusted basis of any property results from such amount.

“(b) **PAYMENTS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.**—Any payment described in subsection (a)(1) shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect as if included in the enactment of the Emergency Supplemental Act, 2000.

**SA 2783.** Mr. TORRICELLI 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:

### TITLE VI—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

#### Subtitle A—Extensions

### SEC. 601. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

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

(1) by striking “RULE FOR 2000 AND 2001.—” and inserting “RULE FOR 2000, 2001, AND 2002.—”, and

(2) by striking “during 2000 or 2001,” and inserting “during 2000, 2001, or 2002.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 904(h) is amended by striking “during 2000 or 2001” and inserting “during 2000, 2001, or 2002”.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2002.

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

### SEC. 602. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

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

(1) in subsection (b)(2)—

(A) by striking “December 31, 2001,” and inserting “December 31, 2002,” and

(B) in subparagraphs (A), (B), and (C), by striking “2002”, “2003”, and “2004”, respectively, and inserting “2003”, “2004”, and “2005”, respectively, and

(2) in subsection (e), by striking “December 31, 2004” and inserting “December 31, 2005”.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 280F(a)(1) is amended by adding at the end the following new clause

“(iii) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall apply to property placed in service after August 5, 1997, and before January 1, 2006.”

(2) Subsection (b) of section 971 of the Taxpayer Relief Act of 1997 is amended by striking “and before January 1, 2005”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property placed in service after December 31, 2001.

#### SEC. 603. CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking “2002” and inserting “2003”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property placed in service after December 31, 2001.

#### SEC. 604. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking “2001” and inserting “2002”.

(b) INCREASE IN AGE CEILING FOR QUALIFIED FOOD STAMP RECIPIENTS.—Section 51(d)((8)(A)(i) (defining qualified food stamp recipient) is amended by striking “age 25” and inserting “age 51”.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

#### SEC. 605. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking “2001” and inserting “2002”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

#### SEC. 606. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

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

(1) in subsection (b)(1)(B)—

(A) by striking “December 31, 2001,” and inserting “December 31, 2002,”; and

(B) in clauses (i), (ii), and (iii), by striking “2002”, “2003”, and “2004”, respectively, and inserting “2003”, “2004”, and “2005”, respectively, and

(2) in subsection (f), by striking “December 31, 2004” and inserting “December 31, 2005”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to property placed in service after December 31, 2001.

#### SEC. 607. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking “2002” and inserting “2003”.

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

#### SEC. 608. QUALIFIED ZONE ACADEMY BONDS.

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

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

#### SEC. 609. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2002” and inserting “January 1, 2003”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles

brought into the United States after December 31, 2001.

#### SEC. 610. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812, as amended by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002, is amended to read as follows:

“(f) APPLICATION OF SECTION.—This section shall not apply to benefits for services furnished—

“(1) on or after September 30, 2001, and before January 1, 2002, and

“(2) after December 31, 2002.”

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

#### SEC. 611. TEMPORARY SPECIAL RULES FOR TAXATION OF LIFE INSURANCE COMPANIES.

(a) REDUCTION IN MUTUAL LIFE INSURANCE COMPANY DEDUCTIONS NOT TO APPLY IN CERTAIN YEARS.—Section 809 (relating to reduction in certain deductions of material life insurance companies) is amended by adding at the end the following:

“(j) DIFFERENTIAL EARNINGS RATE TREATED AS ZERO FOR CERTAIN YEARS.—Notwithstanding subsection (c) or (f), the differential earnings rate shall be treated as zero for purposes of computing both the differential earnings amount and the recomputed differential earnings amount for a mutual life insurance company’s taxable years beginning in 2001 or 2002.”

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

#### SEC. 612. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking “2002” each place it appears and inserting “2003”.

(b) CONFORMING AMENDMENTS.—

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

(2) Subparagraph (A) of section 220(j)(4) is amended by striking “and 2001” and inserting “2001, and 2002”.

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

#### SEC. 613. SUBPART F EXEMPTION FOR ACTIVE FINANCING.

(a) IN GENERAL.—

(1) Section 953(e)(10) is amended—

(A) by striking “January 1, 2002” and inserting “January 1, 2003”; and

(B) by striking “December 31, 2001” and inserting “December 31, 2002”.

(2) Section 954(h)(9) is amended by striking “January 1, 2002” and inserting “January 1, 2003”.

(b) LIFE INSURANCE AND ANNUITY CONTRACTS.—

(1) IN GENERAL.—Subparagraph (B) of section 954(i)(4) is amended to read as follows:

“(B) LIFE INSURANCE AND ANNUITY CONTRACTS.—

“(i) IN GENERAL.—Except as provided in clause (ii), the amount of the reserve of a qualifying insurance company or qualifying insurance company branch for any life insurance or annuity contract shall be equal to the greater of—

“(I) the net surrender value of such contract (as defined in section 807(e)(1)(A)), or

“(II) the reserve determined under paragraph (5).

“(ii) RULING REQUEST, ETC.—The amount of the reserve under clause (i) shall be the foreign statement reserve for the contract (less

any catastrophe, deficiency, equalization, or similar reserves), if, pursuant to a ruling request submitted by the taxpayer or as provided in published guidance, the Secretary determines that the factors taken into account in determining the foreign statement reserve provide an appropriate means of measuring income.”

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

#### SEC. 614. REPEAL OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

(a) IN GENERAL.—Subsection (e) of section 4101 is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002.

#### Subtitle B—Temporary Assistance for Needy Families

#### SEC. 621. REAUTHORIZATION OF TANF SUPPLEMENTAL GRANTS FOR POPULATION INCREASES FOR FISCAL YEAR 2002.

Section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3)) is amended by adding at the end the following:

“(H) REAUTHORIZATION OF GRANTS FOR FISCAL YEAR 2002.—Notwithstanding any other provision of this paragraph—

“(i) any State that was a qualifying State under this paragraph for fiscal year 2001 or any prior fiscal year shall be entitled to receive from the Secretary for fiscal year 2002 a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year in which the State was a qualifying State;

“(ii) subparagraph (G) shall be applied as if ‘2002’ were substituted for ‘2001’; and

“(iii) out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2002 such sums as are necessary for grants under this subparagraph.”

#### SEC. 622. 1-YEAR EXTENSION OF CONTINGENCY FUND UNDER THE TANF PROGRAM.

Section 403(b) of the Social Security Act (42 U.S.C. 603(b)) is amended—

(1) in paragraph (2), by striking “and 2001” and inserting “2001, and 2002”; and

(2) in paragraph (3)(C)(ii), by striking “2001” and inserting “2002”.

**SA 2784.** Mr. THOMAS (for himself and Mr. ENZI) 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. \_\_\_\_ INVOLUNTARY CONVERSION RELIEF FOR PRODUCERS FORCED TO SELL LIVESTOCK DUE TO WEATHER-RELATED CONDITIONS OR FEDERAL LAND MANAGEMENT AGENCY POLICY OR ACTION.

(a) INCOME INCLUSION RULES.—Subsection (e) of section 451 of the Internal Revenue Code of 1986 (relating to general rule for taxable year of inclusion) is amended to read as follows:

“(e) SPECIAL RULE FOR PROCEEDS FROM LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS OR FEDERAL LAND MANAGEMENT AGENCY POLICY OR ACTION.—

“(1) IN GENERAL.—In the case of income derived from the sale or exchange of livestock in excess of the number the taxpayer would sell if he followed his usual business practices, a taxpayer may elect to include such income for the taxable year following two full taxable years in which the weather-related conditions or forced sales caused by



Federal land management agency policy or action which resulted in such sale or exchange do not exist if such taxpayer establishes that, under his usual business practices, the sale or exchange would not have occurred in the taxable year in which it occurred if it were not for—

“(A) the weather-related conditions that resulted in the area being designated as eligible for assistance by the Federal Government, or

“(B) forced sales resulting from Federal land management agency policy or action.

“(2) LIMITATION.—Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3)).

“(3) SPECIAL RULES FOR DROUGHT DESIGNATIONS.—For purposes of this subsection, areas may be designated as eligible for drought condition assistance—

“(A) by Federal Government declaration, or

“(B) through Farm Service Agency flash reports as verified and approved by the Farm Service Agency director of the State in which such condition exists.”

(b) RULES FOR REPLACEMENT OF INVOLUNTARILY CONVERTED LIVESTOCK.—

(1) IN GENERAL.—Section 1033(a)(2)(B) of the Internal Revenue Code of 1986 (relating to period within which property must be replaced) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

“(ii) in the case of an involuntary conversion described in subsection (e), 2 years after the close of the taxable year following the year in which any part of the gain upon the conversion is realized and in which weather-related conditions or forced sales resulting from Federal land management agency policy or action have ended, or”.

(2) INVOLUNTARY CONVERSION DESCRIBED.—Subsection (e) of section 1033 of such Code (relating to involuntary conversions) is amended to read as follows:

“(e) LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS OR FEDERAL LAND MANAGEMENT AGENCY POLICY OR ACTION.—For purposes of this subtitle, the sale or exchange of livestock (other than poultry) held by a taxpayer in excess of the number the taxpayer would sell if he followed usual business practices, shall be treated as an involuntary conversion to which this section applies if such livestock are sold or exchanged by the taxpayer solely on account of weather-related conditions or forced sales caused by Federal land management agency policy or action.”.

(3) CONVERSION BY HEIRS.—Section 1033(a)(2) of such Code is amended by adding at the end the following new subparagraph:

“(F) CONVERSION OF CERTAIN PROPERTY BY HEIRS.—In the case of an involuntary conversion of property described in subsection (e), if the taxpayer dies during the period specified in subparagraph (B), the requirements of subparagraph (A) shall be satisfied if the decedent's—

“(i) personal representative,

“(ii) the beneficiary of the converted property, if no personal representative exists, or

“(iii) the trustee in the case of a trust, replaces the property within such period.”.

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

**SA 2785.** Mr. HARKIN 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:

Strike section 101(e) of the amendment and all that follows through title III and insert the following:

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TECHNICALS.—The amendments made by subsection (b) shall take effect as if included in the amendment made by section 101(b)(1) of the Economic Growth and Tax Relief Reconciliation Act of 2001.

## TITLE II—TEMPORARY BUSINESS RELIEF PROVISIONS

### SEC. 201. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 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 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),

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

“(ii) 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) (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) 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 III—ASSISTANCE FOR MEDICAID COVERAGE

#### SEC. 301. TEMPORARY INCREASES OF MEDICAID FMAP FOR FISCAL YEARS 2002 AND 2003.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to subsection (f), 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 fiscal year 2002, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (f), 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 each calendar quarter of fiscal year 2003, before the application of this section.

(c) GENERAL 3 PERCENTAGE POINTS INCREASE.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), for each State for each calendar quarter in fiscal years 2002 and 2003, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 3 percentage points.

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

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), the FMAP for a high unemployment State for a calendar quarter in fiscal year 2002 or fiscal year 2003 (and any subsequent such calendar quarters after the first such calendar quarter for which the State is a high unemployment State regardless of whether the State continues to be a high unemployment State for the subsequent such calendar quarters) 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 month period 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) 1-YEAR INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, with respect to fiscal years 2002 and 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); or

(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.).

(i) IMPLEMENTATION.—The Secretary of Health and Human Services shall increase payments to States under title XIX for the second, third, and fourth calendar quarters of fiscal year 2002 to take into account the increases in the FMAP provided for in this section for fiscal year 2002 (including the first quarter of such fiscal year) and shall increase payments to States under such title

for each calendar quarter of fiscal year 2003 to take into account the increases in the FMAP provided for in this section for fiscal year 2003.

**SA 2786.** Mr. DORGAN (for himself and Mr. KERRY) 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. \_\_\_\_ EXCEPTION FROM TAX ON RECOGNIZED BUILT-IN GAIN OF S CORPORATIONS.

(a) IN GENERAL.—Section 1374 of the Internal Revenue Code of 1986 (relating to tax imposed on certain built-in gains) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) EXCEPTION FOR REINVESTED AMOUNTS.—

“(1) IN GENERAL.—If an existing S corporation has a net recognized built-in gain for any taxable year in the recognition period and elects the application of this subsection—

“(A) the tax (if any) imposed by subsection (a) on such gain shall not be imposed until the second succeeding taxable year, and

“(B) the amount of such gain on which tax is imposed by subsection (a) for such second succeeding taxable year shall not exceed the amount equal to the excess of—

“(i) the amount realized on the disposition of those assets that resulted in such gain, over

“(ii) the excess of—

“(I) the aggregate qualified expenditures made by the S corporation during the nonrecognition period, over

“(II) the portion (if any) of such expenditures previously taken into account under this subsection.

“(2) QUALIFIED EXPENDITURES.—For purposes of this subsection, the term ‘qualified expenditures’ means—

“(A) amounts chargeable to capital account for property used in a trade or business of the S corporation,

“(B) payments of principal and interest on pre-effective date debt of the S corporation, and

“(C) amounts distributed to shareholders to the extent such amounts do not exceed the aggregate of such shareholders’ tax imposed by this chapter (and State and local taxes) on amounts attributable to the disposition of those assets that resulted in such net recognized built-in gain.

Payments of principal as part of a refinancing of pre-effective date debt shall not be taken into account under subparagraph (B).

“(3) NONRECOGNITION PERIOD.—For purposes of this subsection, the term ‘nonrecognition period’ means, with respect to a taxable year for which an S corporation has a net recognized built-in gain, such taxable year and the first and second succeeding taxable years.

“(4) PRE-EFFECTIVE DATE DEBT.—For purposes of paragraph (2)(B), the term ‘pre-effective date debt’ means—

“(A) debt incurred before the date of the enactment of this paragraph, and

“(B) debt incurred on or after such date to refinance debt described in subparagraph (A) (or refinanced indebtedness meeting the requirements of this subparagraph) to the extent that (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does



not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

“(5) ANTI-ABUSE RULE.—Solely for purposes of determining the treatment of distributions to shareholders under section 1368 during the recognition period—

“(A) any increase in the accumulated adjustment account and shareholder basis by reason of the disposition of those assets that resulted in the net recognized built-in gain shall not exceed the amounts described in paragraph (2)(C), and

“(B) any increase in such account and shareholder basis which is not permitted under subparagraph (A) shall occur immediately after the recognition period.

“(6) EXISTING S CORPORATION.—The term ‘existing S corporation’ means any S corporation for which an election under section 1362 is filed before October 12, 2001.”.

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

**SA 2787.** 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. . INCLUSION OF KENTUCKY IN LIST OF STATES PERMITTED TO OPERATE A SEPARATE RETIREMENT SYSTEM.**

Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting “Kentucky,” after “Illinois.”.

**SA 2788.** Mr. HATCH (for himself and Mr. BENNETT) 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, add the following:

**SEC. . CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 7 YEARS.**

(a) IN GENERAL.—Paragraph (1) of section 172(b) of the Internal Revenue Code of 1986 (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

“(H) SPECIAL RULE FOR CERTAIN LOSSES.—

“(i) IN GENERAL.—In the case of a taxpayer which has a net operating loss for any taxable year ending during 2000, 2001, or 2002, subparagraph (A)(i) shall be applied by substituting ‘7’ for ‘2’ and subparagraph (F) shall not apply.

“(ii) PER YEAR LIMITATION.—For purposes of the 6th and 7th taxable year preceeding the taxable year of such loss, the amount of net operating losses to which clause (i) may apply for any taxable year shall not exceed \$50,000,000.”

(b) ELECTION TO DISREGARD 7-YEAR CARRYBACK.—Section 172 of the Internal Revenue Code of 1986 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) ELECTION TO DISREGARD 7-YEAR CARRYBACK FOR CERTAIN NET OPERATING LOSSES.—Any taxpayer entitled to a 7-year carryback under subsection (b)(1)(H) from any loss year may elect to have the

carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.”

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYBACKS.—

(1) IN GENERAL.—Subparagraph (A) of section 56(d)(1) of the Internal Revenue Code of 1986 (relating to general rule defining alternative tax net operating loss deduction) is amended to read as follows:

“(A) the amount of such deduction shall not exceed the sum of—

“(i) the lesser of—

“(I) the amount of such deduction attributable to net operating losses (other than the deduction attributable to carrybacks described in clause (ii)(I)), or

“(II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus

“(ii) the lesser of—

“(I) the amount of such deduction attributable to carrybacks of net operating losses for taxable years ending during 2000, 2001, or 2002, or

“(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning before January 1, 2003.

(d) EFFECTIVE DATE.—Except as provided in subsection (c), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 1999.

**SA 2789.** Mr. HATCH (for himself, and Mr. BENNETT) 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, add the following:

**SEC. . CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 7 YEARS.**

(a) IN GENERAL.—Paragraph (1) of section 172(b) of the Internal Revenue Code of 1986 (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

“(H) SPECIAL RULE FOR CERTAIN LOSSES.—

“(i) IN GENERAL.—In the case of a taxpayer which has a net operating loss for any taxable year ending during 2000, 2001, or 2002, subparagraph (A)(i) shall be applied by substituting ‘7’ for ‘2’ and subparagraph (F) shall not apply.

“(ii) PER YEAR LIMITATION.—For purposes of the 6th and 7th taxable year preceeding the taxable year of such loss, the amount of net operating losses to which clause (i) may apply for any taxable year shall not exceed \$50,000,000.”

(b) ELECTION TO DISREGARD 7-YEAR CARRYBACK.—Section 172 of the Internal Revenue Code of 1986 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) ELECTION TO DISREGARD 7-YEAR CARRYBACK FOR CERTAIN NET OPERATING

LOSSES.—Any taxpayer entitled to a 7-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.”

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYBACKS.—

(1) IN GENERAL.—Subparagraph (A) of section 56(d)(1) of the Internal Revenue Code of 1986 (relating to general rule defining alternative tax net operating loss deduction) is amended to read as follows:

“(A) the amount of such deduction shall not exceed the sum of—

“(i) the lesser of—

“(I) the amount of such deduction attributable to net operating losses (other than the deduction attributable to carrybacks described in clause (ii)(I)), or

“(II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus

“(ii) the lesser of—

“(I) the amount of such deduction attributable to carrybacks of net operating losses for taxable years ending during 2000, 2001, or 2002, or

“(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning before January 1, 2003.

(d) TEMPORARY FOREIGN TAX CREDIT CLARIFICATION.—

(1) IN GENERAL.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended by striking “Any amount” and by inserting “(1) GENERAL RULE.—Any amount” and by adding new paragraph (2) to read as follows:

“(2) TEMPORARY RULE FOR CARRYBACK AND CARRYFORWARD OF EXCESS FOREIGN TAXES.—For purposes of any taxable year ending in 2000, 2001 or 2002 and any of the preceeding 7 taxable years, the provisions of paragraph (1) shall apply, except that the carryforward period shall extend to the tenth succeeding taxable year instead of the fifth succeeding taxable year.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply upon enactment.

(e) EFFECTIVE DATE.—Except as provided in subsections (c) and (d), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 1999.

**SA 2790.** Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBACK, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) 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. \_\_\_\_ SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.**

(a) IN GENERAL.—Section 121(d) (relating to special rules) is amended by adding at the end the following:

“(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

“(A) IN GENERAL.—The running of the 5-year period described in subsection (a) shall be suspended with respect to an individual during any time that such individual or such individual’s spouse is serving on qualified official extended duty as a member of a uniformed service or of the Foreign Service.

“(B) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘qualified official extended duty’ means any period of extended duty during which the member of a uniformed service or the Foreign Service is under a call or order compelling such duty at a duty station which is a least 50 miles from the property described in subparagraph (A) or compelling residence in Government furnished quarters while on such duty.

“(ii) EXTENDED DUTY.—The term ‘extended duty’ means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

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

“(i) UNIFORMED SERVICE.—The term ‘uniformed service’ has the meaning given such term by section 101(a)(5) of title 10, United States Code.

“(ii) FOREIGN SERVICE OF THE UNITED STATES.—The term ‘member of the Foreign Service’ has the meaning given the term ‘member of the Service’ by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980.”

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

**SA 2791.** 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:

At the end, add the following:

**SECTION 1. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES.**

(a) IN GENERAL.—Subsection (d) of section 408 of the Internal Revenue Code of 1986 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

“(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

“(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution from an individual retirement account to an organization described in section 170(c).

“(B) SPECIAL RULES RELATING TO CHARITABLE REMAINDER TRUSTS, POOLED INCOME FUNDS, AND CHARITABLE GIFT ANNUITIES.—

“(i) IN GENERAL.—No amount shall be includible in gross income by reason of a quali-

fied charitable distribution from an individual retirement account—

“(I) to a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)),

“(II) to a pooled income fund (as defined in section 642(c)(5)), or

“(III) for the issuance of a charitable gift annuity (as defined in section 501(m)(5)). The preceding sentence shall apply only if no person holds an income interest in the amounts in the trust, fund, or annuity attributable to such distribution other than one or more of the following: the individual for whose benefit such account is maintained, the spouse of such individual, or any organization described in section 170(c).

“(ii) DETERMINATION OF INCLUSION OF AMOUNTS DISTRIBUTED.—In determining the amount includible in the gross income of any person by reason of a payment or distribution from a trust referred to in clause (i)(I) or a charitable gift annuity (as so defined), the portion of any qualified charitable distribution to such trust or for such annuity which would (but for this subparagraph) have been includible in gross income—

“(I) shall be treated as income described in section 664(b)(1), and

“(II) shall not be treated as an investment in the contract.

“(iii) NO INCLUSION FOR DISTRIBUTION TO POOLED INCOME FUND.—No amount shall be includible in the gross income of a pooled income fund (as so defined) by reason of a qualified charitable distribution to such fund.

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

“(i) which is made on or after the date that the individual for whose benefit the account is maintained has attained age 59½, and

“(ii) which is made directly from the account to—

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

“(II) a trust, fund, or annuity referred to in subparagraph (B).

“(D) DENIAL OF DEDUCTION.—The amount allowable as a deduction under section 170 to the taxpayer for the taxable year shall be reduced (but not below zero) by the sum of the amounts of the qualified charitable distributions during such year which would be includible in the gross income of the taxpayer for such year but for this paragraph.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001, and before January 1, 2004.

**SA 2792.** Mr. LUGAR (for himself and Mr. LEAHY) 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. \_\_\_\_ CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD.**

(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.—For purposes of this section—

“(A) IN GENERAL.—In the case of a charitable contribution of apparently wholesome food by a taxpayer—

“(i) paragraph (3)(A) shall be applied without regard to whether or not the contribution is made by a C corporation, and

“(ii) in the case of a taxpayer other than a C corporation, the total deductions under subsection (a) with respect to such contributions for any taxable year shall not exceed the percentage specified in subsection (b)(2) of the taxpayer’s net income from the trade or business, computed without regard to this section.

“(B) LIMIT ON REDUCTION.—In the case of a charitable contribution of apparently wholesome food which is a qualified contribution (within the meaning of paragraph (3)(A), as modified by subparagraph (A) of this paragraph), the amount of the reduction determined under paragraph (3)(B) shall not exceed the amount determined under clause (ii) thereof.

“(C) DETERMINATION OF BASIS.—For purposes of this paragraph, if a taxpayer—

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

“(ii) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of paragraph (3)(B)(ii), to treat the basis of any qualified contribution of such taxpayer as being equal to 25 percent of the fair market value of such contribution.

“(D) DETERMINATION OF FAIR MARKET VALUE.—In the case of a charitable contribution of apparently wholesome food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraphs (A) and (B) of this paragraph) and which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

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

“(ii) by taking into account the price at which the same or substantially the same 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).

“(E) APPARENTLY WHOLESOME FOOD.—For purposes of this paragraph, the term ‘apparently wholesome food’ has the meaning given such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this paragraph.

“(F) TERMINATION.—This paragraph shall not apply to any contribution made during any taxable year beginning after December 31, 2004.”

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

**SA 2793.** 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, add the following:

**SEC. \_\_\_\_ INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.**

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

**"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.**

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, then, for purposes of this title, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) GENERAL RULE.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, increased by

"(B) the applicable inflation adjustment.

"(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

"(A) the adjusted basis of the asset, multiplied by

"(B) the percentage (if any) by which—

"(i) the chain-type price index for GDP for the last calendar quarter ending before the asset is disposed of, exceeds

"(ii) the chain-type price index for GDP for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest  $\frac{1}{4}$  of 1 percentage point.

"(3) CHAIN-TYPE PRICE INDEX FOR GDP.—The chain-type price index for GDP for any calendar quarter is such index for such quarter (as shown in the last revision thereof re-

leased by the Secretary of Commerce before the close of the following calendar quarter).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar

month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization, the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

"(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

"(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 of the Internal Revenue Code of 1986 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

“(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

“**For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 2001, see section 1022(a)(1).**”

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins after the date of the enactment of this Act.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after the date of the enactment of this Act from a related person (as defined in section 1022(f)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

**SA 2794.** Mr. DURBIN 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:

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Terrorism Risk Insurance Act of 2001”.

#### **SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress finds that—

(1) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(2) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

(4) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and cost of future terrorist events, and therefore the size, funding, and allocation of the risk of loss caused by such acts of terrorism;

(5) a decision by property and casualty insurers to deal with such uncertainties, either by terminating property and casualty coverage for losses arising from terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property

acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity; and

(6) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

(b) PURPOSE.—The purpose of this Act is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

#### **SEC. 3. DEFINITIONS.**

In this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) CERTIFICATION.—The term “act of terrorism” means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be a violent act or an act that is dangerous to—

(I) human life;

(II) property; or

(III) infrastructure;

(ii) to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel described in paragraph (3)(A)(ii); and

(iii) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(B) LIMITATION.—No act or event shall be certified by the Secretary as an act of terrorism if—

(i) the act or event is committed in the course of a war declared by the Congress; or

(ii) losses resulting from the act or event, in the aggregate, do not exceed \$5,000,000.

(C) DETERMINATIONS FINAL.—Any certification of, or determination not to certify, an act or event as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.

(2) BUSINESS INTERRUPTION COVERAGE.—The term “business interruption coverage”—

(A) means coverage of losses for temporary relocation expenses and ongoing expenses, including ordinary wages, where—

(i) there is physical damage to the business premises of such magnitude that the business cannot open for business;

(ii) there is physical damage to other property that totally prevents customers or employees from gaining access to the business premises; or

(iii) the Federal, State, or local government shuts down an area due to physical or environmental damage, thereby preventing customers or employees from gaining access to the business premises; and

(B) does not include lost profits, other than in the case of a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632) and applicable regulations

thereunder) in any case described in clause (i), (ii), or (iii) of subparagraph (A).

(3) INSURED LOSS.—The term “insured loss”—

(A) means any loss resulting from an act of terrorism that is covered by primary property and casualty insurance, including business interruption coverage, issued by a participating insurance company, if such loss—

(i) occurs within the United States; or

(ii) occurs to an air carrier (as defined in section 40102 of title 49, United States Code) or to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; and

(B) excludes any life or health insurance coverage.

(4) MARKET SHARE.—

(A) IN GENERAL.—The “market share” of a participating insurance company shall be calculated using the total amount of direct written property and casualty insurance premiums for the participating insurance company during the 2-year period preceding the year in which the subject act of terrorism occurred (or during such other period for which adequate data are available, as determined by the Secretary), as a percentage of the aggregate of all such property and casualty insurance premiums industry-wide during that period.

(B) ADJUSTMENTS.—The Secretary may adjust the market share of a participating insurance company under subparagraph (A), as necessary to reflect current market participation of that participating insurance company.

(5) NAIC.—The term “NAIC” means the National Association of Insurance Commissioners.

(6) PARTICIPATING INSURANCE COMPANY.—The term “participating insurance company” means any insurance company, including any subsidiary or affiliate thereof—

(A) that—

(i) is licensed or admitted to engage in the business of providing primary insurance in any State, and was so licensed or admitted on September 11, 2001, or had pending on that date an application for such license or admission; or

(ii) is not licensed or admitted as described in clause (i), if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the NAIC, or any successor thereto;

(B) that receives direct premiums for any type of commercial property and casualty insurance coverage or that, not later than 21 days after the date of enactment of this Act, submits written notification to the Secretary of its intent to participate in the Program with regard to personal lines of property and casualty insurance; and

(C) that meets any other criteria that the Secretary may reasonably prescribe.

(7) PARTICIPATING INSURANCE COMPANY DEDUCTIBLE.—The term “participating insurance company deductible” means—

(A) a participating insurance company's market share, multiplied by \$10,000,000,000, with respect to insured losses resulting from an act of terrorism occurring during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002; and

(B) a participating insurance company's market share, multiplied by \$15,000,000,000, with respect to insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2003 and ending at midnight on December 31, 2003, if the Program is extended in accordance with section 6.

(8) **PERSON.**—The term “person” means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(9) **PROGRAM.**—The term “Program” means the Terrorism Insured Loss Shared Compensation Program established by this Act.

(10) **PROPERTY AND CASUALTY INSURANCE.**—The term “property and casualty insurance” —

(A) means commercial lines of property and casualty insurance;

(B) includes personal lines of property and casualty insurance, if a notification is made in accordance with paragraph (6)(B); and

(C) does not include—

(i) Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); or

(ii) private mortgage insurance, as that term is defined in section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901).

(11) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury.

(12) **STATE.**—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and each of the United States Virgin Islands.

(13) **UNITED STATES.**—The term “United States” means the several States, and includes the territorial sea of the United States.

#### **SEC. 4. TERRORISM INSURED LOSS SHARED COMPENSATION PROGRAM.**

(a) **ESTABLISHMENT OF PROGRAM.**—

(1) **IN GENERAL.**—There is established in the Department of the Treasury the Terrorism Insured Loss Shared Compensation Program.

(2) **AUTHORITY OF THE SECRETARY.**—Notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (e).

(b) **CONDITIONS FOR FEDERAL PAYMENTS.**—No payment may be made by the Secretary under subsection (e), unless—

(1) a person that suffers an insured loss, or a person acting on behalf of that person, files a claim with a participating insurance company;

(2) the participating insurance company provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program—

(A) in the case of any policy covering an insured loss that is issued on or after the date of enactment of this Act, in the policy, at the time of offer, purchase, and renewal of the policy; and

(B) in the case of any policy that is issued before the date of enactment of this Act, not later than 90 days after that date of enactment;

(3) the participating insurance company processes the claim for the insured loss in accordance with its standard business practices, and any reasonable procedures that the Secretary may prescribe; and

(4) the participating insurance company submits to the Secretary, in accordance with such reasonable procedures as the Secretary may establish—

(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

(B) written verification and certification—

(i) of the underlying claim; and

(ii) of all payments made for insured losses; and

(C) certification of its compliance with the provisions of this subsection.

(c) **MANDATORY PARTICIPATION; MANDATORY AVAILABILITY.**—Each insurance company that meets the definition of a participating insurance company under section 3—

(1) shall participate in the Program;

(2) shall make available in all of its property and casualty insurance policies (in all of its participating lines), coverage for insured losses; and

(3) shall make available property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

(d) **PARTICIPATION BY SELF INSURED ENTITIES.**—

(1) **DETERMINATION BY THE SECRETARY.**—The Secretary may, in consultation with the NAIC, establish procedures to allow participation in the Program by municipalities and other governmental or quasi-governmental entities (and by any other entity, as the Secretary deems appropriate) operating through self insurance arrangements that were in existence on September 11, 2001, but only if the Secretary makes a determination with regard to participation by any such entity before the occurrence of an act of terrorism in which the entity incurs an insured loss.

(2) **PARTICIPATION.**—If the Secretary makes a determination to allow an entity described in paragraph (1) to participate in the Program, all reports, conditions, requirements, and standards established by this Act for participating insurance companies shall apply to any such entity, as determined to be appropriate by the Secretary.

(e) **SHARED INSURANCE LOSS COVERAGE.**—

(1) **FEDERAL SHARE.**—

(A) **IN GENERAL.**—Subject to the cap on liability under paragraph (2) and the limitation under paragraph (6), the Federal share of compensation under the Program to be paid by the Secretary for insured losses resulting from an act of terrorism occurring during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002—

(i) shall be equal to 80 percent of that portion of the amount of aggregate insured losses that—

(I) exceeds the participating insurance company deductibles required to be paid for those insured losses; and

(II) does not exceed \$10,000,000,000; and

(ii) shall be equal to 90 percent of that portion of the amount of aggregate insured losses that—

(I) exceeds the participating insurance company deductibles required to be paid for those insured losses; and

(II) exceeds \$10,000,000,000.

(B) **EXTENSION PERIOD.**—If the Program is extended in accordance with section 6, the Federal share of compensation under the Program to be paid by the Secretary for insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2003 and ending at midnight on December 31, 2003, shall be calculated in accordance with clauses (i) and (ii) of subparagraph (A), subject to the cap on liability in paragraph (2) and the limitation under paragraph (6).

(C) **PRO RATA SHARE.**—If, during the period described in subparagraph (A) (or during the period described in subparagraph (B), if the Program is extended in accordance with section 6), the aggregate insured losses for that period exceed \$10,000,000,000, the Secretary shall determine the pro rata share for each participating insurance company of the Federal share of compensation for insured losses calculated under subparagraph (A).

(D) **PROHIBITION ON DUPLICATIVE COMPENSATION.**—The Federal share of compensation for insured losses under the Program shall be reduced by the amount of compensation provided by the Federal Government for those insured losses under any other Federal insurance or reinsurance program.

(2) **CAP ON ANNUAL LIABILITY.**—Notwithstanding paragraph (1), or any other provision of Federal or State law, if the aggregate insured losses exceed \$100,000,000,000 during any period referred to in subparagraph (A) or (B) of paragraph (1)—

(A) the Secretary shall not make any payment under this Act for any portion of the amount of such losses that exceeds \$100,000,000,000; and

(B) participating insurance companies shall not be liable for the payment of any portion of the amount that exceeds \$100,000,000,000.

(3) **NOTICE TO CONGRESS.**—The Secretary shall notify the Congress if estimated or actual aggregate insured losses exceed \$100,000,000,000 in any period described in paragraph (1), and the Congress shall determine the procedures for and the source of any such excess payments.

(4) **FINAL NETTING.**—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) **DETERMINATIONS FINAL.**—Any determination of the Secretary under this subsection shall be final, and shall not be subject to judicial review.

(6) **IN-FORCE REINSURANCE AGREEMENTS.**—For policies covered by reinsurance contracts in force on the date of enactment of this Act, until the in-force reinsurance contract is renewed, amended, or has reached its 1-year anniversary date, any Federal share of compensation due to a participating insurance company for insured losses during the effective period of the Program shall be shared—

(A) with all reinsurance companies to which the participating insurance company has ceded some share of the insured loss pursuant to an in-force reinsurance contract; and

(B) in a manner that distributes the Federal share of compensation for insured losses between the participating insurance company and the reinsurance company or companies in the same proportion as the insured losses would have been distributed if the Program did not exist.

#### **SEC. 5. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.**

(a) **GENERAL AUTHORITY.**—The Secretary shall have the powers and authorities necessary to carry out the Program, including authority—

(1) to investigate and audit all claims under the Program; and

(2) to prescribe regulations and procedures to implement the Program.

(b) **INTERIM RULES AND PROCEDURES.**—The Secretary shall issue interim final rules or procedures specifying the manner in which—

(1) participating insurance companies may file, verify, and certify claims under the Program;

(2) the Secretary shall publish or otherwise publicly announce the applicable percentage of insured losses that is the responsibility of participating insurance companies and the percentage that is the responsibility of the Federal Government under the Program;

(3) the Federal share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual aggregate insured losses;

(4) the Secretary may, at any time, seek repayment from or reimburse any participating insurance company, based on estimates of insured losses under the Program,

to effectuate the insured loss sharing provisions contained in section 4;

(5) each participating insurance company that incurs insured losses shall pay its pro rata share of insured losses, in accordance with section 4; and

(6) the Secretary will determine any final netting of payments for actual insured losses under the Program, including payments owed to the Federal Government from any participating insurance company and any Federal share of compensation for insured losses owed to any participating insurance company, to effectuate the insured loss sharing provisions contained in section 4.

(c) **SUBROGATION RIGHTS.**—The United States shall have the right of subrogation with respect to any payment made by the United States under the Program.

(d) **CONTRACTS FOR SERVICES.**—The Secretary may employ persons or contract for services, as may be necessary to implement the Program.

(e) **CIVIL PENALTIES.**—The Secretary may assess civil money penalties for violations of this Act or any rule, regulation, or order issued by the Secretary under this Act relating to the submission of false or misleading information for purposes of the Program, or any failure to repay any amount required to be reimbursed under regulations or procedures described in section 5(b). The authority granted under this subsection shall continue during any period in which the Secretary's authority under section 6(d) is in effect.

#### **SEC. 6. TERMINATION OF PROGRAM; DISCRETIONARY EXTENSION.**

(a) **TERMINATION OF PROGRAM.**—

(1) **IN GENERAL.**—The Program shall terminate at midnight on December 31, 2002, unless the Secretary—

(A) determines, after considering the report and finding required by this section, that the Program should be extended for one additional year, until midnight on December 31, 2003; and

(B) promptly notifies the Congress of such determination and the reasons therefor.

(2) **DETERMINATION FINAL.**—The determination of the Secretary under paragraph (1) shall be final, and shall not be subject to judicial review.

(3) **TERMINATION AFTER EXTENSION.**—If the Program is extended under paragraph (1), the Program shall terminate at midnight on December 31, 2003.

(b) **REPORT TO CONGRESS.**—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(1) regarding—

(A) the availability of insurance coverage for acts of terrorism;

(B) the affordability of such coverage, including the effect of such coverage on premiums; and

(C) the capacity of the insurance industry to absorb future losses resulting from acts of terrorism, taking into account the profitability of the insurance industry; and

(2) that considers—

(A) the impact of the Program on each of the factors described in paragraph (1); and

(B) the probable impact on such factors and on the United States economy if the Program terminates at midnight on December 31, 2002.

(c) **FINDING REQUIRED.**—A determination under subsection (a) to extend the Program shall be based on a finding by the Secretary that—

(1) widespread market uncertainties continue to disrupt the ability of insurance companies to price insurance coverage for losses resulting from acts of terrorism, thereby resulting in the continuing unavailability of affordable insurance for consumers; and

(2) extending the Program for an additional year would likely encourage economic stabilization and facilitate a transition to a viable market for private terrorism risk insurance.

(d) **CONTINUING AUTHORITY TO PAY OR ADJUST COMPENSATION.**—Following the termination of the Program under subsection (a), the Secretary may take such actions as may be necessary to ensure payment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program was in effect under this Act, in accordance with the provisions of section 4 and regulations promulgated thereunder.

(e) **REPEAL; SAVINGS CLAUSE.**—This Act, other than section 10, is repealed at midnight on the final termination date of the Program under subsection (a), except that such repeal shall not be construed—

(1) to prevent the Secretary from taking, or causing to be taken, such actions under subsection (d) of this section and sections 4(e)(4), 4(e)(5), 5(a)(1), 5(c), 5(d), and 5(e) (as in effect on the day before the date of such repeal), and applicable regulations promulgated thereunder, during any period in which the authority of the Secretary under subsection (d) of this section is in effect; or

(2) to prevent the availability of funding under section 9(b) during any period in which the authority of the Secretary under subsection (d) of this section is in effect.

(f) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that the Secretary should make any determination under subsection (a) in sufficient time to enable participating insurance companies to include coverage for acts of terrorism in their policies for 2003.

(g) **STUDY AND REPORT ON SCOPE OF THE PROGRAM.**—

(1) **STUDY.**—The Secretary, after consultation with the NAIC, representatives of the insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage.

(2) **REPORT.**—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

(h) **REPORTS REGARDING TERRORISM RISK INSURANCE PREMIUMS.**—

(1) **REPORT TO THE NAIC.**—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, each participating insurance company shall submit a report to the NAIC that states the premium rates charged by that participating insurance company during the preceding 6-month period for insured losses covered by the Program, and includes an explanation of and justification for those rates.

(2) **REPORTS FORWARDED.**—The NAIC shall promptly forward copies of each report submitted under paragraph (1) to the Secretary, the Secretary of Commerce, the Chairman of the Federal Trade Commission, and the Comptroller General of the United States.

(3) **AGENCY REPORTS TO CONGRESS.**—

(A) **IN GENERAL.**—The Secretary, the Secretary of Commerce, and the Chairman of the Federal Trade Commission shall submit joint reports to Congress and the Comptroller General of the United States summarizing and evaluating the reports forwarded under paragraph (2).

(B) **TIMING.**—The reports required under subparagraph (A) shall be submitted—

(i) 9 months after the date of enactment of this Act; and

(ii) 12 months after the date of submission of the first report under clause (i).

(4) **GAO EVALUATION AND REPORT.**—

(A) **EVALUATION.**—The Comptroller General of the United States shall evaluate each re-

port submitted under paragraph (3), and upon request, the Secretary, the Secretary of Commerce, the Chairman of the Federal Trade Commission, and the NAIC shall provide to the Comptroller all documents, records, and any other information that the Comptroller deems necessary to carry out such evaluation.

(B) **REPORT TO CONGRESS.**—Not later than 90 days after receipt of each report submitted under paragraph (3), the Comptroller General of the United States shall submit to Congress a report of the evaluation required by subparagraph (A).

(i) **STUDY OF RESERVES FOR CERTAIN TYPES OF INSURANCE FOR TERRORIST OR OTHER CATASTROPHIC EVENTS.**—

(1) **IN GENERAL.**—The Secretary shall conduct a study of issues relating to permitting insurance companies that provide property and casualty insurance, life insurance, and other lines of insurance coverage to establish deductible reserves against losses for future acts of terrorism, including—

(A) whether such tax-favored reserves would promote—

(i) insurance coverage of risks of terrorism; and

(ii) the accumulation of additional resources needed to satisfy potential claims resulting from such risks;

(B) the lines of business for which such reserves would be appropriate, including whether such reserves for property and casualty insurance should be applied to personal or commercial lines of business;

(C) how the amount of such reserves would be determined;

(D) how such reserves would be administered;

(E) a comparison of the Federal tax treatment of such reserves with other insurance reserves permitted under Federal tax laws;

(F) an analysis of the use of tax-favored reserves for catastrophic events, including acts of terrorism, under the tax laws of foreign countries; and

(G) whether it would be appropriate to permit similar reserves for other future catastrophic events, such as natural disasters, taking into account the factors under the preceding paragraphs.

(2) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under paragraph (1), together with recommendations for amending the Internal Revenue Code of 1986, or other appropriate action.

#### **SEC. 7. PRESERVATION OF STATE LAW.**

Nothing in this Act shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any participating insurance company or other person—

(1) except as specifically provided in this Act; and

(2) except that—

(A) the definition of the term “act of terrorism” in section 3 shall be the exclusive definition of that term for purposes of compensation for insured losses under this Act, and shall preempt any provision of State law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any type of insurance covered by this Act;

(B) during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002, rates for terrorism risk insurance covered by this Act and filed with any State shall not be subject to prior approval or a waiting period, under any law of a State that would otherwise be applicable, except that nothing in this Act affects the ability of any State to invalidate



a rate as excessive, inadequate, or unfairly discriminatory; and

(C) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect, as provided in section 6 (including any period during which the authority of the Secretary under section 6(d) is in effect), books and records of any participating insurance company that are relevant to the Program shall be provided, or caused to be provided, to the Secretary or the designee of the Secretary, upon request by the Secretary or such designee, notwithstanding any provision of the laws of any State prohibiting or limiting such access.

#### SEC. 8. SENSE OF THE CONGRESS REGARDING CAPACITY BUILDING.

It is the sense of the Congress that the insurance industry should build capacity and aggregate risk to provide affordable property and casualty insurance coverage for terrorism risk.

#### SEC. 9. AUTHORIZATION OF APPROPRIATIONS; PAYMENT AUTHORITY.

(a) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary for administrative expenses of the Program, to remain available until expended.

(b) PAYMENT AUTHORITY.—This Act constitutes payment authority in advance of appropriation Acts, and represents the obligation of the Federal Government to provide for the Federal share of compensation for insured losses under the Program.

#### SEC. 10. PROCEDURES FOR CIVIL ACTIONS.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from an act of terrorism, which shall be the exclusive cause of action and remedy for claims for such property damage, personal injury, or death, except as provided in subsection (d).

(2) PREEMPTION OF STATE ACTIONS.—All State causes of action of any kind for property damage, personal injury, or death arising out of or resulting from an act of terrorism that are otherwise available under State law, are hereby preempted, except as provided in subsection (d).

(b) GOVERNING LAW.—The substantive law for decision in an action described in subsection (a)(1) shall be derived from the law, including applicable choice of law principles, of the State in which the act of terrorism giving rise to the action occurred, except to the extent that—

(1) the law, including choice of law principles, of another State is determined to be applicable to the action by the district court hearing the action; or

(2) otherwise applicable State law (including that determined pursuant to paragraph (1), is inconsistent with or otherwise preempted by Federal law.

(c) PUNITIVE DAMAGES.—Any amounts awarded in a civil action described in subsection (a)(1) that are attributable to punitive damages shall not count as insured losses for purposes of this Act.

(d) CLAIMS AGAINST TERRORISTS.—Nothing in this section shall in any way be construed to limit the ability of any plaintiff to seek any form of recovery from any person, government, or other entity that was a participant in, or aider and abettor of, any act of terrorism.

(e) EFFECTIVE PERIOD.—This section shall apply only to actions described in subsection (a)(1) arising out of or resulting from acts of terrorism that occur during the effective period of the Program, including, if applicable, any extension period provided for under section 6.

**SA 2795.** Mr. BOND 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. \_\_\_\_ TREATMENT OF CERTAIN INDIVIDUALS PERFORMING SERVICES IN CERTAIN HAZARDOUS DUTY AREAS.

(a) GENERAL RULE.—For purposes of the following provisions of the Internal Revenue Code of 1986, a qualified hazardous duty area shall be treated in the same manner as if it were a combat zone (as determined under section 112 of such Code):

(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

(3) Section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death).

(4) Section 2201 (relating to combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks).

(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

(b) QUALIFIED HAZARDOUS DUTY AREA.—For purposes of this section, the term “qualified hazardous duty area” means Somalia, if for the period beginning on December 3, 1992, and ending before March 31, 1995, any member of the Armed Forces of the United States was entitled to special pay under section 310 of title 37, United States Code (relating to special pay; duty subject to hostile fire or imminent danger) for services performed in such country. Such term includes such country only during the period such entitlement was in effect.

(c) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

(2) SPECIAL RULE.—If refund or credit of any overpayment of tax resulting from the application of this section is prevented at any time on or before April 15, 2003, by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of this section) may, nevertheless, be made or allowed if claim therefor is filed on or before April 15, 2003.

**SA 2796.** Mr. BUNNING 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. \_\_\_\_ EXCLUSION FOR FOSTER CARE PAYMENTS TO APPLY TO PAYMENTS BY QUALIFIED PLACEMENT AGENCIES.

(a) IN GENERAL.—The matter preceding subparagraph (B) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:

“(1) IN GENERAL.—The term ‘qualified foster care payment’ means any payment made pursuant to a foster care program of a State or political subdivision thereof—

“(A) which is paid by—

“(i) a State or political subdivision thereof, or

“(ii) a qualified foster care placement agency, and”.

(b) QUALIFIED FOSTER INDIVIDUALS TO INCLUDE INDIVIDUALS PLACED BY QUALIFIED PLACEMENT AGENCIES.—Subparagraph (B) of section 131(b)(2) (defining qualified foster individual) is amended to read as follows:

“(B) a qualified foster care placement agency.”

(c) QUALIFIED FOSTER CARE PLACEMENT AGENCY DEFINED.—Subsection (b) of section 131 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) QUALIFIED FOSTER CARE PLACEMENT AGENCY.—The term ‘qualified foster care placement agency’ means any placement agency which is licensed or certified by—

“(A) a State or political subdivision thereof, or

“(B) an entity designated by a State or political subdivision thereof,

for the foster care program of such State or political subdivision to make foster care payments to providers of foster care.”

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

**SA 2797.** Mr. BOND 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, add the following:

#### SEC. \_\_\_\_ TREATMENT OF CERTAIN INDIVIDUALS PERFORMING SERVICES IN CERTAIN HAZARDOUS DUTY AREAS.

(a) GENERAL RULE.—For purposes of the following provisions of the Internal Revenue Code of 1986, a qualified hazardous duty area shall be treated in the same manner as if it were a combat zone (as determined under section 112 of such Code):

(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

(3) Section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death).

(4) Section 2201 (relating to combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks).

(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

(b) QUALIFIED HAZARDOUS DUTY AREA.—For purposes of this section, the term “qualified hazardous duty area” means Somalia, if for the period beginning on December 3, 1992, and ending before March 31, 1995, any member of the Armed Forces of the United States was entitled to special pay under section 310

of title 37, United States Code (relating to special pay; duty subject to hostile fire or imminent danger) for services performed in such country. Such term includes such country only during the period such entitlement was in effect.

(c) **EFFECTIVE DATE; SPECIAL RULE.**—

(1) **EFFECTIVE DATE.**—The provisions of this section shall take effect on the date of the enactment of this Act.

(2) **SPECIAL RULE.**—If refund or credit of any overpayment of tax resulting from the application of this section is prevented at any time on or before April 15, 2003, by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of this section) may, nevertheless, be made or allowed if claim therefor is filed on or before April 15, 2003.

**SA 2798.** Mr. GRAHAM 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 of the bill insert the following:

**TITLE —TRAVEL AND TOURISM PROMOTION**

**SEC. 01. SHORT TITLE.**

This title may be cited as the “Rediscover America Act of 2002”.

**SEC. 02. FINDINGS AND PURPOSE.**

(a) **FINDINGS.**—Congress finds that—

(1) the revitalization of the travel and tourism industry following the September 11, 2001, terrorist attacks on the United States is a national economic necessity;

(2) in light of the effect that the attacks have had on the tourism industry, it is important to put measures immediately into place to restore consumer confidence in travel and in the economy;

(3) safety and security in travel is of utmost importance in order to restore consumer confidence in the industry;

(4) the travel and tourism industry has a large impact on the U.S. economy—adding nearly 5 percent to the GDP, generating more than \$578,000,000 in revenues, supporting more than 17,000,000 million jobs, and providing a \$14,000,000 trade surplus for the country; and

(5) more than 95 percent of the businesses in travel and tourism are small to medium sized enterprises.

(b) **PURPOSE.**—The purpose of this title is to assist the travel and tourism industry in its effort to restore consumer confidence in the wake of the September 11, 2001, terrorist attacks on the United States.

**SEC. 03. UNITED STATES TRAVEL AND TOURISM PROMOTION BUREAU.**

(a) **ESTABLISHMENT.**—The Secretary of Commerce shall designate an employee of the Department of Commerce to be responsible for establishing a Travel and Tourism Promotion Board.

(b) **PURPOSE.**—The Bureau shall—

(1) work to help restore consumer confidence in travel in the two years following the September 11, 2001, terrorist attacks on the United States; and

(2) work in conjunction with private industry and industry employee representatives to design and implement public service announcements and advertising to promote tourism, encouraging Americans and foreign visitors to rediscover the nation's treasures.

(c) **POWERS.**—To carry out the purposes of this title, the Bureau may—

(1) distribute funds to any travel and tourism related organization or association;

(2) enter into contracts with private organizations or business;

(3) utilize up to three existing employees of the Department of Commerce, as may be assigned by the Secretary; and

(4) conduct any and all acts necessary and proper to carry out the purposes of this title.

**SEC. 04. UNITED STATES TRAVEL AND TOURISM PROMOTION BUREAU ADVISORY COMMITTEE.**

(a) **ESTABLISHMENT.**—There is established a United States Travel and Tourism Promotion Bureau Advisory Committee for the purpose of recommending activities to the Bureau.

(b) **MEMBERS.**—Within 30 days after enactment of this Act, the Secretary of Commerce shall appoint the members of the Advisory Committee as follows:

(1) 1 member representing the aviation industry;

(2) 1 member representing airline workers;

(3) 1 member representing the hotel industry;

(4) 1 member representing hotel workers;

(5) 1 member representing the restaurant industry;

(6) 1 member representing restaurant workers;

(7) 1 member representing amusement parks; and

(8) 1 member of the Rural Tourism Foundation;

(c) **CHAIR.**—The Advisory Committee shall elect a Chair for an initial term of 6 months. After such initial term, the Chair shall be elected for such term as the Committee may designate.

(d) **VACANCIES.**—If a vacancy occurs in the membership of the Committee, the Secretary of Commerce shall fill the vacancy, provided that the membership of the Committee remains consistent with subsection (b).

**SEC. 05. QUARTERLY REPORTING PROVISION.**

Not less than once every 90 days, the Bureau shall report to the U.S. Senate Committee on Commerce, Science and Transportation and the U.S. House of Representatives Committee on Energy and Commerce on—

(1) the Bureau's activities to promote travel and tourism; and

(2) the state of the travel and tourism industry.

**SEC. 06. SUNSET.**

The provisions of this title shall terminate two years after the date of enactment of this Act.

**SEC. 07. AUTHORIZATION OF APPROPRIATIONS.**

(a) **APPROPRIATION.**—Of the funds provided in Public Law 107-38, not less than \$60,000,000 shall be used for the purpose of carrying out this title.

(b) **AVAILABILITY OF FUNDS.**—The funds made available pursuant to subsection (a) shall be available to be expended in fiscal years 2002, 2003, and 2004.

**SA 2799.** Mr. GRAHAM 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. . METHOD OF ACCOUNTING FOR DEPOSITS RECEIVED BY ACCRUAL BASIS TOUR OPERATORS.**

In the case of a tour operator using an accrual method of accounting, amounts received from or on behalf of passengers in advance of the departure of a tour arranged by such operator—

(1) shall be treated as properly accounted for under the Internal Revenue Code of 1986 if they are accounted for under a method permitted by section 3 of Revenue Procedure 71-21, and

(2) for purposes of Revenue Procedure 71-21, shall be deemed earned as of the date the tour departs.

**SA 2800.** Mr. FRIST 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. . ACCESS TO UNUSED ACCOUNT BALANCES IN FLEXIBLE SPENDING ARRANGEMENTS BY INVOLUNTARILY SEPARATED EMPLOYEES.**

(a) **IN GENERAL.**—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

“(h) **ACCESS TO UNUSED ACCOUNT BALANCE IN FSA BY CERTAIN INVOLUNTARILY SEPARATED EMPLOYEES.**—

“(1) **IN GENERAL.**—For purposes of this title, a plan or other arrangement shall not fail to be treated as a flexible spending or similar arrangement solely because under such arrangement an individual (or any designated heir of such individual) during a qualified period has the option of—

“(A) receiving as a cash payment any unused account balance in such arrangement with respect to such individual remaining on the date of an involuntary separation of employment, the receipt of which is includible in gross income, or

“(B) applying such unused account balance to the payment of any premium for health insurance coverage of such individual (including any premium required for coverage described in section 4980B(f) in the same manner as the payment of any allowable expense under such arrangement prior to such qualified period, the receipt of which is not includible in gross income.

“(2) **DEFINITIONS.**—For purposes of this subsection—

“(A) **INVOLUNTARY SEPARATION FROM EMPLOYMENT.**—The term ‘involuntary separation from employment’ includes separation caused by disability or death.

“(B) **QUALIFIED PERIOD.**—The term ‘qualified period’ means a period beginning on the date of an involuntary separation from employment and ending on the earlier of—

“(i) the date which is 60 days after such date of involuntary separation, or

“(ii) the last day of the calendar year in which such date of involuntary separation occurs.

“(C) **UNUSED ACCOUNT BALANCE.**—The term ‘unused account balance’ means the excess (if any) of—

“(i) an amount equal to—

“(I)  $\frac{1}{2}$  of the agreed upon foregone remuneration of the individual for the calendar year under a flexible spending or similar arrangement, times

“(II) the number of months in such calendar year ending with the month in which the date of the involuntary separation from employment of such individual occurs, over

“(ii) the amount of allowable expenses of such individual for such calendar year paid or accrued under such arrangement prior to such date.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to involuntary separations after December 31, 2001.

**SA 2801.** Mr. SCHUMER (for himself, and Mrs. CLINTON) 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:

**TITLE VI—TAX INCENTIVES FOR NEW YORK CITY**

**SEC. 601. TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001.**

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

**“Subchapter Y—New York Liberty Zone Benefits**

“Sec. 1400L. Tax benefits for New York Liberty Zone.

**“SEC. 1400L. TAX BENEFITS FOR NEW YORK LIBERTY ZONE.**

“(a) EXPANSION OF WORK OPPORTUNITY TAX CREDIT.—

“(1) IN GENERAL.—For purposes of section 51, a New York Liberty Zone business employee shall be treated as a member of a targeted group.

“(2) NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘New York Liberty Zone business employee’ means, with respect to any taxable year which includes any portion of the period beginning after September 10, 2001, and ending before January 1, 2004, any employee of a New York Liberty Zone business if—

“(i) substantially all the services performed during such portion of such taxable year by such employee for such business are performed in an area described in subparagraph (B) in a trade or business of such business,

“(ii) the annual rate of remuneration received by such employee for such services during such portion of such taxable year does not exceed \$200,000, and

“(iii) with respect to any employee of such business described in subparagraph (B)(i)(II), such employee is designated by such business as a New York Liberty Zone business employee for purposes of this subsection, except that the total employees so designated for any taxable year shall not exceed the lesser of 250 employees or the excess of—

“(I) the number of employees of such business on September 11, 2001, in the New York Liberty Zone, over

“(II) the number of employees of such business treated as New York Liberty Zone business employees for such taxable year with respect to any business located in the New York Liberty Zone.

The Secretary may require any business to have the number determined under clause (ii)(I) verified by the New York State Department of Labor.

“(B) NEW YORK LIBERTY ZONE BUSINESS.—The term ‘New York Liberty Zone business’ means any business which is—

“(i) located in the New York Liberty Zone, or

“(ii) located in the City of New York, New York, outside the New York Liberty Zone, as the result of the physical destruction or damage of such place of business by the September 11, 2001, terrorist attack.

“(C) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying subpart E of part IV of subchapter B of this chapter to wages paid or incurred to any New York Liberty Zone business employee—

“(i) section 51(a) shall be applied by substituting ‘qualified wages’ for ‘qualified first-year wages’,

“(ii) the rules of section 52 shall apply for purposes of determining the number of employees under subparagraph (A)(iii),

“(iii) subsections (c)(4) and (i)(2) of section 51 shall not apply, and

“(iv) in determining qualified wages, the following shall apply in lieu of section 51(b):

“(I) QUALIFIED WAGES.—The term ‘qualified wages’ means the wages paid or incurred by the employer for work performed during the period beginning on September 11, 2001, and ending on December 31, 2004, to individuals who are New York Liberty Zone business employees of such employer.

“(II) ONLY FIRST \$6,000 OF WAGES PER TAXABLE YEAR TAKEN INTO ACCOUNT.—The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000 per taxable year of the employer.

“(b) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001.—

“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified New York Liberty Zone 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 such property, and

“(B) the adjusted basis of the qualified New York Liberty Zone 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 NEW YORK LIBERTY ZONE PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified New York Liberty Zone 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,

“(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, or

“(III) which is nonresidential real property or residential rental property which is described in subparagraph (B),

“(ii) substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

“(iii) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001,

“(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after September 10, 2001, but only if no written binding contract for the acquisition was in effect before September 11, 2001, and

“(v) which is placed in service by the taxpayer on or before the termination date.

The term ‘termination date’ means December 31, 2006 (December 31, 2009, in the case of nonresidential real property and residential rental property).

“(B) ELIGIBLE REAL PROPERTY.—Nonresidential real property or residential rental property is described in this subparagraph if it rehabilitates property damaged, or replaces property destroyed or condemned, as a result of the September 11, 2001, terrorist attack. For purposes of the preceding sentence, property shall be treated as replacing property so destroyed if, as part of an integrated plan, such property replaces property which is included in a continuous area which includes property so destroyed.

“(C) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified New York Liberty Zone property’ shall not include any property to which the alternative depreciation system under section 168(g) applies, determined—

“(I) without regard to paragraph (7) of section 168(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 (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before the termination date.

“(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(iii), 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 leaseback referred to in subclause (II).

“(E) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The deduction allowed by this subsection shall be allowed in determining alternative minimum taxable income under section 55.

“(c) TAX-EXEMPT BOND FINANCING.—

“(1) IN GENERAL.—For purposes of this title, any qualified New York Liberty Bond shall be treated as an exempt facility bond.

“(2) QUALIFIED NEW YORK LIBERTY BOND.—For purposes of this subsection, the term ‘qualified New York Liberty Bond’ means any bond issued as part of an issue if—

“(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs,

“(B) such bond is issued by the State of New York or any political subdivision thereof (or any agency, instrumentality or constituted authority on behalf thereof),

“(C) the Governor of the State of New York or the Mayor of the City of New York, designates such bond for purposes of this section, and

“(D) such bond is issued during calendar year 2002, 2003, or 2004.

“(3) LIMITATIONS ON AMOUNT OF BONDS.—

“(A) AGGREGATE AMOUNT DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed \$8,000,000,000, of which not to exceed \$4,000,000,000 may be designated by the Governor of the State of New York and not to exceed \$4,000,000,000 may be designated by the Mayor of the City of New York.

“(B) SPECIFIC LIMITATIONS.—The aggregate face amount of bonds issued which are to be used for—

“(i) costs for property located outside the New York Liberty Zone shall not exceed \$2,000,000,000,

“(ii) costs with respect to residential property—

“(I) shall not exceed \$1,600,000,000, and

“(II) shall not include, on a project by project basis, per-unit qualified project costs that exceed the maximum per-unit allowable costs within the discretionary authority of the Secretary of Housing and Urban Development under section 221(a)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(iii)), and

“(iii) costs with respect to property used for retail sales of tangible property and functionally related and subordinate property shall not exceed \$800,000,000.

The limitations under clauses (i), (ii), and (iii) shall be applied proportionately to the bonds designated under this subsection by the Governor of the State of New York and the Mayor of the City of New York.

“(C) MOVABLE PROPERTY.—No bonds shall be issued which are to be used for movable fixtures and equipment.

“(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified project costs’ means the cost of acquisition, construction, reconstruction, rehabilitation, and renovation of—

“(i) nonresidential real property and residential property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone, and

“(ii) public utility property (as defined in section 168(i)(10)) located in the New York Liberty Zone.

“(B) COSTS FOR CERTAIN PROPERTY OUTSIDE ZONE INCLUDED.—Such term includes the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if—

“(i) such property is part of a project which consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings, or

“(ii) such property consists of electric generation facilities of not more than 150 mw to provide additional energy capacity in the New York Liberty Zone.

“(5) SPECIAL RULES.—In applying this title to any qualified New York Liberty Bond, the following modifications shall apply:

“(A) Section 146 (relating to volume caps) shall not apply.

“(B) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting ‘50 percent’ for ‘15 percent’ each place it appears.

“(C) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to the available construction proceeds of bonds issued under this section.

“(D) Repayments of principal on financing provided by the issue—

“(i) may not be used to provide financing, and

“(ii) must be used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

“(E) Section 57(a)(5) shall not apply.

“(6) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

“(d) ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.—

“(1) IN GENERAL.—With respect to a bond described in paragraph (2) issued as part of an issue 90 percent (95 percent in the case of a bond described in paragraph (2)(C)) or more of the net proceeds (as defined in section 150(a)(3)) of which were used to finance facilities located within the City of New York, New York (or functionally related and subor-

dinate to such facilities for the furnishing of water), one additional advanced refunding after December 31, 2001, and before January 1, 2005, shall be allowed under the applicable rules of section 149(d) if the requirements of paragraphs (3) and (4) are met.

“(2) BONDS DESCRIBED.—A bond is described in this paragraph if such bond was outstanding on September 11, 2001, and is—

“(A) a State or local bond (as defined in section 103(c)(1)) which is a general obligation of the City of New York, New York,

“(B) a State or local bond (as so defined) other than a private activity bond (as defined in section 141(a)) issued by the New York City Municipal Water Finance Authority or the Metropolitan Transportation Authority (MTA) of the State of New York, or

“(C) a qualified 501(c)(3) bond (as defined in section 145(a)) which is a qualified hospital bond (as defined in section 145(c)) issued by or on behalf of either the State of New York or the City of New York, New York, or political subdivisions, agencies, or instrumentalities thereof.

“(3) APPROVAL; AGGREGATE LIMIT.—Paragraph (1) shall not apply to the advance refunding of any bond—

“(A) unless Governor of the State of New York or the Mayor of the City of New York designates the bond for purposes of this subsection, and

“(B) to the extent the aggregate face amount of the advance refunding bond, when added to the aggregate face amount of advance refunding bonds previously issued under this subsection, exceeds \$9,000,000,000.

The limitation under subparagraph (B) shall be applied equally between the bonds designated under subparagraph (A) by the Governor of the State of New York and by the Mayor of the City of New York.

“(4) ADDITIONAL REQUIREMENTS.—The requirements of this paragraph are met if—

“(A) all advance refundings of a bond described in paragraph (2) allowed under any provision of law other than the advance refunding allowed under paragraph (1) were utilized before September 12, 2001,

“(B) the advance refunding bond allowed under paragraph (1) is the only other outstanding bond with respect to the refunded bond described in paragraph (2), and

“(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

“(e) INCREASE IN EXPENSING UNDER SECTION 179.—

“(1) IN GENERAL.—For purposes of section 179—

“(A) the limitation under section 179(b)(1) shall be increased by the lesser of—

“(i) \$35,000, or

“(ii) the cost of section 179 property which is qualified New York Liberty Zone property placed in service during the taxable year, and

“(B) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified New York Liberty Zone property shall be 50 percent of the cost thereof.

“(2) QUALIFIED NEW YORK LIBERTY ZONE PROPERTY.—For purposes of this subsection, the term ‘qualified New York Liberty Zone property’ has the meaning given such term by subsection (b)(2).

“(3) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified New York Liberty Zone property which ceases to be used in the New York Liberty Zone.

“(f) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting ‘5 years’ for ‘2 years’

with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

“(g) NEW YORK LIBERTY ZONE.—For purposes of this section, the term ‘New York Liberty Zone’ means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.”

(b) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

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

“(3) SPECIAL RULES FOR NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE CREDIT.—

“(A) IN GENERAL.—In the case of the New York Liberty Zone business employee credit—

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

“(ii) in applying paragraph (1) to such credit—

“(I) the tentative minimum tax shall be treated as being zero, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the New York Liberty Zone business employee credit).

“(B) NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE CREDIT.—For purposes of this subsection, the term ‘New York Liberty Zone business employee credit’ means the portion of work opportunity credit under section 51 determined under section 1400L(a).”

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting “or the New York Liberty Zone business employee credit” after “employment credit”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after September 11, 2001.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

“Subchapter Y—New York Liberty Zone Benefits.”

**SA 2802.** Mr. CRAIG 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. . . EXPANSION OF AVAILABILITY OF ARCHER MEDICAL SAVINGS ACCOUNTS.**

(a) REPEAL OF LIMITATIONS ON NUMBER OF MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Subsections (i) and (j) of section 220 of the Internal Revenue Code of 1986 are hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (D).

(B) Section 138 of such Code is amended by striking subsection (f).

(b) AVAILABILITY NOT LIMITED TO ACCOUNTS FOR EMPLOYEES OF SMALL EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(1) of such Code (relating to eligible individual) is amended to read as follows:

“(A) IN GENERAL.—The term ‘eligible individual’ means, with respect to any month, any individual if—

“(i) such individual is covered under a high deductible health plan as of the 1st day of such month, and

“(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

“(I) which is not a high deductible health plan, and

“(II) which provides coverage for any benefit which is covered under the high deductible health plan.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 220(c)(1) of such Code is amended by striking subparagraph (C).

(B) Section 220(c) of such Code is amended by striking paragraph (4) (defining small employer) and by redesignating paragraph (5) as paragraph (4).

(C) Section 220(b) of such Code is amended by striking paragraph (4) (relating to deduction limited by compensation) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(C) INCREASE IN AMOUNT OF DEDUCTION ALLOWED FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Paragraph (2) of section 220(b) of such Code is amended to read as follows:

“(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal to  $\frac{1}{2}$  of the annual deductible (as of the first day of such month) of the individual’s coverage under the high deductible health plan.”.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 220(d)(1)(A) of such Code is amended by striking “75 percent of”.

(d) BOTH EMPLOYERS AND EMPLOYEES MAY CONTRIBUTE TO MEDICAL SAVINGS ACCOUNTS.—Paragraph (4) of section 220(b) of such Code (as redesignated by subsection (b)(2)(C)) is amended to read as follows:

“(4) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—The limitation which would (but for this paragraph) apply under this subsection to the taxpayer for any taxable year shall be reduced (but not below zero) by the amount which would (but for section 106(b)) be includible in the taxpayer’s gross income for such taxable year.”.

(e) REDUCTION OF PERMITTED DEDUCTIBLES UNDER HIGH DEDUCTIBLE HEALTH PLANS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(2) of such Code (defining high deductible health plan) is amended—

(A) by striking “\$1,500” in clause (i) and inserting “\$1,000”; and

(B) by striking “\$3,000” in clause (ii) and inserting “\$2,000”.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 220 of such Code is amended to read as follows:

“(g) COST-OF-LIVING ADJUSTMENT.—

“(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1998, each dollar amount in subsection (c)(2) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting ‘calendar year 1997’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) SPECIAL RULES.—In the case of the \$1,000 amount in subsection (c)(2)(A)(i) and the \$2,000 amount in subsection (c)(2)(A)(ii), paragraph (1)(B) shall be applied by substituting ‘calendar year 2000’ for ‘calendar year 1997’.

“(3) ROUNDING.—If any increase under paragraph (1) or (2) is not a multiple of \$50, such increase shall be rounded to the nearest multiple of \$50.”.

(f) PROVIDING INCENTIVES FOR PREFERRED PROVIDER ORGANIZATIONS TO OFFER MEDICAL SAVINGS ACCOUNTS.—Clause (ii) of section 220(c)(2)(B) of such Code is amended by striking “preventive care if” and all that follows and inserting “preventive care.”

(g) MEDICAL SAVINGS ACCOUNTS MAY BE OFFERED UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by striking “106(b).”.

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

(i) 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 section 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 2803.** Mr. THURMOND 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. . TEMPORARY INCREASE IN DEDUCTION FOR CAPITAL LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.**

(a) IN GENERAL.—Subsection (b) of section 1211 of the Internal Revenue Code of 1986 (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 ‘\$4,000’ for ‘\$3,000’ and ‘\$2,000’ for ‘\$1,500’ in the case of taxable years beginning in 2001, and by substituting ‘\$5,000’ for ‘\$3,000’ and ‘\$2,500’ for ‘\$1,500’ in the case of taxable years beginning in 2002.”.

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

**SA 2804.** Mr. SESSIONS 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:

Strike all after “SECTION” and insert the following:

**1. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This Act 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 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 con-

sidered 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 VII—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 Act.

### 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 Act.

## 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 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 pe-

riod 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) (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 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).

“(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 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 2805.** Mr. SESSIONS 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:

Add at the end of title V of the amendment, add the following:

### **SEC. \_\_\_\_ . 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. \_\_\_\_ . 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.

**SA 2806.** 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 end, add the following:

**TITLE VI—REFUNDABLE HEALTH INSURANCE COSTS CREDIT**

**SEC. 601. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.**

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable personal credits) is amended by redesignating section 35 as section 36 and inserting after section 34 the following:

**“SEC. 35. HEALTH INSURANCE COSTS.**

“(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount paid by the taxpayer during such taxable year for qualified health insurance for the taxpayer and the taxpayer’s spouse and dependents.

“(b) LIMITATIONS.—

“(1) MAXIMUM DOLLAR AMOUNT.—

“(A) IN GENERAL.—The amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the sum of the monthly limitations for coverage months during such taxable year.

“(B) MONTHLY LIMITATION.—The monthly limitation for each coverage month during the taxable year is an amount equal to 75 percent of the amount paid for qualified health insurance for such month.

“(2) 12-MONTH LIMITATION.—For purposes of paragraph (1), the total number of coverage months taken into account with respect to each qualifying event of the individual shall not exceed the lesser of—

“(A) the total number of consecutive coverage months starting with the first coverage month with respect to the event, or

“(B) 12.

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

“(1) COVERAGE MONTH.—

“(A) IN GENERAL.—The term ‘coverage month’ means, with respect to an individual, any month if—

“(i) as of the first day of such month such individual is covered by qualified health insurance, and

“(ii) the premium for coverage under such insurance, or any portion of the premium, for such month is paid by the taxpayer.

“(B) EXCLUSION OF MONTHS IN WHICH INDIVIDUAL IS IMPRISONED.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

“(2) ELIGIBLE INDIVIDUAL.—

“(A) IN GENERAL.—The term ‘eligible individual’ means an individual who is—

“(i) a covered employee (as defined in section 4980B(f) of the plan sponsor of the qualified health insurance, and

“(ii) eligible for continuation coverage by reason of a qualifying event which occurs after September 11, 2001.

“(B) DEPENDENTS OF TERRORIST VICTIMS.—The term ‘eligible individual’ shall include the spouse, child, or other individual who—

“(i) was an insured under health insurance coverage of an individual who was killed as a result of the terrorist-related aircraft crashes on September 11, 2001, or as a result of any other terrorist-related event occurring during the period beginning on September 11, 2001, and ending on December 31, 2002, and

“(ii) is eligible for continuation coverage by reason of the death of such individual.

“(C) CERTAIN COVERAGE TREATED AS CONTINUATION COVERAGE.—If an individual during the period beginning on September 11, 2001, and ending on December 31, 2002—

“(i) elects to take a voluntary leave program offered by such individual’s employer after the employer has announced that employee separations will occur as a result of the terrorist-related aircraft crashes on September 11, 2001, or as a result of any other terrorist-related event occurring during such period; and

“(ii) is eligible under such voluntary leave program, and has elected, to continue their health insurance coverage under a group health plan through payment of 100 percent of the premium for such coverage,

then, for purposes of this section, such individual shall be treated as an eligible individual and such coverage shall be treated as qualified health insurance.

“(3) QUALIFIED HEALTH INSURANCE.—The term ‘qualified health insurance’ means health insurance coverage under—

“(A) a COBRA continuation provision (as defined in section 9832(d)(1)), or

“(B) section 8905a of title 5, United States Code.

Such term includes such continuation coverage provided in a State that has enacted a law that requires such coverage even though the coverage would not otherwise be required under the provisions of law referred to in subparagraph (A).

“(4) QUALIFYING EVENT.—The term ‘qualifying event’ means an event described in section 4980B(f)(3)(B), except that such term shall not include a voluntary termination.

“(d) SPECIAL RULES.—

“(1) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

“(2) COORDINATION WITH ADVANCE PAYMENT.—Rules similar to the rules of section 32(g) shall apply to any credit to which this section applies.

“(e) EXPENSES MUST BE SUBSTANTIATED.—A payment for insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.

“(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

“(g) TERMINATION.—This section shall not apply to any amount paid after December 31, 2002.”.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following:

**“SEC. 6050T. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.**

“(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

“(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

“(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

“(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage,

“(C) the aggregate amount of payments described in subsection (a),

“(D) the qualified health insurance credit advance amount (as defined in section 7527(e)) received by such person with respect to the individual described in subparagraph (A), and

“(E) such other information as the Secretary may reasonably prescribe.

“(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term ‘creditable health insurance’ means qualified health insurance (as defined in section 35(c)).

“(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

“(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished,

“(3) the information required under subsection (b)(2)(B) with respect to such payments, and

“(4) the qualified health insurance credit advance amount (as defined in section 7527(e)) received by such person with respect to the individual described in paragraph (2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

“(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).”.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following:

“(xi) section 6050T (relating to returns relating to payments for qualified health insurance).”.

(B) Paragraph (2) of section 6724(d) is amended by striking “or” at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting “, or”, and by adding at the end the following:

“(BB) section 6050T(d) (relating to returns relating to payments for qualified health insurance).”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050S the following:

“Sec. 6050T. Returns relating to payments for qualified health insurance.”.

(c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B of chapter 75 (relating to other offenses) is amended by adding at the end the following:

**“SEC. 7276. PENALTIES FOR OFFENSES RELATING TO HEALTH INSURANCE TAX CREDIT.”**

“Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for health insurance costs under section 35 shall on conviction thereof be fined not more than \$10,000, or imprisoned not more than 1 year, or both.”.

(d) CONFORMING AMENDMENTS.—

(1) Section 162(l) is amended by adding at the end the following:

“(6) ELECTION TO HAVE SUBSECTION APPLY.—No deduction shall be allowed under paragraph (1) for a taxable year unless the taxpayer elects to have this subsection apply for such year.”.

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “, or from section 35 of such Code”.

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the last item and inserting the following:

“Sec. 35. Health insurance costs.

“Sec. 36. Overpayments of tax.”.

(4) The table of sections for subchapter B of chapter 75 is amended by adding at the end the following:

“Sec. 7276. Penalties for offenses relating to health insurance tax credit.”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years begin-

ning after December 31, 2001, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(2) PENALTIES.—The amendments made by subsections (c) and (d)(4) shall take effect on the date of the enactment of this Act.

**SEC. 602. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF QUALIFIED HEALTH INSURANCE.**

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following:

**“SEC. 7527. ADVANCE PAYMENT OF HEALTH INSURANCE CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.”**

“(a) GENERAL RULE.—Every plan sponsor of a group health plan providing, or qualified health insurance issuer of, qualified health insurance to an eligible individual shall—

“(1) make qualified premium payments with respect to such individual in an amount equal to the qualified health insurance credit advance amount, and

“(2) treat such payments in the manner provided in subsection (g).

“(b) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ‘eligible individual’ means any individual—

“(1) who purchases qualified health insurance (as defined in section 35(c)), and

“(2) for whom a qualified health insurance credit eligibility certificate is in effect.

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

“(1) QUALIFIED HEALTH INSURANCE ISSUER.—The term ‘qualified health insurance issuer’ means a health insurance issuer described in section 9832(b)(2) (determined without regard to the last sentence thereof) offering coverage in connection with a group health plan.

“(2) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given such term by section 5000(b)(1) (determined without regard to subsection (d) thereof).

“(3) QUALIFIED PREMIUM PAYMENTS.—The term ‘qualified premium payments’ means any amount paid or incurred, cost incurred, or health coverage value provided, with respect to qualified health insurance for an eligible individual and the individual’s spouse and dependents. For purposes of the preceding sentence, in the case of a group health plan, the health coverage value is equal to the applicable premium under the plan for the qualified health insurance coverage provided to an eligible individual and the individual’s spouse and dependents, as determined under section 4980B.

“(d) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement furnished by an individual to a plan sponsor of a group health plan or qualified health insurance issuer which—

“(1) certifies that the individual will be eligible to receive the credit provided by section 35 for the taxable year,

“(2) estimates the amount of such credit for such taxable year, and

“(3) provides such other information as the Secretary may require for purposes of this section.

“(e) QUALIFIED HEALTH INSURANCE CREDIT ADVANCE AMOUNT.—For purposes of this section, the term ‘qualified health insurance credit advance amount’ means, with respect to any plan sponsor of a group health plan providing, or qualified health insurance issuer of, qualified health insurance, the amount of credit allowable under section 35 to the individual for the taxable year which is attributable to the insurance provided to the individual by such sponsor or issuer.

“(f) REQUIRED DOCUMENTATION FOR RECEIPT OF PAYMENTS OF ADVANCE AMOUNT.—No pay-

ment of a qualified health insurance credit advance amount with respect to any eligible individual may be made under subsection (a) unless the plan sponsor of the group health plan or qualified health insurance issuer provides to the Secretary—

“(1) the qualified health insurance credit eligibility certificate of such individual, and

“(2) the return relating to such individual under section 6050T.

“(g) QUALIFIED PREMIUM PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AMOUNTS AND CERTAIN EMPLOYER TAX.—

“(1) IN GENERAL.—For purposes of this title, qualified premium payments made or costs incurred by the sponsor of a group health plan, or any entity designated by the sponsor to make such payments or incur such costs—

“(A) shall not be treated as compensation, and

“(B) shall be treated, in such manner as provided by the Secretary, as made out of—

“(i) amounts required to be deposited by the taxpayer as estimated income tax under section 6654 or 6655,

“(ii) amounts required to be deducted and withheld under section 3401 (relating to wage withholding),

“(iii) amounts of the taxes imposed under section 3111(a) or 50 percent of taxes imposed under section 1401(a) (relating to FICA employer taxes), or

“(iv) amounts required to be deducted under section 3102 with respect to taxes imposed under section 3101(a) or 50 percent of taxes imposed under section 1401(a) (relating to FICA employee taxes),

as if such sponsor, or such designated entity, had paid to the Secretary an amount equal to such payments.

“(2) QUALIFIED PREMIUM PAYMENTS EXCEED TAXES DUE.—In the case of any entity, if for any time period the aggregate qualified premium payments exceed the amounts described in paragraph 1(B), the Secretary shall reduce amounts described in such paragraph for any succeeding time period as necessary to reflect such excess.

“(3) FAILURE TO MAKE QUALIFIED PREMIUM PAYMENTS.—For purposes of this title (including penalties), failure to make a qualified premium payment with respect to an eligible individual at the time provided therefor shall be treated as the failure at such time to deduct and withhold under chapter 24 of such Code in an amount equal to the amount of such qualified premium payments.

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following:

“Sec. 7527. Advance payment of health insurance credit for purchasers of qualified health insurance.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

**SEC. 603. COBRA NOTIFICATION REQUIREMENTS.**

(a) CHANGE IN COBRA NOTICE.—

(1) GENERAL NOTICE.—For purposes of this section—

(A) IN GENERAL.—Any notice required to be provided under section 4980B(f)(6) of the Internal Revenue Code of 1986, section 2206 of the Public Health Service Act (42 U.S.C. 300bb-6), section 606 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166), or section 8905a(f)(2)(A) of title 5,

United States Code, with respect to an eligible individual shall include an additional notification to the recipient of the availability of qualified premium payments for such coverage under section 7527 of the Internal Revenue Code of 1986.

(B) **ALTERNATIVE NOTICE.**—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure the provision of such notice.

(C) **FORM.**—The requirement of the additional notification under this paragraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(2) **SPECIFIC REQUIREMENTS.**—Each additional notification under paragraph (1) shall include the following:

(A) The forms necessary for establishing eligibility for, and making a designation to request, qualified premium payments under section 7527 of the Internal Revenue Code of 1986.

(B) The following displayed in a prominent manner:

(i) The name, address, and telephone number necessary to contact the employer, administrator, and any other person maintaining relevant information in connection with how to request such qualified premium payments.

(ii) The toll-free telephone number and Internet website address established under paragraph (4)(A)(i).

(iii) The name, address, and telephone number for the group health plan (including a multiemployer plan), issuer of health insurance coverage, administrator, an employer, or other entity (as appropriate with respect to the individual) that will collect the monthly premium for such coverage, specifying that the forms described in subparagraph (A) are to be completed by the individual and sent to such entity.

(iv) The following statement:

"You may be eligible to receive qualified premium payments for payment of 75 percent of your COBRA continuation coverage premiums and with temporary medicaid coverage for the remaining premium portion for a duration of not to exceed 12 months. This assistance will not be available after December 31, 2002. Return the enclosed forms as soon as possible to the address specified."

(C) The dollar amount equal to 25 percent of the monthly 2002 premium that would be owed during 2002 by the individual for the coverage if the individual is eligible for, and requests, qualified premium payments.

(3) **SUPPLEMENTAL NOTICE FOR INDIVIDUALS PREVIOUSLY PROVIDED NOTICE OR WHOSE ELECTION PERIOD IS TEMPORARILY EXTENDED.**—In the case of notices described in paragraph (1) which were transmitted before the date of enactment of this Act to an eligible individual who has elected (or is still eligible to elect, including as a result of section 604) COBRA continuation coverage as of the date of enactment of this Act, the employer, administrator, or other entity involved, or the Secretary of the Treasury, in consultation with the Secretary of Labor (in the case described in the paragraph (1)(B)), shall provide (within the period required under paragraph (4)(B)(i)) for the additional notification required to be provided under this subsection.

(4) **REQUIRED TIMELINE.**—

(A) **IN GENERAL.**—Not later than 15 days after the date of enactment of this Act, the Secretary of the Treasury shall—

(i) establish a toll-free telephone number and an Internet website to provide informa-

tion and answer inquiries about the qualified premium payments available under section 7527 of the Internal Revenue Code of 1986;

(ii) prescribe models for the additional notification required under this subsection and the forms necessary for establishing eligibility, and requesting, such qualified premium payments;

(iii) notify each covered employer, plan sponsors of a group health plan providing qualified health insurance, and qualified health insurance issuers of qualified health insurance of such qualified premium payments, and notify each covered employer of the additional notification required under this subsection;

(iv) make the model notification and forms under clause (ii) available to each such covered employer; and

(v) provide, in consultation with the Secretary of Labor, the additional notification required for individuals described in paragraph (1)(B).

(B) **COVERED EMPLOYERS.**—Not later than 15 days after the model notification and forms are made available under subparagraph (A)(iv), each covered employer or their designee shall—

(i) provide the additional notification required under this subsection; and

(ii) be able to comply with such additional notification requirement in the case of any individual described in paragraph (1)(A).

(C) **DEFINITION OF COVERED EMPLOYER.**—For purposes of this section, the term "covered employer" means, for any calendar year, any person on whom an excise tax is imposed under section 3111 or 1401 of the Internal Revenue Code of 1986 with respect to having an individual in the person's employ to whom wages are paid by such person during such calendar year.

(5) **ELIGIBLE INDIVIDUAL.**—For purposes of this subsection, the term "eligible individual" has the meaning given such term by section 35(c)(2) of the Internal Revenue Code of 1986.

(b) **EFFECTIVE DATE.**—This section shall not apply with respect to qualified premium payments made after December 31, 2002.

#### **SEC. 604. TEMPORARY EXTENSION OF ELECTION PERIOD FOR CERTAIN SEPARATED INDIVIDUALS.**

(a) **TEMPORARY EXTENSION OF ELECTION PERIOD FOR CERTAIN SEPARATED INDIVIDUALS.**—Notwithstanding any other provision of law, the election period for COBRA continuation coverage with respect to any eligible individual (as defined in section 35(c)(2) of the Internal Revenue Code of 1986) for whom such period has expired as of the date of enactment of this Act, shall not end before the date that is 60 days after the date the individual receives the supplemental notice required under section 603(a)(3).

(b) **PREEXISTING CONDITIONS.**—If an individual is entitled to a supplemental notice under section 603(a)(3), any period before the receipt of such notice shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)), section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)), and section 9801(c)(2) of the Internal Revenue Code of 1986.

**SA 2807.** Mr. SESSIONS (for Mr. KYL (for himself, Mr. NICKLES, and Mr. SESSIONS)) proposed an amendment to amendment SA 2721 submitted by Mr. REID and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE 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 2808.** Mr. DORGAN (for himself, Mr. REID, Mr. INOUE, and Mr. CONRAD) proposed an amendment to amendment SA 2764 submitted Mr. REID and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE 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:

#### **TITLE —TRAVEL INDUSTRY STABILIZATION**

##### **SECTION .01. SHORT TITLE.**

This title may be cited as the "American Travel Industry Stabilization Act".

##### **SEC. .02. TRAVEL INDUSTRY DISASTER RELIEF.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the President shall take the actions described in subsection (b) to compensate eligible travel-related businesses.

(b) **ACTIONS DESCRIBED.**—

(1) **IN GENERAL.**—Subject to such terms and conditions as the President deems necessary, and upon application, the President is authorized to issue Federal credit instruments to eligible travel-related businesses described in subsection (c) that do not, in the aggregate, exceed \$2,000,000,000 and provide the subsidy amounts necessary for such instruments in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(2) **TIME FOR APPLICATION.**—An application for a Federal credit instrument shall be filed by an eligible travel-related business not later than 1 year after the promulgation of regulations.

(3) **TERMS OF CREDIT INSTRUMENTS.**—A loan guaranteed under this title may be used exclusively for the purpose of meeting obligations and expenses to the extent that an applicant demonstrates—

(A) business operations were directly and adversely affected by the events of September 11, 2001;

(B) the loan guarantee is necessary to meet such obligations;

(C) the inability of the applicant to meet such obligations or expenses is directly attributable to the impact of September 11, 2001; and

(D) the applicant has the ability to repay the loan.

(c) **DEFINITIONS.**—In this title:

(1) **BOARD.**—The term "Board" means the Air Transportation Stabilization Board established under the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note; P.L. 107-42).

(2) **ELIGIBLE TRAVEL-RELATED BUSINESS.**—The term "eligible travel-related business" means a business that was injured by the Government shutdown of the airline industry following the terrorist attacks on the United States that occurred on September 11, 2001, and that on such date—

(A) had a contractual arrangement with an air carrier to provide goods or services, including those with a contractual relationship with the Airline Reporting Corporation; or



(B) was a nonaeronautical for-profit business operating at an airport engaged in the sale of consumer goods or services to the public under an arrangement with the airport or the airport's governing body.

(3) **FEDERAL CREDIT INSTRUMENT.**—The term "Federal credit instrument" means any guarantee or other pledge by the Board issued under section 202(b) to pledge the full faith and credit of the United States to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(4) **FINANCIAL OBLIGATION.**—The term "financial obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with financing under this section and section 202(b).

(5) **LENDER.**—The term "lender" means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulatory) known as rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c))) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d))) that is a qualified institutional buyer.

(6) **OBLIGOR.**—The term "obligor" means a party primarily liable for payment of the principal of, or interest on, a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(d) **EMERGENCY DESIGNATION.**—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

#### **SEC. 303. ADDITIONAL FUNCTIONS FOR THE AIRLINE STABILIZATION BOARD.**

(a) **ADDITIONAL FUNCTIONS TO STABILIZE THE TRAVEL INDUSTRY.**—The Board shall review and make recommendations to the President with respect to applications for Federal credit instruments submitted under section 202(b).

(b) **FEDERAL CREDIT INSTRUMENTS.**—

(1) **IN GENERAL.**—The Board may enter into agreements with 1 or more obligors to issue Federal credit instruments under section 202(b) if the Board determines, in its discretion, that—

(A) the obligor is an entity in a travel-related business for which credit is not reasonably available at the time of the transaction;

(B) the intended obligation by the obligor is prudently incurred; and

(C) such agreement is a necessary part of maintaining a safe, efficient, and viable travel industry in the United States.

(2) **TERMS AND LIMITATIONS.**—

(A) **FORMS, TERMS, AND CONDITIONS.**—A Federal credit instrument shall be issued under section 202(b) in such form and such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Board determines appropriate, provided that—

(1) a loan shall be repaid over a period not to exceed 5 years from the date that the loan is guaranteed under this title;

(ii) the Government guarantee shall cover not less than 80 percent of the value of the loan;

(iii) loan guarantees under this title shall be extended based upon the ability of the eligible travel-related business to repay the loan without regard to collateral; and

(iv) any loan origination fee may not exceed 1 percent of the loan value.

(B) **PROCEDURES.**—Not later than 14 days after the date of enactment of this title, the Director of the Office of Management and Budget, in consultation with the Board, shall issue regulations setting forth procedures for application and minimum requirements.

(c) **FINANCIAL PROTECTION OF GOVERNMENT.**—

(1) **IN GENERAL.**—To the extent feasible and practicable, as provided in paragraphs (2) and (3), the Board shall ensure that the Government is compensated for the risk assumed in making guarantees under this title.

(2) **GOVERNMENT PARTICIPATION IN GAINS.**—To the extent to which any participating corporation accepts financial assistance, in the form of accepting the proceeds of any loans guaranteed by the Government under this title, the Board is authorized to enter into contracts under which the Government, contingent on the financial success of the participating corporation, would participate in the gains of the participating corporation or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments.

(3) **DEPOSIT IN TREASURY.**—All amounts collected by the Secretary of the Treasury under this subsection shall be deposited in the Treasury as miscellaneous receipts.

(e) **AUTHORIZATION OF FUNDS.**—Congress authorizes and hereby appropriates such sums as are necessary to carry out the purposes of this title.

**SA 2809.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2773 submitted by Mr. GRASSLEY 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:

Add at the end of subtitle A of title VI of the amendment, add the following:

#### **SEC. \_\_\_\_ . 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. \_\_\_\_ . 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.

**SA 2810.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2773 submitted by Mr. GRASSLEY 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 subtitle A of title VI of the amendment, add the following:

#### **SEC. \_\_\_\_ . 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. \_\_\_\_ . 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.

**SEC. \_\_\_\_ . 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. \_\_\_\_ . 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. \_\_\_\_ . 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. \_\_\_\_ . 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.

**SA 2811.** Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBACK, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) submitted an amendment intended to be proposed to amendment SA 2700 submitted by Mr. MCCAIN 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:

Strike subsection (b) of the amendment and insert the following:

**(b) EFFECTIVE DATE; SPECIAL RULE.—**

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

**SA 2812.** Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBACK, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) submitted an amendment intended to be proposed to amendment SA 2790 submitted by Mr. NICKLES and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE 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 subsection (b) of the amendment and insert the following:

**(b) EFFECTIVE DATE; SPECIAL RULE.—**

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

**SA 2813.** Mr. BOND 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. . MODIFICATION OF UNRELATED BUSINESS INCOME LIMITATION ON INVESTMENT IN CERTAIN DEBT-FINANCED PROPERTIES.**

(a) IN GENERAL.—Section 514(c)(6) of the Internal Revenue Code of 1986 (relating to acquisition indebtedness) is amended—

(1) by striking "include an obligation" and inserting "include—

"(A) an obligation",

(2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(B) indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

"(i) issued by such company under section 303(a) of such Act, or

"(ii) held or guaranteed by the Small Business Administration.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to acquisitions made on or after the date of the enactment of this Act.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will conduct a Nomination hearing on February 13, 2002, in SH-216 at 9:30 a.m. The purpose of this hearing will be to consider the following nominations: Thomas Dorr the nominee for Under Secretary of Rural Development; Nancy Bryson, the administrations nominee to serve as general counsel for USDA; and Grace Daniel and Fred Dailey who are nominated to serve on the board of Federal Agricultural Mortgage Corporation.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an additional bill has been added to the hearing agenda for the hearing that was previously scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources on Thursday, February 14, 2002, beginning at 2:30 p.m., in room 366 of the Dirksen Senate Office Building in Washington, DC.

The additional measure to be considered is S. 1894, to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the sustainability and feasibility of its inclusion in the National Park System as part of Biscayne National Park.

For further information, please contact Shelley Brown of the committee staff at (202-224-5915).

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, February 5, 2002, at 9:30 a.m., in open session to receive testimony on the Defense authorization request for fiscal year 2003 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ARMED SERVICES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, February 5, 2002, at 4:30 p.m. in executive session to meet with members of the Canadian Senate Committee on National Security and Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, February 5, 2002, at 9:30 a.m., to conduct the first in a series of hearings on "The State of Financial Literacy and Education in America."

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, February 5, 2002, at 9:30 a.m., on pending committee business

### Executive Session Agenda

1. To authorize the issuance of a subpoena to compel testimony from Mr. Kenneth L. Lay, former Chairman and Chief Executive Officer and current board member of the Enron Corporation (Kevin Kayes, Jeanne Bumpus).

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, February 5, 2002, at 2:30 p.m., on implementation of the Aviation and Transportation Security Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate Committee on Finance be authorized to meet during the session of the Senate on Tuesday, February 5, 2002, at 2:30 p.m., to hear testimony on the President's fiscal year 2003 budget and tax proposals.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN AFFAIRS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 5, 2002, at 10:15 a.m., to hold a hearing entitled, "Foreign Policy Overview and the President's Fiscal Year 2003 Foreign Affairs Budget Request."

Witness: The Honorable Colin L. Powell, Secretary of State, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, February 5, 2002, at 9:30 a.m., to hold a hearing entitled, "Retirement Insecurity: 401(k) Crisis at Enron."

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Human Cloning: Must We Sacrifice Medical Research in the Name of a Total Ban?" on Tuesday, February 5, 2002, at 2 p.m., in Dirksen room 226.

### Witness List

Panel I: The Honorable Dave Weldon and the Honorable James C. Greenwood

Panel II: Dr. Irving L. Weissman, Chair, Panel on Scientific and Medical Aspects of Human Cloning, the National Academy of Sciences and Professor, Stanford University School of Medicine, Stanford, CA; Professor Henry T. Greely, Stanford University Law School, Stanford, CA; Professor R. Alta Charo, University of Wisconsin Law School, Madison, WI; Kris Gulden, Coalition for the Advancement of Medical Research, Washington, DC; Andrew Kimbrell, Executive Director, International Center for Technology Assessment, Washington, DC; and Father Kevin T. FitzGerald, Georgetown University Medical Center, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DORGAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, February 5, 2002, at 9:30 a.m., on Fighting Bioterrorism: Using America's Scientists and Entrepreneurs to find Solutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Nevada.

## UNANIMOUS CONSENT REQUEST—S. 180

Mr. REID. Madam President, I ask unanimous consent the Chair lay before the Senate a message from the House on S. 180; that the Senate disagree to the House amendment, agree to the request for conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Madam President, I object.