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Senate

The Senate met at 10:30 a.m. and was called to order by the Honorable BENJAMIN E. NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of America, source of our unity, and strength of our lives, we praise You for the privilege of living in this land of freedom and opportunity. On this day of the State of the Union Address by President George W. Bush, we ask for Your continued blessing on him. We thank You for him, his firm faith in You, his courageous leadership in the battle against terrorism, and his commitment to seek what is best for America.

Today, we renew our loyalty to our President as Commander in Chief, our attentiveness to listen to his vision, and our thoughtful reflection on his convictions on issues. Most of all, when he stands before the joint session of Congress and the Nation, may he feel our friendship, esteem, and encouragement. Bless the First Lady, Laura Bush, Vice President CHENEY, the President's Cabinet, and all who work with him in confronting the crises of our world in this turbulent, terrorist-troubled time. Be with the Senators as they affirm their primary commitment to You, their patriotism for America, and their creative debate on the soul-sized issues before our Nation. God, bless America and both Houses of Congress on this important day. Amen.

PLEDGE OF ALLEGIANCE

The ACTING PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 29, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN E. NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, as the Presiding Officer indicated, we will be in a period of morning business until 11 o'clock this morning. At 11 a.m. the Senate will resume consideration of H.R. 622, the economic stimulus bill, with the Durbin unemployment insurance amendment pending. There will be 30 minutes of debate for that amendment, and at 11:30 we will vote.

The Senate will recess from 12:30 until 2:15 today for weekly party conferences. I advise Members there are some amendments pending. The next two amendments in order will be those from this side of the aisle. I say to anyone who has any debate they want to have in relation to these amendments or the bill itself, this afternoon would be a good time. The leader has not announced whether there will be more votes this afternoon, but there very likely could be more. As we know, this afternoon we have a number of other things going on here.

Tonight is that time of the year when we will have the President coming from 1600 Pennsylvania Avenue to give his State of the Union Address. We anticipate that with relish. We look forward to that, as well as seeing how we can help him in his battle against terrorism and working to defeat the economic crisis we have at home.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I join with the Senator from Nevada in urging people to come to the floor with amendments. I am pleased we have had the opportunity to present amendments. I think the bill initially was not adequate. We do need to do that, and we are going to have an opportunity. I urge all Members to do that. We need also, of course, to give some thought to our spending. It looks as if it will be a real issue. We will be spending out of control if we are not careful.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for up to 10 minutes each.

RONALD REAGAN BOYHOOD HOME NATIONAL HISTORIC SITE

Mr. REID. I ask consent the Senate proceed to Calender No. 307, H.R. 400.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 400) to authorize the Secretary of the Interior to establish the Ronald Reagan Boyhood Home National Historic Site, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 400) was read the third time and passed.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

HISTORY STANDARDS IN NEW JERSEY TEXTBOOKS

Mr. BENNETT. Mr. President, yesterday there was an article in the newspaper that caught my attention. I hope sincerely that the article was incorrect. All Members have had the experience of being quoted in the newspaper and wondering where the reporter got the information that was the basis of the story. I hope that is the case with this article.

It was reported in the State of New Jersey a new set of history standards have been adopted and that textbooks in New Jersey high schools dealing with American history will now fail to mention the names of George Washington, Benjamin Franklin, or Thomas Jefferson. Further, it said the word ''war'' had been removed from the textbooks and in its place we have the word ''conflict,'' and there would be no discussion of wars.

Mr. President, I hope this is incorrect. It indicates that at least someone in New Jersey is prepared to make that State an isolated island of ignorance about American history. To think we can bring citizens into maturity in this country without their having any understanding of, indeed, no mention of, the names of George Washington, Benjamin Franklin, Thomas Jefferson, and the other Founding Fathers is absurd.

One of the best-selling books currently in the marketplace is the history of John Adams by David McCullough. On the dust jacket of the book, McCullough says, accurately, we as Americans cannot know too much about our Founding Fathers. We must never forget them. We must always learn as much as we possibly can about them.

I would say to those who are supporting this position in New Jersey schools, how are you going to explain to your students the fact that we take the Fourth of July as a holiday in this country if you are not going to tell them anything about the Revolutionary War? If you cannot even use the word ''war,'' how are you going to explain to these students that the country honors those who founded it and who fought that war; if you can't tell them the name of the commander of the Continental Army and the forces on the American side of that war because you think that name somehow no longer matters?

How are you going to describe what happened on the Fourth of July if you cannot use the name of Thomas Jefferson, the author of the Declaration of Independence, that was proclaimed to the country on that day? How are you going to explain to high school students who decide they are going to enter public service, and take an oath of office, that they are swearing to uphold and defend the Constitution of the United States when you will not have been able to describe the Constitutional Convention, the President of which was George Washington, and one of the leading figures in which was Benjamin Franklin, if you have exorcized the names of Washington and Franklin from your textbooks? What meaning does the oath of office have if you cannot explain where the Constitution came from or describe the convention that created it?

How are you going to describe some of the major problems that have existed in this country stemming from the great battle that was the Civil War, that went across five Aprils, and divided this country in a fundamental way that has taken us a century or more to heal?

No, we can't discuss that. We can talk about conflicts, but we will not discuss the leaders of that war. We will not discuss many of the problems of that war because it isn't politically correct to raise those issues anymore.

We have talked about history in this Chamber before. There have been those who have been trying to rewrite our history, trying to change it and shape it and slice it and dice it in ways that become politically correct in today's mode of conversation. You cannot do that and be accurate to the requirement of telling the truth about what really happened.

That is Orwellian. We read the novel by George Orwell, ''1984,'' in which the hero of the novel spent all of his time at his job changing the past. He worked for the Ministry of Truth and his job was to go back and correct the record so as to rob the present society of a true understanding of the past in the name of the state, thus the adjective ''Orwellian'' entered our language.

What is being proposed in New Jersey is Orwellian. It is stupid and it needs to be condemned.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

UNEMPLOYMENT BENEFITS EXTENSION

Mr. DAYTON. Mr. President, I rise today to speak on behalf of the amendment offered by my very distinguished colleague, the Senator from Illinois, Mr. DURBIN, regarding unemployment benefits for Americans who are not now receiving them. The legislation offered by Senator DASCHLE has a very important provision to extend unemployment benefits by 13 weeks for the people in this country who are receiving unemployment now and whose benefits are scheduled to run out in the very near future.

We have lost, in this country, almost 2 million jobs since January of a year ago. Yet we have not done what this Congress has done in most previous recessions, certainly the last two or three recessions, which is to extend unemployment benefits. Already in Minnesota, and I am sure in other States, the unemployment benefits are running out for people who lost their jobs earlier in the year. It is just simple decency, it is simple justice, to be offering that extension now.

In fact, as you know, we have tried to do that in this body, for instance, last September, at the time we passed legislation to prevent a bankruptcy in our Nation's airlines. At that time, many of us wanted to increase the unemployment benefits duration and were then not able to do so.

This is something that is long overdue. I commend our majority leader for making that a keystone of his proposal now on economic stimulus. I was delighted to read the President purportedly will be indicating his support for extending unemployment benefits tonight. So I hope this is something we will be able to address on a bipartisan basis.

Additionally, however, reports are that over half of the Americans who are out of work, who have lost their jobs during this last year, are not receiving any unemployment benefits whatsoever. They are not eligible. Even though they were working Americans, even though they have been in the workforce, because they held only part-time jobs, because maybe they held multiple part-time jobs, they are not receiving any unemployment benefits whatsoever. That is over half of the people who are out of work in this country, including my State of Minnesota.

That is a national disgrace. That totally repudiates the kind of safety net that we say we are going to create for people who, through no fault of their own, who through no choice of their own, are thrown into economic hard times, their families into economic despair. They lose their health benefits; they lose their income; they lose their jobs. No wonder people are devastated by that kind of experience.

The amendment of Senator DURBIN very importantly would extend unemployment coverage for those 13 weeks to men and women throughout this country who have just lost their jobs but are now not receiving any unemployment benefits whatsoever. The Durbin amendment would also slightly

increase the amount of money that those who are receiving unemployment benefits will get during those 13 weeks because, again, we are talking about people who, through no fault or choice of their own, are thrown out of the workforce.

In many States, those unemployment benefits are not even enough to reach a bare minimum poverty level. We can afford to be generous. We can't afford not to be generous for people in that circumstance.

I commend Senator DURBIN for this important addition to Senator DASCHLE's amendment. I hope we will receive today the kind of compassion and support the President purportedly will be calling for tonight, and that we can do, in advance of his speech, what we should have done months ago, which is to provide this extension and include others in it.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, it is my understanding, under a previous unanimous consent request, I am recognized now between 11 and 11:30 to share time with those in support and in opposition to my amendment, and at 11:30 there will be a vote on my amendment No. 2714.

The ACTING PRESIDENT pro tempore. The Senator is correct.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mrs. CLINTON). Morning business is closed.

HOPE FOR CHILDREN ACT— Resumed

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

Pending:

Daschle/Baucus amendment No. 2698, in the nature of a substitute.

Durbin amendment No. 2714 (to amendment No. 2698), to provide enhanced unemployment compensation benefits.

Nickles (for Bond) amendment No. 2717, to amend the Internal Revenue Code of 1986 to provide for a temporary increase in expressing under section 179 of such code.

Reid (for Baucus/Torricelli/Bayh) amendment No. 2718 (to amendment No. 2698), to amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004.

Reid (for Harkin) amendment No. 2719 (to amendment No. 2698), to provide for a temporary increase in the Federal medical assistance percentage for the medicaid program for fiscal year 2002.

Allen amendment No. 2702 (to the language proposed to be stricken by amendment No. 2698), to exclude from gross income certain terrorist attack zone compensation of civilian uniformed personnel.

Reid (for Baucus) amendment No. 2721 (to amendment No. 2698), to provide emergency agriculture assistance.

Bunning/Inhofe modified amendment No. 2699 (to the language proposed to be stricken by amendment No. 2698), to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualified placement agencies.

Hatch/Bennett amendment No. 2724 (to the language proposed to be stricken by amendment No. 2698), to amend the Internal Revenue Code of 1986 to allow the carryback of certain net operating losses for 7 years.

Domenici amendment No. 2723 (to the language proposed to be stricken by amendment No. 2698), to provide for a payroll tax holiday.

Allard/Hatch/Allen amendment No. 2722 (to the language proposed to be stricken by amendment No. 2698), to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

AMENDMENT NO. 2714

The PRESIDING OFFICER. Under the previous order, there shall be 30 minutes of debate on the pending Durbin amendment No. 2714, to be equally divided in the usual form.

Mr. DURBIN. Madam President, this is an amendment to the economic stimulus bill, and it relates to unemployment compensation. There are many arguments that I will make about the justice and fairness of this amendment, but that is not where I am going to start. I want to start with the economics of this amendment.

This is an economic stimulus bill. It is not designed first and foremost to be a bill for restoring justice to unemployment compensation, although I think this amendment achieves that. The first thing it is supposed to do is help the economy move forward. If there is a problem in America's economy today that is easily defined, it is the fact that we have an overcapacity and overproduction of goods and services and limited demand. As a result, businesses across America have said: People are not buying as much as they used to, so we are going to cut back on production. We are going to lay off workers.

That has had a ripple effect in the wrong direction. It has created a recession, which has created unemployment, which has lessened business activity. First and foremost, whatever we do in an economic stimulus package should attack this problem. First and foremost, it should stimulate demand and spending for goods and services. And in stimulating that demand, I believe it will increase the demand for production, and it will increase employment in production industries and start this economy back on the road again.

Here is something that should be kept in mind. For every dollar we put into the economy, we get an impact. We don't know what the impact might be until we see who receives the dollar. If you happen to be a person of great wealth who, frankly, doesn't take each dollar you receive and put it into a purchase, then what they call the multiplier effect might not even be a dollar for a dollar. That dollar may go into a savings account or into an investment. It won't go into the actual demand for goods and services that creates the jobs I mentioned.

We know dollars given to unemployed people are dollars that are spent and respent in a hurry. In fact, the Labor Department has come out with a study that says for every dollar in unemployment benefit we put into the economy, it increases the gross domestic product, the sum total of goods and services in America, by $2.15. These funds are spent and turned over several times in the economy. So if we want to really get the engine roaring when it comes to demand, give the money to the people who are struggling on a daily basis. They will spend it in a hurry. They need to spend it on the obvious necessities of life.

First and foremost, this is an economic stimulus amendment.

Let me speak to the justice and fairness of this amendment. It is a sad reality that only 33 percent of the people who are unemployed receive unemployment insurance. This was not always the case. In fact, not too long ago, 75 percent of unemployed people received unemployment insurance. That was in 1975, 27 years ago. Now it is down to 33 percent. Why the difference? Why is it if you were unemployed in 1975, you were much more likely, more than twice as likely to receive unemployment insurance? Because the nature of employment has changed in America. It is no longer the full-time employee, the 40-hour-a-week employee, who is unemployed. More and more, it is the part-time employee. It is the mother with children, taking a job and only working 4 days a week and who doesn't get any benefits on the job, who finally loses that job and then, unemployed, turns to a system which says: No, the door is closed. We don't have unemployment insurance for part-time workers.

My amendment seeks to do two things: first, to increase unemployment insurance benefits by providing an additional 15 percent or $25, which isn't a huge sum, but it can be helpful to people who are unemployed. Sadly, the unemployment insurance payments to individual workers across America have been falling behind. Take Illinois, for example. The average benefit is only $1,005 a month. The average rent for a two-bedroom apartment is $776 a month. A family couldn't even pay the rent on that money, never mind food, clothes, utilities, and all other family expenses.

Since 1990, we have seen the percentage of lost income replaced by unemployment benefits falling 5 percent. The decline has had a serious impact

on a lot of families. Benefits vary by State, but the maximum benefits are as low as $190 a week. Think about keeping a family together with an unemployment payment of $190 a week. What we are trying to do is to give a slight increase, a deserved increase in unemployment insurance benefits.

Secondly, we expand coverage. As I mentioned, take a look at unemployed Americans today compared to 25 years ago. You will find more and more unemployed part-time workers. Because of the calculation of unemployment insurance benefits, they ignore the 6 months before a person loses the job. So many people who have only had a job for a short period of time qualify for nothing. So you have fewer and fewer people with this coverage.

We have to supplement this current unemployment insurance program to provide coverage for welfare-to-work people, women and others who played by the rules and paid into the system. These workers finance the UI fund during many good times, and surely we ought to help them in the bad times.

Women comprise 70 percent of the part-time workforce, 65 percent of service sector workers. They work in the industries hardest hit by the economic downturn. Last year, only 23 percent of unemployed women in America qualified for unemployment insurance benefits.

Remember what we are telling women. We are saying to women: We really would like you to stay home with the kids more. That is kind of our message. Yet many women find they can't keep their family together unless they give a helping hand. Some of them are single mothers. They take a part-time job, maybe the best they can get, maybe all they want, so they can spend more time with the kids. Then they lose their job. Then they get no help from unemployment insurance because they were part-time workers.

This amendment extends unemployment insurance benefits to cover those part-time workers, particularly helping those women who are a disproportionate share of workers affected by it.

According to the GAO, low-wage workers are half as likely to receive benefits than other unemployed workers, even though they are twice as likely to be unemployed. So those are the things we do. We increase the benefits under unemployment insurance. We expand the eligibility so that temporary and part-time workers will at least get a helping hand.

The $15 billion that we estimate this will cost will come entirely out of the unemployment insurance funds in Washington. There is no burden placed on employers or States. It is money collected. It is temporary. It is a kind of helping hand which will stimulate the economy, No. 1, and, No. 2, do the right and fair thing for workers across America.

What does it mean in a few States? Let me give an example. In Illinois, it means that 590,000 unemployed Illinoisans, because of this amendment, will get a helping hand.

Let me pick another State. Let's try Iowa: 157,000 workers in Iowa, under the Durbin amendment, will receive benefits or increased benefits that they otherwise would not have received. Take a look at the part-time workers in the State of Iowa: 11,000 people, unemployed part-time workers in that State will now receive some benefit from unemployment insurance. In my State of Illinois, it is 54,000, a larger State.

I can go through the list, and I am going to put it on the table when we vote. Look at the real numbers of real people who are suffering in your States because of being unemployed and falling through the cracks. This Durbin Amendment tries to close the cracks. I thank Senator WELLSTONE of Minnesota, Senator DAYTON as well, and Senator LANDRIEU and those who have cosponsored this amendment. I will stop now because I want to give some of them an opportunity to speak.

I will yield to the Senator from Iowa or anyone who is going to speak.

Mr. GRASSLEY. Does the Senator from Minnesota want some time?

Mr. DURBIN. The Senator can wait for the Senator from Iowa. We will save some time for important closing remarks.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. First of all, I need to know how much time our side has.

The PRESIDING OFFICER. Fifteen minutes.

Mr. GRASSLEY. Madam President, I will yield myself such time as I might consume. If anybody on my side would like to have some time, I will be glad to share some time with them.

First, I have a philosophical comment based on the history of unemployment compensation legislation. We have set some national policy, but the details of our unemployment compensation regime historically—and I think I would be referring to six or seven decades of American history—have been left to the States to fill in the details. That is because we were then and still are a Nation that is very geographically vast and a country where our population is very heterogeneous—more so now than 70 years ago—to a point where Members of Congress and Presidents have felt it would be wrong to pour one mold in Washington, DC, that we would call an unemployment compensation insurance mold and have our country, which varies from one State to another—and the needs of one State to another, consequently, vary—that it would be wrong to pour that mold in Washington and force every State to treat unemployed workers exactly the same way.

All knowledge doesn't repose here in Washington, DC. There is a great deal of knowledge—maybe more so—with the State legislators than in Washington, DC. Consequently, we have left it to the wisdom of a lot of States to do, in a sense, their own thing with the broad Federal policy—how to treat and compensate the safety net of unemployment insurance. Now we have this approach, which I would not characterize as federalizing unemployment compensation, but obviously it federalizes to a much greater extent than we have right now the unemployment compensation legislation.

Again, we are going to say—if we adopt this—that there is more wisdom in Washington, DC, and in the Congress of the U.S. than in the New York legislature or the Illinois legislature as to how unemployed people in those States ought to be treated or compensated, et cetera. I oppose this amendment on that philosophical ground. But to be more specific, as an example of the wisdom that the Senator from Illinois is saying through his amendment that he knows better how part-time workers ought to be treated than the State legislatures do. Several States do allow part-time workers to be covered. My State of Iowa is one of those States that has decided to cover part-time workers.

So the legislature of my State, a very small State of 3 million people, with a low unemployment rate of 3 and a half percent right now—you might think, what is there about the Iowa legislature that they would cover part-time workers and some other larger State might not. Why did we leave it to the people of my State, the elected legislators, to make that determination? Why is not important. The fact is they did it. They did it because Congress, over several decades, has said we are going to leave that decision to the State legislatures.

Why do we think that we have all the answers here in Washington, DC? So it is fair to say that part-time workers are already eligible for unemployment benefits because there are no States that disqualify unemployed workers merely because they work part time. The issue is whether part-time workers should be allowed to collect unemployment benefits while refusing to accept a full-time job. If a job is available, why should any worker collect unemployment instead of going back to work? Part-time workers—in other words, if there is a job available—should not be on unemployment compensation. Unemployment compensation is not an incentive to keep you out of the workforce. It is historically—and rightfully so—to tide you over from a period of being disconnected with one job until you get back to that job, or until you have an opportunity to take a job someplace else.

Part-time workers are not entitled to benefits simply because their employer paid unemployment taxes. Employers pay unemployment taxes on numerous categories of workers who are not entitled to benefits, for that matter. Such categories would include corporate officers, full-time students, professional athletes, workers who quit their jobs, workers who are not seeking work,

workers who are not available for work, and workers who even refuse suitable work. There are a number of States that allow workers to limit their job search to part-time employment and still collect unemployment compensation. If that is what that State decides it wants to do, let that State do it accordingly.

However, this is voluntary State decision. The Federal Government has never dictated such eligibility standards to the States. There is no need for Congress to preempt State decisions on this matter. Expanding eligibility on the basis of part-time work would create new administrative burdens on the respective States. The States would have to decide what hours of the day and what days of the week are suitable for part-time work. As an example, if a worker loses his Monday, Tuesday, Wednesday, noon to 3 p.m. cashier job, can that person still collect unemployment benefits if he refuses to accept a Thursday, Friday, Saturday 3 p.m. to 6 p.m. cashier job?

So State unemployment agencies, right now, lack the resources that it takes to investigate contested claims, like I just described, and others that are too numerous to describe at this point. Thus, it is for that administrative body to make accurate determinations so that you have the enforcement of the unemployment compensation laws done in a fair way. That is why it is wrong, it seems to me, to establish this policy, as if Congress knows what is best for the 50 States and knows that it can be enforced in a certain way, or let the individual State legislatures make the determination on how they want to expand their unemployment compensation laws, and at the same time they will know whether or not they have the administrative capability of enforcing the law the way the State legislature put it.

Case law for part-time workers is going to take years to develop. It is not going to take years in Iowa because we have that decision made and there is a lot of case law there right now. Most part-time workers live with other workers. Thirty-five percent are married with a working spouse. Thirty percent of these part-time workers are children with working parents. Most of the time when workers live with another worker, they will have less incentive to seek new employment—a factor that should be taken into consideration when you start to cover a new class of people at the Federal level without letting the States make that determination. One of the premises of unemployment compensation for anybody is that you be actively seeking a job, that you are out there going door to door to put in your application, asking if there are any vacancies, and to try to benefit yourself during a process in which you are being helped by the unemployment compensation regime to make sure that you have basic necessities while you are trying to make this determination. It is not meant to pay people who are not actively seeking jobs.

So there ought to be some relationship between those and the extent to which we include part-time workers. Without the State making that determination, there might not be that continued relationship that is a basic philosophical underpinning of our unemployment compensation laws.

It seems to me that if we allow this disincentive in accepting new employment, this will lead to longer and more frequent spells of unemployment, more Government spending, and, in the process, reduced economic growth because economic growth is directly related to the productivity of the workers.

Moreover, the provision we are discussing will allow full-time workers to switch to part-time status for unemployment purposes. This will result in even more unemployment and further loss of economic output.

At this point, I am going to yield the floor for colleagues, but I have only spoken to one part of the Durbin amendment, that part dealing with covering part-time workers. There are other parts to it, but I think my underlying philosophical objection will apply to all parts: that all knowledge on unemployment compensation does not rest in the Congress of the United States. We have had this seven-decade tradition of leaving it to the States to fill in the details.

This amendment departs from that tradition. Why should we depart from that tradition? We are departing during a time of 5.8-percent unemployment. We did not depart to this extent when we had 10- and 12-percent unemployment, or at least on all these parts that the Senator from Illinois will try to change. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Illinois.

Mr. DURBIN. Madam President, I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Madam President, I cannot do this in a minute, but I will try.

My colleague from Iowa is grasping at straws. This is not about States rights; it is about workers' rights. This is about helping in Minnesota 217,218 workers. This is about helping working poor part-time workers.

My phone is not ringing off the hook. In fact, we talked to people back home at the State level. Our State governments are not telling us do not give us additional help on unemployment insurance. There is no additional expenditure for the States. States are asking for the help. This is a matter of workers' rights. This is a matter of helping part-time workers, the working poor people, who then consume more which helps the economy. It is win-win-win.

I doubt whether Senators are getting a lot of pressure from the working families in their States, much less State officials, saying: Please, do not help us with unemployment insurance with people flat on their backs through no fault of their own.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes forty-five seconds.

Mr. DURBIN. I yield 2 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Madam President, I rise to support the Durbin amendment, and I will follow up on what the Senator from Minnesota said in two other ways. No. 1, this amendment is truly a stimulative amendment. Every dollar that will be paid out at no expense to our States will help thousands of people who are unemployed and underemployed by giving them a chance to collect some income while they look for other work and get back into the workforce. Every single dollar is basically going to be circulated back into our economy.

This amendment, as much as it is for unemployed workers, is for grocery stores, for restaurants, and for drugstores. It is for businesses, small businesses in Louisiana, in Illinois, in Minnesota, and in Iowa where the businesspeople are struggling. Why? Because no one is walking into their restaurants to buy the meal or to buy the item.

When we give, through unemployment benefits, dollars for our constituents, what will they do with them? They are not going to put it in their savings account. They most certainly are not going to buy stock. They are going to spend the money at the local restaurant, at the local drugstore, and at the local cleaners. That is why this effort helps us get our economy back. When consumers spend more money, then those business owners will hire another person or two and more people will get back to work.

No. 2, extending these benefits only helps our States. We are picking up the tab for it. Does it cost something? Yes. Is it somewhat expensive? Yes. But we can most certainly afford to help our States at this time since the loss is not due to anything they have done but due to the terrorist attacks and other factors that have affected our economy. I urge my colleagues to support this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma.

Mr. NICKLES. Madam President, how much time do we have remaining on this side?

The PRESIDING OFFICER. Four minutes eighteen seconds.

Mr. NICKLES. Madam President, I thank my colleague, Senator GRASSLEY, for his statement. I will make a couple of points and echo some of the things he said.

One point my colleague did not mention was how much this is going to cost. I have heard some people say this will cost $8 billion. I have heard other estimates that it will cost $10 billion.

I ask my colleague from Illinois, is that $15 billion in addition to the underlying amendment or $15 billion total? He is indicating it is in addition. Am I correct, in addition?

I do not know, and I will ask my colleague from Illinois if we have a CBO estimate on the cost of the amendment. I have not seen it.

Mr. DURBIN. Will the Senator yield for a moment? I was wrong; it is $15 billion total, not in addition to the underlying amendment.

Mr. NICKLES. If my memory serves me correctly, the Daschle amendment has an unemployment extension of 13 weeks, and that is about $8 billion, I believe. The cost of this is $15 billion. This amendment costs a lot of money, as can be expected, because when we hear people say it is going to benefit thousands of our constituents, from where is the money coming? It is coming from the Federal Government.

This is primarily a State program. We have to decide: Are we going to have the Federal Government take over State management of this program? That is what we are doing with this amendment.

This amendment determines what quarter or what eligibility period. In the past, States have always determined that. So we are going to tell every Governor: You are going to have to use the last quarter. We have not done that in the past. We are going to tell them: This is the quarter to use to determine eligibility and, incidentally, States, you could have provided assistance to temporary workers if you so chose, but now we are telling you you have to provide that assistance.

How do we define ''temporary''? My daughter is a senior at Oklahoma State University. She works X number of hours a week. That is temporary. It is not 40 hours a week; it is less than 40 hours. Is she eligible? I think she would be. She might be very displeased with my vote in just a moment.

This amendment costs a lot of money. A temporary worker is going to be eligible to receive the same weekly benefits as a full-time worker. Weekly benefits in New York are a whole lot more than in Oklahoma or a whole lot more than in North Dakota.

In some States, unemployment benefits are as low as $105 and some are $400. I believe New York is closer to $400, and I believe some States are only over $100. Yet we are going to tell those States not only that they have to increase their benefit by at least 15 percent and/or $25, whichever is greater but, yes, now it applies to temporary employees. Do those temporary employees work 10 hours a week, 20 hours a week, 4 hours a week? How far are we going to go in micromanaging who is eligible?

We are going to take a program primarily financed by the States—States have always determined eligibility; States have always determined benefits—and we are going to adjust those figures and say Uncle Sam is going to pick it all up and it is going to cost $15 billion.

I have serious reservations about that. I do not know that my daughter who is working part time to go to school should be qualifying for unemployment compensation. I do not think that is right. If the Federal Government assists her if she gets a student loan to go to school, that is one way. I do not think the unemployment system is the way we should be financing full-time students through part-time work. I think she would be eligible under this proposal. I do not think that is right.

I do not think it is right for us to use the guise of a so-called stimulus package and say let's just expand the program greatly beyond what most States have done. Most States do not pay unemployment compensation for part-time workers. They decided that. They have a State legislature. They meet on this issue. They know how much it costs, and yet we are going to do it very quickly and there are probably not three Senators who know how much this will cost.

We are going to tell the States they have to do it.

I think it is a serious mistake. I urge my colleagues to vote no on the amendment.

To alert my colleagues, I am going to make a budget point of order after the conclusion of the debate.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. How much time is remaining?

The PRESIDING OFFICER. Two and a half minutes.

Mr. DURBIN. How much time is remaining on the other side?

The PRESIDING OFFICER. There is no time remaining.

Mr. DURBIN. Madam President, I yield 2 minutes to the Senator from Massachusetts.

Mr. KENNEDY. I will be brief.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, since September 11, our Nation's workers have come together in the face of new challenges. Today, more than 8 million of these workers are unemployed and the unemployment rate is 5.8 percent and expected to climb to 6.5 percent. We need an effective economic recovery package to bring the unemployment rate down and help laid-off workers across the Nation.

We see more layoffs every day. United Airlines has laid off nearly 20,000 people since October. Lucent Technologies in North Andover, MA, recently laid off 1,700 workers. Toys R Us has just announced they were closing more than 60 stores and laying off 1,900 employees.

Some say the recession's end is near and recovery is around the corner. Even if those predictions come true, the consequences will linger for working families.

The unemployment rate will continue to rise. Laid-off workers will still have great difficulty finding new jobs, and other workers may still be facing layoffs.

More than 58,000 laid-off Massachusetts workers have exhausted their benefits in the last twelve months. This includes workers like Christina Young of Billerica, MA. Christina was laid off at the end of June and, since then she has been looking for a new job. She recently learned that she is pregnant. Christina's unemployment benefits, her husband's income and their savings were keeping them afloat, paying the mortgage, the expensive winter heating bills, their bills for health care and groceries. But Christina's unemployment benefits have run out, and now she can't afford her pre-natal care.

Selma Burgert of Malden, MA was laid off by Polaroid in May and her unemployment benefits ran out last month. She has been looking for work for months. But every time she applies for a job, she finds herself competing with two hundred to three hundred other applicants. She is fortunate to have savings to get by. Selma knows many people who aren't as fortunate, and have had to sell their homes or cut down on the food they provide for their families.

In communities throughout Massachusetts and the Nation, workers like Christina and Selma are running out of unemployment benefits while competing for the dwindling number of open jobs. How long are we going to wait before we help them? The time to do it is now. The amendment we are debating will make a big difference for these workers.

The American people strongly support our efforts to give workers the support and assistance they deserve. But some of our colleagues in Congress have stalled our efforts to help these courageous workers. Democrats have proposed an effective and balanced plan to stimulate the faltering economy, but our opponents have used procedural maneuvers to block the measure. When House and Senate negotiators tried to reach a compromise, our opponents delayed it at every turn.

They were unwilling to support any recovery package unless it contained tens of billions of dollars for new tax breaks for wealthy individuals and corporations, including $250 million in tax breaks for Enron. It makes no sense to hold laid-off workers hostage to such irresponsible and costly tax breaks.

Our opponents have consistently offered plans that failed the nation's workers. They offered a plan to extend unemployment benefits, but only to laid-off workers in a few states. They offered a plan to use National Emergency Grants for unemployment insurance, health care and job training, guaranteeing that few funds would actually go to unemployment insurance.

They offered a plan to provide Reed Act distributions that would primarily be used for State tax cuts and could go into State unemployment trust funds, instead of offering new or extended benefits.

Our amendment demonstrates our commitment to helping workers.

It updates the unemployment insurance system to meet the urgent needs of the economy. By improving unemployment insurance, our amendment both stimulates the economy and helps the families who need help the most. Every dollar invested in unemployment insurance boosts the economy by $2.15. Unemployment insurance also helps to prevent the loss of even more jobs during a recession.

The amendment makes three important changes. First, it extends unemployment benefits for 13 weeks for laid-off workers across the nation. Second, it expands the coverage to include laid-off part-time and low-wage workers who do not currently receive benefits. Third, it increases meager unemployment benefit levels. These changes will help nearly four-fifths of laid-off workers who currently are not receiving benefits.

Even during good times, about a third of those receiving unemployment insurance exhaust their benefits. During recessions, the number rises.

That's why Congress has provided federally-funded extended benefits repeatedly during recessions in the past.

Today, more than two million laid-off workers have already exhausted their benefits. How much longer are we going to wait before we help those workers? The time to help them is now.

Although part-time and low-wage workers are least likely to have savings and other safety-nets to help them, few are eligible for unemployment benefits. Laid-off part-time and low-wage workers have paid into the system, but they often fail to receive the benefits they need. Recent data suggest that only 18 percent of unemployed low-wage workers were collecting benefits. Expanding coverage will benefit more than 600,000 additional unemployed part-time and low-wage workers. The time to do it is now.

It is also time to increase weekly unemployment benefits by the greater of $25 a week, or 15 percent.

This increase in benefits, an average of $150 a month, will be an immediate stimulus to the economy. Unemployed households will spend it to pay the rent or a medical bill, buy groceries, keep the family car running, or hire a babysitter during job interviews.

Currently, unemployment benefits do not replace enough lost wages to keep workers out of poverty. In 2000, the national average unemployment benefit only replaced 33 percent of workers' lost income, a major reduction from the 46 percent of workers' wages replaced by jobless benefits during the recessions of the 1970's and 1980's. During an economic crisis, unemployed workers have few opportunities to rejoin a declining workforce. They depend on unemployment benefits. Adding $150 a month to unemployment benefits will stimulate the economy and help these laid-off workers support their families while they look for a new job.

More than three hundred thousand laid-off workers in Massachusetts would benefit from this amendment. At least thirteen million laid-off workers would benefit nationwide.

The American public is ready for honest action that genuinely helps these deserving workers. We passed an airline security bill, without providing any help for workers. We adjourned for the recess without providing any help for workers. We owe it to the millions of Americans who have lost their jobs to act now to provide the support they need and deserve.

In conclusion, Madam President, at the time of September 11, I think most of us believed there was a new spirit and a new atmosphere in this country. We have tried to respond to those who lost loved ones. We have seen generosity in reaching out to families all over this country. There is a new spirit in America for people who are hurting and are in need.

What we are talking about today are men and women who have lost their jobs, often as a result of the terrorist acts. There are other incidents where they might not be directly related, but by and large it is as a result of the terrorist attack. In this Senate, we hear Members nickel and dime American workers who work hard, play by the rules, put in a good day's work, and as a result of economic conditions have lost their jobs.

There is $38 billion that has been paid into a fund that otherwise would have gone to workers' salaries. That fund is out there, and we are using $15 billion. We used it four times in the 1990s, with seldom less than 90 votes—or 80 votes in the Senate. We are reaching out to part-time workers and low-income workers. They, too, have paid into that fund. The money is there for this kind of circumstance. It is there for the Federal Government to act.

Why? Because in many of these States there is an economic pinching. They cannot afford to take the kind of economic action, and that is why this program was developed. Now is the time to take the action. Let us not nickel and dime America's workers who have suffered as a result of the kinds of attacks we saw on this country. That is what this is about. Are we going to stand up for those men and women who want to work and should be able to work? This is what the Durbin amendment is about, and I look forward to supporting it.

Mr. DURBIN. Madam President, how much time is remaining?

The PRESIDING OFFICER. Thirty seconds.

Mr. DURBIN. This is not a State rights issue. It is all Federal money. The Governor of Oklahoma can decline the money. They do not have to help the 78,000 unemployed workers in Oklahoma who would be benefited by this. They can exert their State rights. They would be fools to do it because they know these people need a helping hand in Iowa, in Oklahoma, and in Illinois.

I really am saddened to hear the stereotype that unemployed people are lazy. Could any of us live on $1,000 a month? That is what these people are struggling to get by with. To give them $25 a week is the breaking point for too many Senators. Way too much, $25 a week? This is not even nickels and dimes.

These are women trying to keep their families together. These are mothers and fathers down on their luck. And this Senate cannot spare $25 a week? That is what this vote is all about. I hope the Members of the Senate will support the people who want to get back to work but need a helping hand and support the Durbin amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma.

Mr. NICKLES. Madam President, I raise a point of order under section 302(f) of the Congressional Budget Act against the pending amendment No. 2714 for exceeding the spending allocations of the Senate Committee on Finance.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable section of that act for the purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Nevada (Mr. ENSIGN), the Senator from New Hampshire (Mr. GREGG), the Senator from Montana (Mr. BURNS), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Tennessee (Mr. THOMPSON) are necessarily absent.

I further announce that if present and voting the Senator from Montana (Mr. BURNS) and the Senator from Oklahoma (Mr. INHOFE) would each vote ''no.''

The yeas and nays resulted—yeas 57, nays 35, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—57

Baucus	Byrd	Cleland
Bayh	Campbell	Clinton
Biden	Cantwell	Cochran
Bingaman	Carnahan	Collins
Breaux	Carper	Conrad

Corzine	Johnson	Reed
Daschle	Kennedy	Reid
Dayton	Kerry	Rockefeller
DeWine	Kohl	Sarbanes
Dorgan	Landrieu	Schumer
Durbin	Leahy	Smith (OR)
Edwards	Levin	Snowe
Feingold	Lieberman	Specter
Feinstein	Lincoln	Stabenow
Graham	McCain	Torricelli
Harkin	Mikulski	Voinovich
Hollings	Murray	Warner
Inouye	Nelson (FL)	Wellstone
Jeffords	Nelson (NE)	Wyden

NAYS—35

Allard	Frist	Miller
Allen	Gramm	Murkowski
Bennett	Grassley	Nickles
Bond	Hagel	Roberts
Brownback	Hatch	Santorum
Bunning	Helms	Sessions
Chafee	Hutchinson	Shelby
Craig	Hutchison	Smith (NH)
Crapo	Kyl	Stevens
Domenici	Lott	Thomas
Enzi	Lugar	Thurmond
Fitzgerald	McConnell	

NOT VOTING—8

Akaka	Dodd	Inhofe
Boxer	Ensign	Thompson
Burns	Gregg	

The PRESIDING OFFICER (Mrs. CARNAHAN). On this vote, the yeas are 57, the nays are 35. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Nevada.

Mr. REID. Madam President, just as a note to all Senators, we expect to have another vote very soon.

I would be happy to yield to my friend from Illinois.

Mr. DURBIN. I thank the Senator from Nevada. I would like to announce to the Senate that 57 votes were cast on this last amendment. Three members on the Democratic side were absent because of business they had to attend. It is my intention to reoffer this amendment later in the debate on this economic stimulus package.

Mr. REID. Madam President, I also want to extend my appreciation to the minority. We could have, through procedural means, gotten another vote on this anyway. But rather than go through all of that and waste the time of the Senate, we were told the Senator from Illinois could reoffer his amendment. I very much appreciate that.

AMENDMENT NO. 2717

I ask unanimous consent that there be 15 minutes for debate prior to a vote in relation to the Bond amendment No. 2717 with the time divided as follows: 10 minutes for Senator BOND, and 5 minutes for those who oppose the Bond amendment; and, at that time there be a vote in relation to that amendment with no amendments in order prior to that.

Mr. NICKLES. Madam President, reserving the right to object, I understand there are a couple more people on our side who wish to debate the issue. The chairman of the Finance Committee just suggested 30 minutes on each side. I know the Senator is also trying to work this around the two lunches. If he could modify his request and have 30 minutes on each side, that would be great.

Mr. REID. I suggest to my friend that maybe we ought to have 20 minutes on your side and 10 minutes on our side. In that way, we could be finished at a reasonable time for the conferences, which are kind of important today.

Mr. NICKLES. I will not object to that.

Mr. REID. Madam President, I amend my unanimous consent request to allow the Bond proponents to have 20 minutes and the opposition to have 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NICKLES. Madam President, I thank my friend and colleague. I say to my colleagues who said they wanted to speak on the amendment, we will now have a vote on the Bond-Collins amendment at 12:35. If they still wish to speak, they need to be coming to the Chamber shortly. I thank my friend from Nevada.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I yield myself 5 minutes from the time allotted on the amendment on this side.

The PRESIDING OFFICER. The Senator is recognized.

Ms. COLLINS. Madam President, I ask unanimous consent that the Senator from Kansas, Mr. BROWNBACK, be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Madam President, I am very pleased to join the Senator from Missouri in strong support of this amendment to help our small businesses. Over 95 percent of the businesses in this Nation qualify as small businesses. They are the businesses that are creating the vast majority of new jobs. Small businesses are the engine of our economy and the backbone of virtually every community in our country. Yet the economic stimulus package put forth by the majority leader does virtually nothing to stimulate this essential part of our economy. The Bond-Collins amendment would rectify this omission by allowing small businesses to expense up to $40,000 worth of new equipment that they placed in service this year, or will next year. That would give a real boost to the economy, and it would encourage those small companies that have put investment plans on hold, in the wake of the attacks on our Nation and the economic downturn, to proceed with their investment plans. That, in turn, would stimulate the production of more equipment and the creation of new jobs.

Let me give you an example from my home State of Maine of the positive impact that this amendment would have.

Terry Skillin, of Skillins Greenhouses, is a fourth-generation Maine family business, founded in 1885. Skillins employs between 70 and 120 employees, depending on the season, for its landscaping, greenhouse, and floral business.

Terry Skillins told me that his company is looking to expand but to do so takes money. From tractors to conveyor belts to machines that build flowerpots automatically, the equipment that he needs to buy is expensive. Terry said that raising the small business expense limit to $40,000 would help enormously, by allowing him to go ahead with a planned expansion.

Terry said something else that I think is very important and that we need to remember. He said it is critical that the increased expensing be available not only for the remainder of this year but for next year as well. He told me that it often takes more than one year for a small business to carry out an expansion plan, and that if the increased expensing were available for two years, his ability to grow Skillins Greenhouses over the entire period would be far greater.

I think we should heed Terry's advice and help small businesses so they can drive our economy back to prosperity.

It seems to me that, if we are striving to reach a consensus on the economic recovery package, as I believe we must do, we should include an amendment that is specifically targeted to helping our small businesses pull through this difficult time. Our amendment has been endorsed by the Nation's largest small business group, the National Federation of Independent Businesses. The NFIB represents 600,000 members nationwide and is key-voting this amendment.

Finally, I note that the idea of an expansion in the small business expensing provision has been common to many of the economic recovery plans that we have debated. It was part of both plans passed by the House of Representatives. It was included in the Centrist Coalition plan that six Members—three Members on each side of the aisle—negotiated this past December. It was also included in the Democrats' plan, which was supported by the Senate Finance Committee. Unfortunately, however, it is not in the plan before us.

The Bond-Collins amendment would seek to remedy that omission by providing the boost to small businesses. I am convinced that if we give tax incentive to small businesses, they will help to pull us through these difficult economic times. Again, it is small businesses that create the vast majority of new jobs in this country, and we need to give them the incentives they need to help boost our economy.

I yield the remainder of my 5 minutes, reserving time for our side.

The PRESIDING OFFICER. Who yields time?

The Senator from Nevada.

Mr. REID. Madam President, I have spoken to the chairman of the Finance Committee. Senator NICKLES indicated there were people from the other side who wanted to speak for maybe more

than the 20 minutes. We have 10 minutes. At this date we don't find anyone in opposition to the amendment. So if you need more time, we will be happy to give you some of ours.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri.

Mr. BOND. Madam President, seeing no one ready to speak from the other side, I will yield myself such time as I may consume. I urge my colleagues who want to speak on the amendment to hurry up and get down here. We have lots of work to do, and we are going to be able to finish debate on this amendment fairly expeditiously. Anybody who wants to say anything about it, we invite them to come.

As my colleague and strong ally, the Senator from Maine, has said, this amendment is very important to help small businesses in their recovery. We know the entire economy took a severe hit on September 11, on top of a recession that has really taken its toll on many small businesses. How we get out of this recession is to encourage small businesses to lead us out.

Small businesses are the dynamic engine that drives the economy. They provide 75 percent of all new jobs. They are the ones that grow when the rest of the economy is stagnant. There is no better vehicle than a stimulus package to include a provision to encourage small businesses to purchase more equipment. This amendment provides a direct stimulus to that small business sector by allowing them to write off new equipment purchases immediately.

If you have ever run a small business, as I have, you know the thought of having to set up a depreciation schedule for a tractor or a piece of equipment and figure out how to depreciate it over several years is a daunting task. If you are a small business person, you don't want to have to have an accounting department. It is usually you and the frog in your pocket who are running the business. If you are an individual proprietor or even if you have several employees, you don't want to go through the time and expense of hiring somebody to set up a depreciation schedule. So direct expenses would allow small businesses to avoid the complexity of depreciation rules as well as the unrealistic recovery period for most assets.

For example, under current law, if you buy a computer, it has to be depreciated over 5 years. People who are very active users of computers tell me that the useful life is 2 to 3 years at best. Something new and something better has come out, but you are still depreciating the old equipment. You haven't been able to write it off on your taxes.

This amendment has several important advantages, especially in light of the current economic conditions. By allowing more equipment purchased to be deducted currently, right now, the year they are put in service, it will provide much-needed capital for small business. With that freed up capital, a business can invest in new equipment which will benefit the small enterprise, but in turn it will stimulate other industries that are producing and selling the equipment they are going to put in service.

Moreover, new equipment will contribute to continued productivity growth in the business community which Federal Reserve Chairman Greenspan has repeatedly stressed is essential to the long-term vitality and health of our economy.

That is what allows us to hire more people and pay better wages—to increase productivity. A healthy and growing business keeps its employees working, and we hope it will lead to new employees being added to the payroll.

Finally, the amendment will simplify the tax law for countless small businesses. Greater expensing means less equipment subject to onerous depreciation. Under this amendment, a business would be able to claim the full $40,000 in expensing if it purchased and put in service no more than $325,000 of property during the year. That is to make sure it applies primarily to small business.

In short, this amendment's equipment expensing changes are a win-win for small business consumers, employees of small businesses, equipment manufacturers, and our national economy.

Some have contended that maybe we ought to think about this only for 1 year. We need to give small businesses not only an initial boost, but we need to keep the support coming to sustain the recovery. If we use the last recession of 1991 as an example, it took 21 months before the unemployment rates started to drop consistently. That is nearly 2 years for small businesses and others to hire the people back who were laid off in the recession. Small businesses represent 99 percent of all employers. They provide about 75 percent of the net new jobs. And with people unemployed, we need to get those producers of the new jobs, the small businesses, into business.

Based on this unemployment data, limiting the amendment or any other small business stimulus to 1 year would not suffice. We need to keep the small business stimulus going for at least 2 years to ensure the recovery in the small business sector and the jobs market is sustained.

Madam President, I ask my colleagues to support the amendment and urge them, if they want to support the amendment Senator COLLINS and many other Senators and I have supported, to come to the Chamber. If they have arguments against it, we will be interested in hearing those as well.

I yield such time as he may require to the distinguished minority whip.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I wish to compliment my colleagues, Senators COLLINS and BOND, for their leadership and persistence in saying, let's get something in this bill to help create jobs. Both Senators BOND and COLLINS have spoken of the growth in small business and the need for small business to be able to grow. This particular provision will create jobs. I compliment them.

I don't see much in the underlying proposal that will create jobs. This one will create jobs because small business will be able to expense more items up to $40,000. For a person who has a small business that may have a few employees, that is a big deal. I used to have a janitor's service. It was my wife and myself and a few other people. If you allow me to expense everything, I don't have to amortize all the equipment I am purchasing because, frankly, it is less than $40,000.

You get to expense it. You get to write it off when you write the check. Instead of spreading it out over several years, instead of taking 3, 5, 8 years to recoup your investments, you can recoup it in the year that you made the investment. That is a big deal for small business. Most of the jobs that will be created this year will be in small business. It is not going to be General Motors or in the big corporations, it is going to be in small business. You are saying, let's expense up to $40,000, an improvement from $24,000.

It is an excellent amendment. It will help small business. By helping small business, we will be able to create more jobs.

I thank both of my colleagues for their leadership. I believe this amendment is going to pass. I compliment them for that. This is one of the few things we have seen that will actually stimulate the economy. We have seen a lot of proposals. Let's write more checks, let's give people money who didn't pay taxes, expand unemployment compensation, pay people more not for working. This is a proposal that says, let's create an environment that will create jobs so people won't need unemployment compensation, so they won't be asking more from the Government. They will be getting a job.

I thank my colleagues for their excellent proposal. I urge all my colleagues to support it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from Oklahoma for his kind comments. The Senator from Oklahoma brought up a very important point. It is very burdensome recordkeeping for small businesses to have to deal with depreciation schedules and sometimes very unrealistic recovery periods.

For example, most computers are required to be depreciated over a 5-year period, but we all know from our experience that the usual life of a computer is 2 to 3 years. The Senator from Oklahoma has raised an important point. Not only will this put more cash into the pockets of small businesses and

allow them to go ahead with investments that have been put on hold because of this tax incentive, but it will also relieve them from some very burdensome recordkeeping requirements. That simplification is another advantage of the Bond-Collins amendment.

I thank my colleague from Missouri who does such a great job as the ranking minority member of the Senate Small Business Committee. It has been a great pleasure to work with him on this amendment. I believe this is the one provision we have debated that will make a real difference to those entrepreneurs throughout our country, to those small mom-and-pop firms that are creating good jobs in communities throughout our country. So I hope we will have a strong show of support for this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Madam President, I gather there are no more people seeking to speak on this amendment. Rather than wait, we can vote. But first, I thank my colleague from Oklahoma, Senator NICKLES, a real champion of making the economy grow by putting people back to work, and Senator COLLINS has been one of our great allies. Anytime I have a small business provision, she wants to be a champion of it because she knows small businesses are driving the Maine economy, as well as in the rest of the country.

We are prepared to yield back all time on this side. I ask for the yeas and nays on this amendment.

Mr. DAYTON. We yield back all our time.

The PRESIDING OFFICER. All time is yielded back. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Nevada (Mr. ENSIGN), the Senator from New Hampshire (Mr. GREGG), the Senator from Oklahoma (Mr. INHOFE), the Senator from Tennessee (Mr. THOMPSON), and the Senator from Montana (Mr. BURNS) are necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. INHOFE) and the Senator from Montana (Mr. BURNS) would each vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 2, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—90

Allard	Edwards	McConnell
Allen	Enzi	Mikulski
Baucus	Feinstein	Miller
Bayh	Fitzgerald	Murkowski
Bennett	Frist	Murray
Biden	Graham	Nelson (FL)
Bingaman	Gramm	Nelson (NE)
Bond	Grassley	Nickles
Breaux	Hagel	Reed
Brownback	Harkin	Reid
Bunning	Hatch	Roberts
Byrd	Helms	Rockefeller
Campbell	Hollings	Santorum
Cantwell	Hutchinson	Sarbanes
Carnahan	Hutchison	Schumer
Carper	Inouye	Sessions
Cleland	Jeffords	Shelby
Clinton	Johnson	Smith (NH)
Cochran	Kennedy	Smith (OR)
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Corzine	Kyl	Stabenow
Craig	Landrieu	Stevens
Crapo	Leahy	Thomas
Daschle	Levin	Thurmond
Dayton	Lieberman	Torricelli
DeWine	Lincoln	Voinovich
Domenici	Lott	Warner
Dorgan	Lugar	Wellstone
Durbin	McCain	Wyden

NAYS—2

Chafee	Feingold

NOT VOTING—8

Akaka	Dodd	Inhofe
Boxer	Ensign	Thompson
Burns	Gregg	

The amendment (No. 2717) was agreed to.

Mr. REID. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:56 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. MILLER).

HOPE FOR CHILDREN ACT—Continued

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

AMENDMENT NO. 2718, AS MODIFIED

Mr. BAUCUS. Mr. President, I call up my amendment and send a modification to that amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify the amendment.

The amendment, as modified, is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004, and to increase the Federal medical assistance percentage under the medicaid program for calendar years 2002 and 2003)

Strike titles II and III and insert the following:

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

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

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

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

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

''(iii) which is—

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

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

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

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

''(i) IN GENERAL.—The term 'qualified property' includes property—

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

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

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

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

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

''(C) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall

not include any property to which the alternative depreciation system under subsection (g) applies, determined—

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

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

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

''(D) SPECIAL RULES.—

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

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

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

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

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

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

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

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

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

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

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

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

''(II) by the lessor of such portion,

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

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

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

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

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

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

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

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

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

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

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

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

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (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.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 3 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to subsection (g), if the FMAP determined without regard to this section for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for the second, third, and fourth calendar quarters in fiscal year 2002, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (g), 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) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FIRST CALENDAR QUARTER OF FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (g), if the FMAP determined without regard to this section for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for the first calendar quarter in fiscal year 2004, before the application of this section.

(d) GENERAL 1.50 PERCENTAGE POINTS INCREASE FOR CALENDAR YEARS 2002 AND 2003.—Notwithstanding any other provision of law, but subject to subsections (g) and (h), for each State for the second, third, and fourth calendar quarters of fiscal year 2002, each calendar quarter of fiscal year 2003, and the first calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (a), (b), and (c)) shall be increased by 1.50 percentage points.

(e) FURTHER INCREASE FOR STATES WITH HIGH UNEMPLOYMENT RATES FOR CALENDAR YEARS 2002 AND 2003.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to subsections (g) and (h), the FMAP for a high unemployment State for the second, third, or fourth calendar quarters of fiscal year 2002, any calendar quarter of fiscal year 2003, or the first calendar quarter of fiscal year 2004, (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), (c), and (d)) by 1.50 percentage points.

(2) HIGH UNEMPLOYMENT STATE.—

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

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

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

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

(f) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, with respect to the second, third, and fourth calendar quarters fiscal year 2002, each calendar quarter of fiscal year 2003, and the first calendar quarter in fiscal year 2004, 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.

(g) 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.).

(h) STATE ELIGIBILITY.—A State is eligible for an increase in its FMAP under subsection (d) or (e) or an increase in a cap amount under subsection (f) 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.

(i) 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.).

Mr. BAUCUS. Mr. President, I ask unanimous consent my amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2719

Mr. BAUCUS. Mr. President, I ask Senator HARKIN be allowed to call up his amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is once again pending.

The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry: I want to make sure what the business is before the Senate.

The PRESIDING OFFICER. Amendment No. 2719.

Mr. HARKIN. That is the amendment which this Senator offered yesterday; is that correct?

The PRESIDING OFFICER. It was offered by Senator REID on behalf of the Senator from Iowa.

Mr. REID. Mr. President, if the Senator will withhold just for one brief comment, the minority did not have a manager here. This has been cleared. The unanimous consent we just got has been cleared with Senator GRASSLEY. I had also talked to those—I thought—on the other side who knew what we were doing.

If the Senator will withhold proceeding until we make sure someone, a manager on the other side, is here because we don't want to take advantage of them because we got a unanimous consent agreement when no one was on the floor. If the Senator will withhold, the staff has gone to seek someone on the other side.

Mr. HARKIN. I withhold.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. CARNAHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1630

Mrs. CARNAHAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 218, S. 1630; that the bill be read three times and passed, and the motion to reconsider be laid upon the table with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, on behalf of the Republican leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. CARNAHAN. Mr. President, I am disappointed to hear objection to passing a bipartisan bill to help family farmers. We spent a great deal of time last year trying to pass a farm bill. I supported that effort. I support reviving that effort again this year.

The legislation that I am trying to pass today is also aimed at helping ailing family farmers. The bill would extend chapter 12 of the bankruptcy code for 6 additional months. Chapter 12 offers expedited bankruptcy procedures for family farmers in an effort to accommodate their special needs. It was first enacted in 1986. It has been extended several times since then—most recently earlier this year.

The provisions of chapter 12 allow family farmers to reorganize their debts as opposed to liquidating their assets. These provisions can be invaluable to farmers struggling to stay in business during difficult times. Unfortunately, chapter 12 expired on October 1 last year.

My bill seeks to extend these provisions for six additional months and to reinstate them retroactively to the date when they expired. Retroactivity will ensure that there are no gaps in availability of these procedures. I hope this will be the last extension that is necessary.

The larger bankruptcy reform bill that is currently pending before a House-Senate conference committee includes a permanent extension of chapter 12. Nevertheless, American family farmers should not have to wait for us to complete our work on the bankruptcy reform bill. The very least we can do to assist farmers now is to reenact these noncontroversial procedures. That is why I am so puzzled by this anonymous objection.

Legislation extending these provisions passed the House of Representatives by a vote of 408 to 2 last year and subsequently passed the Senate by unanimous consent. The Judiciary Committee unanimously reported the bill I am seeking to pass today on a voice vote. Furthermore, the bill has several bipartisan cosponsors, including my colleague from Missouri, Senator KIT BOND; the chairman of the Judiciary Committee, Senator LEAHY; and the lead sponsor of the Senate bankruptcy reform bill, Senator GRASSLEY.

I urge any Senator who has any concern about this bill to speak with me. I will be more than happy to work to address any issues my colleagues may have in an effort to secure expedited passage of this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

HOPE FOR CHILDREN ACT—Continued

AMENDMENT NO. 2719

Mr. HARKIN. Mr. President, as I understand it, the pending business before the floor is amendment No. 2719, offered yesterday by Senator REID on this Senator's behalf. I rise to speak for a few minutes on that amendment.

I thank the Senator from Montana for giving me the courtesy of going first because of the time schedule I have this afternoon.

Senator BAUCUS and Senator DASCHLE have provided great leadership on this important issue of the stimulus. There is one part of the amendment that is before us that is vitally important to all of our States as we are facing this downturn in the economy. That part of the amendment deals with the Federal share for Medicaid recipients in the States. It is called FMAP, the Federal Match for Medicaid Program.

Under the provision in the underlying Daschle amendment, and under the leadership of Senator BAUCUS, they did provide for three things. They provided a 1.5-percent increase to every State in their 2002 Federal match for Medicaid. That would provide about $3.5 billion in additional Federal Medicaid payments to the States.

I have a chart which shows what that would mean for every State and what my amendment would mean for every State. I ask unanimous consent that this chart be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARKIN. Senator BAUCUS and Senator DASCHLE, by their amendment, put in a 1.5-percent increase to all States.

The second part was, because of unemployment measures previously calculated, some States were scheduled to go down in 2002 in their Federal match. The amendment before us under Senator BAUCUS holds those States harmless. That is about 29 States that would have lost money this year. And under the Baucus amendment, they are held harmless.

The third part is that States with high unemployment would receive an additional 1.5 percent in their 2002 Federal match. This would provide assistance to about 16 States that have very high rates of unemployment. This policy proposal is extremely important for the States.

The pending amendment I have offered would only change one part of that. It would take the 1.5-percent increase for all States and increase it to 3 percent. In other words, it would add 1.5 percent to the Federal match for all States. I believe that is important because when the committee developed this bill and the stimulus package, the National Association of State Budget Officers had predicted a $15 billion shortfall for the States for 2002. That was last fall. By the end of the year, the National Association of State Budget Officers had updated their prediction for the shortfalls in our State budgets to $38 billion—in other words, double. I have heard from my Governor—and I know others have heard from their Governors and their legislatures—about the cuts they are going to have to make in their State budgets.

The problem is, one of the places where they have to cut, because that is the biggest pot for most States, is Medicaid. If a State cuts $1 out of their budget on Medicaid, they may lose $2 or $3 or $4 of Federal money. I don't

know what it is for the Presiding Officer's State, and I don't know what the Medicaid match is there. I do know in Iowa it is about 3 to 1. So that for every dollar the State would not have in their budget for Medicaid, they would lose $3 of Federal money. It isn't only that the State cuts its Medicaid budget by $1 and hurts one Medicaid recipient. If it cuts Medicaid by $1, it is hurting three or four times as many people. It has that kind of a multiplier effect.

While I am very supportive of what Chairman BAUCUS and Senator DASCHLE have done, we recognize now that these new projections of the shortfalls in our State budgets command us to put more into the program of reaching these States for their Federal match.

On the other two aspects of the amendment, on the one that holds States harmless, that is still in my amendment. And on the other one that provides the 1.5-percent increase to the States with unusually high unemployment, that is there also. I wanted to make sure that every State received the amount of Federal matching money they need.

Again, another reason why this is so important is because most States have a requirement in their Constitution that they have to balance their budgets. It is a constitutional requirement. They can't get around it. When they start cutting, if they do across-the-board cuts, which seems at first blush to be the most logical, they just do a straight percentage across-the-board cut, Medicaid, being the biggest part of the State budget, gets whacked the most. Then they lose the Federal dollars that come in as a match.

I believe this is critically important for our States. I also believe State fiscal relief is one of the best ways to stimulate the economy. The Federal dollars we send out for Medicaid help to avert State budget cuts or tax increases that could be detrimental to the States in any economic recovery.

People in my State of Iowa and all across the Nation have enough trouble finding affordable, quality health care. They need our help and support during this recession. When it comes to protecting the vulnerable in these difficult times and getting our economy back on track, putting Iowans and all Americans back to work, it is critically important that we make sure that those who are out of work—they may have lost their jobs; Medicaid may be the only source of health care for them and their kids during this period of time, and then looking at the States and facing the budget crunches they have—it became clear that we had to add a little bit more money to this effort.

Again, I thank the chairman for focusing on this issue as he has done and for the work he has done in putting in that 1.5 percent. It has become clear in the last few weeks that the States are going to need more than 1.5 percent. That is why I have offered this amendment in a friendly manner to ensure that we meet our obligations to the States to get the money out there so that these people who are the most vulnerable don't fall through the cracks.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. I yield the floor.

EXHIBIT 1

Comparison of Net FFY2002 State Funds Impact of Senate and House Provisions to Harkin Amendment. Harkin: 3% all + 1.5% high unemployment + hold harmless.

FMAP/TEMPORARY HEALTH ASSISTANCE

[Based on FFIS data/estimates, dollars in millions, rounded]

State	Daschle plan	House plan	Harkin plan	Harkin minus Senate	Harkin minus House
Alabama	$75.98	$14.99	$113.97	$37.99	$98.98
Alaska	30.14	13.61	39.24	9.10	25.63
Arizona	114.87	24.01	162.93	48.06	138.92
Arkansas	65.23	10.45	95.05	29.82	84.60
California	821.54	234.55	1,188.31	366.77	953.76
Colorado	47.20	18.73	78.66	31.46	59.93
Connecticut	48.02	30.02	96.04	48.02	66.02
Delaware	8.98	5.17	17.96	8.98	12.79
DC	28.20	5.49	42.30	14.10	36.81
Florida	253.55	71.73	390.93	137.38	319.20
Georgia	101.92	48.69	178.59	76.67	129.90
Hawaii	19.97	5.60	29.95	9.98	24.35
Idaho	24.54	3.77	36.81	12.27	33.04
Illinois	239.91	87.75	359.86	119.95	272.11
Indiana	85.65	25.07	142.28	56.63	117.21
Iowa	30.32	11.70	60.64	30.32	48.94
Kansas	26.02	10.86	51.84	25.82	40.98
Kentucky	112.16	24.87	161.00	48.84	136.13
Louisiana	113.67	24.92	167.42	53.75	142.50
Maine	22.78	7.56	44.26	21.48	36.70
Maryland	52.73	30.17	105.46	52.73	75.29
Massachusetts	122.11	60.98	244.22	122.11	183.24
Michigan	220.34	68.28	322.01	101.67	253.73
Minnesota	100.45	56.98	165.52	65.07	108.54
Mississippi	88.20	13.23	125.49	37.29	112.26
Missouri	73.42	29.07	146.84	73.42	117.77
Montana	10.31	2.77	19.67	9.36	16.90
Nebraska	27.05	12.77	46.20	19.15	33.43
Nevada	23.23	7.34	33.89	10.66	26.55
New Hampshire	12.08	7.74	24.16	12.08	16.42
New Jersey	106.70	57.94	213.40	106.70	155.46
New Mexico	59.43	10.56	84.45	25.02	73.89
New York	1,068.63	287.00	1,602.94	534.31	1,315.94
North Carolina	232.62	72.97	325.71	93.09	252.74
North Dakota	8.99	2.68	15.88	6.89	13.20
Ohio	146.40	68.42	276.88	130.48	208.46
Oklahoma	48.28	14.46	82.74	34.46	68.28
Oregon	92.56	29.03	131.23	38.67	102.20
Pennsylvania	352.78	103.02	529.17	176.39	426.15
Rhode Island	50.17	21.39	69.08	18.91	47.69
South Carolina	116.22	29.06	161.93	45.71	132.87
South Dakota	18.23	6.79	26.06	7.83	19.27
Tennessee	93.22	37.39	179.99	86.77	142.60
Texas	394.12	115.32	570.67	176.55	455.35
Utah	24.05	9.25	38.16	14.11	28.91
Vermont	10.50	3.80	20.00	9.50	16.20
Virginia	77.22	32.64	136.04	58.82	103.40
Washington	174.83	54.78	253.52	78.69	198.74
West Virginia	47.44	7.69	70.60	23.16	62.91
Wisconsin	73.05	38.56	125.70	52.65	87.14
Wyoming	9.70	4.57	13.60	3.90	9.03
Puerto Rico	4.82	0.00	9.64	4.82	9.64
American Samoa	0.10	0.00	0.20	0.10	0.20
Guam	0.15	0.00	0.30	0.15	0.30
Northern Marianas	0.05	0.00	0.10	0.05	0.10
US Virgin Islands	0.15	0.00	0.30	0.15	0.30
Total	6,211	1,976	9,630	3.419	7,654

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I do not know if there are any Senators who wish to debate the current amendment. At the appropriate time, I will ask the Senator from Iowa to acknowledge there is no more debate so we can set aside his amendment and go to the regular order.

The Senator raises a very important point that in the last 2 years, States' economies have generally deteriorated. As a consequence, there is more pressure on their Medicaid budgets. States are losing revenue. States are moving more toward deficit positions. They are not as healthy as they once were.

When States begin to cut spending and cut services, there is a tendency to cut back a bit on Medicaid programs to balance the State budgets.

The Senator is proposing a significant percentage increase in the matches the Federal Government make to States under Medicaid to make up that difference.

That so-called difference, the drop, occurs for a second reason. We have very old data. The reimbursement to States under Medicaid is based on data up through the year 2000. States were doing pretty well in 1999 and 2000. So there is a tendency for the reimbursement rate to be out of whack, out of sync with the current fiscal situation of the States; namely, tougher times, deteriorating surpluses, sometimes potential deficits. The amendment offered by the Senator from Iowa attempts to address that point.

One might question whether the amendment is too rich or not rich enough. It is a question of degree. He essentially wants to add 3 percent to all States' match and an extra 1.5 percent for States with particularly high unemployment. That is an approach I also took in an amendment I will be offering later today. Although the approach is the same, the total percentage amount is not quite as high.

The percentages in the amendment I will be offering later hold States harmless. The percentages offered by the Senator from Iowa, it is my understanding, in the first year go slightly higher for well-intended reasons. I am not going to pass judgment on whether that is a good idea or not, but that is the practical effect of that amendment.

I do not see anybody else wanting to speak on this amendment. The Senator might want to speak some more. Maybe he does not want to speak some more. If not, I ask unanimous consent that, whatever the appropriate order, the amendment be set aside and voted on at the appropriate time and that the pending business be the regular order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I will support the Harkin amendment, No. 2719, in response to the numerous phone calls and letters I have received from my constituents in recent years regarding the increasing cost of health care. Nevertheless, I am concerned with increasing these kinds of mandatory expenditures that are able to bypass the consideration of the Appropriations Committees.

While I believe that this Congress should address the rising cost of health care in the United States, we should avoid band-aid approaches and focus our efforts on more comprehensive solutions.

The PRESIDING OFFICER. The Senator from Nevada.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND HOUSE OF REPRESENTATIVES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Con. Res. 95, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 95) providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 95) was agreed to, as follows:

S. CON. RES. 95

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

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

HOPE FOR CHILDREN ACT— Continued

AMENDMENT NO. 2718

Mr. BAUCUS. Mr. President, there was a vote earlier on a small business amendment offered by the Senator from Missouri, Mr. BOND. It was adopted. That shows we are starting to make progress toward an agreement on a bill to stimulate economic recovery. That was the small business expensing amendment which increased the ceiling amount available for business as to expense.

We now have an opportunity to make even more progress by adopting the Baucus-Smith amendment. This amendment makes two important improvements: First, it strikes a balance on the bonus depreciation issue with a 2-year compromise provision. Second, it will help States by increasing the Federal matching payments for Medicaid. As a bonus depreciation, this assistance will be provided for 2 years.

Essentially, I am offering an amendment, joined by my good friend from Oregon, Mr. SMITH, to provide for a 2-year bonus depreciation, as well as a 2-year FMAP payment. I will speak first about bonus depreciation.

I think we all agree that a strong stimulus bill must create tax incentives for business to invest in new equipment. I do not think there is much doubt about that. This amendment creates jobs, lifts the economy, and also increases productivity in the long run. Chairman Greenspan and others have talked a lot about productivity. There is not much doubt that this amendment will help us move in that direction.

Everyone agrees on the concept. The debate, however, has been over the details. The proposal before us is a 10-percent bonus. We have agreed to increase that to 30 percent. The question now is how long should the incentive last.

The Democratic proposal was 1 year; the Republican proposal was 3 years. Our bipartisan compromise amendment, that is the amendment of Senator SMITH from Oregon and myself, is 2 years. This is not simply an effort to split the difference. Instead, if one steps back and thinks about it, a 2-year incentive makes good sense. Three years is too long. It will not encourage business to invest quickly enough. As a result, it will not stimulate businesses to act when we most need them to act.

On the other hand, in the debate last week, Senator SMITH and others made a very good point. They said that a 1-year bonus period might not be long enough because it does not give businesses enough time to make sound investment decisions. Let's not forget the investment to qualify has to be in place, in service within the requisite period.

We have to assume this legislation will not be enacted before March. If we were to stick to the 1-year period, companies would only have a few months left at that point to make purchases and get assets in place, as we are dealing with the calendar year. That is not time enough, especially if we think about the kinds of investments we want to encourage, which is airplanes, heavy machinery, equipment used in manufacturing, locomotives, pipelines, and refineries. In many cases, these assets may take longer to build than 1 year, or the contracts for purchase may take some time to negotiate. This is a legitimate concern.

To address it, our amendment gives companies until December 31, 2003, to make their purchases and get assets in place. Even after that, companies would have an extra year to put the assets in place if they take more than a year to build, so long as they meet a binding contract test.

The amendment will provide economic stimulus. It will work quickly, and it recognizes business realities and gives companies the time they need to make sound investment decisions. That is the first part of the amendment.

The second part relates to the States. The technical term is FMAP. What it is about is helping States by temporarily increasing the rate at which we match State payments under Medicaid. Let me explain why this is important.

Rising Medicaid costs are already contributing to the States' fiscal crisis. Health care costs are increasing rapidly, while rising unemployment is increasing the number of people eligible for Medicaid services. Medicaid spending grew by 11 percent last year. It is likely to increase even faster this year if current economic and budgetary conditions persist.

Many States have already implemented or are now considering implementing significant cuts in Medicaid and the State Children's Health Insurance Program, otherwise known as CHIP, in 2003.

These cuts would affect thousands of children, elderly, and disabled people. For example, Oklahoma and New Mexico may eliminate their CHIP-funded Medicaid expansions to children entirely.

CHIP—that is the State Children's Health Insurance Program—has been very popular. It helps low-income kids get health insurance, health insurance they did not previously have. I think it would be very unfortunate if, due to State budget constraints, they either choose to or believe they are forced to cut back and, in some cases, eliminate those programs that provide health insurance for children.

Tennessee has proposed cutting Medicaid eligibility for 180,000 low-income people in its TennCare Program. Other States will no longer cover disabled workers returning to work or low-income women with breast and cervical cancer. These budget cuts and these tax increases are based on revenue forecasts that do not assume enactment of bonus depreciation provisions. Because most States tie their own tax collections to the Federal tax system, the additional loss of revenues in 2003 that would result from a lengthy bonus depreciation period would increase the likelihood and severity of State actions to cut programs and raise taxes.

The underlying amendment would address this problem by providing a temporary 1-year increase in the Federal matching rate under Medicare. Our amendment goes a bit further by extending the period for 2 years to match the depreciation period.

By doing so, the amendment ensures the amount of aid provided both to States generally and to individual States in particular, will grow if the recession proves deeper than currently projected. That is the second part of the amendment.

All told, the amendment will help businesses, it will help workers, it will help States, and it will help families maintain Medicaid coverage.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have not fully read the FMAP part of the distinguished Senator's amendment, but I am interested in helping the States at this particular time because many of them are experiencing budget crunches, and it is really causing them a lot of difficulty.

With regard to the CHIP program, which was a Hatch-Kennedy bill that was enacted over 4 years ago, my home State of Utah has now achieved the goal of insuring 27,000 children of people who work but do not have enough money to pay for their children's health insurance. In Utah, we have covered 27,000 kids, but there are at least 3,000 more who need to be covered. Due to State budget concerns, Utah has had to cap its CHIP program at 27,000.

Now that is not right. I cannot blame my State leaders. They have to balance the budget, but it is not right that any child in our society should go without basic health care. The very poor in our society are covered by Medicaid. What we did with the CHIP bill was try to take care of those 7 million young people in the country who are children of the working poor. The parents of these children work but do not earn enough money to pay for health insurance but make too much money to be eligible for the Medicaid program. CHIP has worked immensely well. It has been one of the most successful health care programs in the country.

I have worked on a number of important issues throughout my Senate career, and I think that passage of the CHIP program was one of my top achievements as a United States Senator. Providing access to affordable and quality health coverage to the medically uninsured continues to be a high priority for me. So while I have to read the amendment language, I believe it is an important amendment, and I intend to support it as of this juncture.

With regard to bonus depreciation, I was the first Senator to file a bonus depreciation bill. My bill provided for a 50-percent bonus depreciation deduction rather than the 30 percent in this amendment. But remember, some of the other bills were only at 10-percent bonus depreciation, and I am pleased to see that this amendment would now bring it to 30 percent. I am very happy to see the work of Senator SMITH and the distinguished chairman of the Finance Committee, whom I call a friend, in bringing this bonus depreciation percentage to a reasonable level. I would prefer it to be even higher because that would be even more stimulative over this 2-year period, but this is a good move compared to where we were. If we had gone with the Daschle amendment, as I understand it, it would have been effective only from last September until next September. It would have barely had time to work. So this amendment does bring the bonus depreciation more into the realm of workability.

Bonus depreciation is one of the few things we are doing in this legislation that literally provides for an economic stimulus. It is a very good economic stimulus because a lot of companies are understandably nervous about the economic slow-down and are hesitant to invest in their equipment. With a bonus depreciation incentive, they may be able to pull out of some of their difficulties with this additional help that will be provided.

With regard to the FMAP increase included in this amendment, these provisions will assist those who are suffering in our society today due to the economic downturn. In addition, there are States that are having tremendously difficult times meeting the needs of their citizens. The FMAP increase will provide these States with valuable resources so they can meet these demands more easily.

So I want to commend the distinguished Chairman of the Finance Committee for calling up this amendment. I particularly want to commend him for working with Senator SMITH of Oregon, who brought up the original bonus depreciation amendment but who wanted the incentive to last for 3 years. We compromised on 2 years, which I believe is a decent compromise. I want to pay my respects and compliment both of them for the work they have done on this particular amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I direct a question to the distinguished chairman of the Finance Committee. I have four amendments on which I will be very brief. My intention is, if there is no objection, to offer the four amendments, debate one of them at a time, and if someone else comes and wants to offer another amendment, they can put my amendment aside.

What is the position of the chairman on that suggestion?

Mr. BAUCUS. Mr. President, the Senator from Nevada, Mr. REID, is organizing the sequence of amendments. I think it is fine for the Senator from New Hampshire to offer his package of amendments with the understanding they come up one at a time, and if there is an amendment on this side in the interim, that amendment would be offered and we would go back to one of Senator SMITH's amendments. That is fine.

Mr. SMITH of New Hampshire. I thank the chairman.

AMENDMENTS NOS. 2732 THROUGH 2735, EN BLOC

Mr. SMITH of New Hampshire. Mr. President, I send four amendments to the desk, and I ask unanimous consent that they be called up and temporarily set aside for consideration at the appropriate time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendments, en bloc.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes amendment Nos. 2732 through 2735, en bloc.

The amendments (Nos. 2732 through 2735), en bloc, are as follows:

AMENDMENT NO. 2732

(Purpose: To provide a waiver of the early withdrawal penalty for distributions from qualified retirement plans to individuals called to active duty during the national emergency declared by the President on September 14, 2001, and for other purposes)

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

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

(a) WAIVER FOR CERTAIN DISTRIBUTIONS.—

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

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

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

''(C) CERTAIN EARLY WITHDRAWALS FROM RETIREMENT PLANS.—No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent such underpayment was created or increased by any distribution described in section 72(t)(2)(G).''.

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

(b) CATCH-UP CONTRIBUTIONS ALLOWED.—

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

''(D) CATCH-UP CONTRIBUTIONS FOR CERTAIN DISTRIBUTIONS.—In the case of an individual who has received a distribution described in section 72(t)(2)(G), the deductible amount for any taxable year shall be increased by an amount equal to—

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

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

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

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

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

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

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

''(2) LIMITATION ON AMOUNT OF ADDITIONAL DEFERRALS.—

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

''(i) the applicable dollar amount, or

''(ii) the excess (if any) of—

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

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

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

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

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

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

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

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

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

AMENDMENT NO. 2733

(Purpose: To prohibit a State from imposing a discriminatory tax on income earned within such State by nonresidents of such State)

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

SEC. ___. PROHIBITION ON IMPOSITION OF INCOME TAXES BY STATES ON NONRESIDENTS.

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

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

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

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

''116. Prohibition on imposition of income taxes by States on nonresidents.''.

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

AMENDMENT NO. 2734

(Purpose: To provide that tips received for certain services shall not be subject to income or employment taxes)

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

SEC. ___. TIPS RECEIVED FOR CERTAIN SERVICES NOT SUBJECT TO INCOME OR EMPLOYMENT TAXES.

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

''(d) TIPS RECEIVED FOR CERTAIN SERVICES.—

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

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

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

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

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

''(B) do not exceed the excess of—

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

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

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

(b) EXCLUSION FROM SOCIAL SECURITY TAXES.—

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

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

AMENDMENT NO. 2735

(Purpose: To allow a deduction for real property taxes whether or not the taxpayer itemizes other deductions)

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

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

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

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

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

Mr. SMITH of New Hampshire. Mr. President, these amendments I have offered encompass a number of important issues, including property taxes, commuter taxes, tip taxes for those who work as waiters and waitresses for the most part, and Reservists. Those are the four categories.

Mr. President, I thank my colleagues for their courtesy in allowing me to offer four amendments. I will have a very brief discussion of each of these amendments.

AMENDMENT NO. 2735

The amendment No. 2735 is an amendment dealing with property taxes. It provides an above-the-line deduction for State and local property taxes. Right now, these taxes are only deductible for those who itemize their taxes. The nonitemizers are at the lower income levels. Therefore, this will help stimulate the economy by encouraging home purchases and home ownership for those at the lower income levels that do not itemize their taxes.

As we all know, property taxes tend to fund local education. So providing this tax deduction makes it easier for a local taxpayer to afford the quality education. As a former teacher and a parent, I believe it is very important to our economy.

It is important to understand, if a citizen makes enough money to have enough deductions to itemize taxes,

they can deduct property taxes. But what about the senior citizen who has property that has gained in value, they don't want to sell their home, and they are on a fixed income? They could be forced to sell their home to pay the property taxes—which go up every year, usually because of the schools or other costs in the community.

This gives immediate tax relief to every working American or senior citizen or anyone else who owns property, pays property taxes, but does not get a tax deduction because they do not itemize. There is a direct stimulus to the economy. Imagine being able to deduct $2,000 or $3,000 in property taxes and having that cash on hand to be used for something else, whether the purchase of a refrigerator or whatever.

If we want to stimulate the economy and help those who need it most, this is the kind of legislation that does it. I hope my colleagues will look seriously at this matter and pass it as an amendment to the stimulus package.

AMENDMENT NO. 2733

The second amendment I will speak to, No. 2733, involves a commuter tax. This prohibits the imposition of a nonresident income tax unless two States agree to a compact permitting that tax. It happens in New Hampshire; it happens in other States. A State does not have an income tax and a person who lives in a State with no income tax works in another State. That State taxes their income. It is taxation without representation. It is not fair.

This prohibits this tax from being implemented. In the long run, it is fair, and it is best for all people, no matter in what State you live. Even if you are in a State that collects those taxes, it is the issue of fairness. Is it fair for you to collect an income tax from a person who works in your State who gets no benefit? It does not mean only the interstate exchange of goods and services, it also means the exchange of labor.

One of the best ways to stimulate economic growth is allow people to work wherever they want in whatever State they want. Why make it a disincentive for the person living on the border of one State to go to another State. That is what we are doing. It is especially unfair in States such as New Hampshire, where there is no income tax, and there is no reciprocating. In the State of New Hampshire, $2 or $3 million goes out of that State into several of the surrounding States.

We all have constituents who work in neighboring States. In most cases, these constituents pay income taxes to those States; they are called commuter taxes. This is called taxation without representation, where I went to school. This is one of the issues that the colonists in our country fought over when they began to remove themselves from the authority of the King. The Declaration of Independence lists the reasons our country broke away from the Crown, and one of them was imposing taxes without our consent. That is exactly what happens in every State in America where there is an income tax for a person, say, living in Montana, who works in a neighboring State, and they have to pay the tax of that neighboring State.

It is not fair. I understand where politically it is easier for a State legislator to support an income tax on citizens who cannot vote them out of office. There is no way you can vote these people out of office for imposing these taxes, but it goes against the very principles on which our country was founded.

My amendment says if the State consents to allow its citizens to be taxed by a neighboring State, that is OK because now the constituents have an opportunity to either support or not support the legislators who imposed that. It is a very important distinction as to this amendment. If a State consents to allow citizens to be taxed by a neighboring State, fine. But right now that is not the case. They could sign an interstate compact, which would be fine, but it should be up to the States. My amendment preserves the right of citizens to be governed by their own States, not by the tax-hungry legislators of another State.

If you examine this issue, it is a States rights issue, and I urge its adoption.

AMENDMENT NO. 2734

Mr. President, the attacks of September 11 have left a great deal of devastation in their wake. Thousands perished during the attacks while tens of thousands of friends and family members are left to grieve for their loved ones. But the economic impact of those attacks continue to be felt throughout the Nation. With more than 1.6 million working men and women laid off last year, we need to look for ways to provide assistance to working individuals and their families.

The business community, particularly the travel industry, are bearing the brunt of the burden. With airline travel and hotel bookings down sharply, communities which largely depend on tourism and travel as their chief source of revenue will soon, if not already, be in the red and may soon be forced to cut vital services. It is, therefore, imperative that we pass a strong, sensible economic stimulus plan that will provide immediate relief to all Americans and stimulus to local businesses to help them weather this storm and expand employment. However, we must not overlook those who need help the most. The working poor.

Many of the these hardworking Americans supplement their often, minimum wage incomes, with tips received for their excellent service. However, this discriminatory tax is levied against those who can least afford it. Therefore, I am offering an amendment to address this unfairness in the tax code and provide direct relief to hardworking Americans. My amendment is very simple. It recognizes a tip for what it is: a gift. All tips, not exceeding $10,000 annually, would be tax-free. Result: hundreds of dollars a month remains in the pocket of hard working individuals. By exempting these monies from both income and FICA taxes, more money will be returned to the pockets of both employees and employers.

Under current law, service employees who typically receive tips are assumed to have made at least 8 percent of their gross sales in tips. Taxes are applied regardless of the actual level of the tip. The end result for these employees is that they may have to pay taxes on income they didn't receive.

By passing my amendment, the Federal Government will provide direct relief to at least 2.3 million low to middle income individuals who depend on tips to make ends meet. Industry statistics show that most of the employees that will be helped by my amendment are either students, single mothers, or employees at the beginning of their careers. My amendment will benefit millions of Americans directly, substantially, and quickly, while lifting some of the heavy burden of Government off of thousands of small businesses. My amendment eliminates the current cumbersome system under which tips cannot possibly be reported accurately. Hard working, law-abiding citizens who are given tips as a result of their extra effort do not wish to be labeled cheaters by the IRS which does not understand the realities of their work. It is time to change the tax law covering income from tips. My amendment caps the tax-free earnings at $10,000 for the small percentage who make a career of waiting on tables in high-end restaurants and resorts. For States that have a tip credit rule, this bill will not impact the employee's and employer's obligations and contributions up to the minimum wage.

Congress should show the hard working men and women of America that the Federal Government is not out of touch, and that it has some compassion for the struggle facing the millions of citizens in the service industry. By passing my amendment, we pass a common sense proposal that will directly help millions of hard-working Americans.

To reiterate, the third amendment is No. 2734, known as the tip tax. This amendment would consider tips to be gifts for income tax purposes. This would provide a great amount of much needed relief and stimulus to the hospitality and other service sectors of our economy by eliminating the tax burden imposed on these tips.

Think about the types of people who hold these jobs. There are many single mothers, working women, working hard. You have all been to restaurants and you see how hard waiters and waitresses work. Frequently these are single-income mothers who have children at home. They are working hard. This would exempt the first $10,000 of those tips from Federal income tax. That is a pretty good incentive and would help

every waitress, every waiter, every person who receives gratuities as the primary source of their income. It would help them tremendously to exempt the first $10,000.

We treat the tip income the same way—the first $10,000 a year tax free. It is good policy and good stimulus, and I urge its adoption.

In summary, again, if you work as a waitress or waiter, the first $10,000 of the money you earn in tips would be exempted from Federal taxes.

AMENDMENT NO. 2732

After the treacherous attacks of September 11, the need to increase security around the country was and continues to be imperative.

Much of the security needs were filled by National Guard and Reserve units. Many were forced to leave high or higher paying jobs than the military was able to pay. In some cases, this caused a financial burden on the men and women who were called to duty.

In order to help the Guard and Reserve units who were called up as a result of the terrorist attacks, my amendment would allow those units to access their retirement plans without paying the 10 percent penalty for early withdrawal.

The legislation would also allow them an underpayment waiver as well as a catch-up contribution without caps up to the amount they withdrew from their retirement fund.

While we have rightfully provided tax relief to the business and families involved in the September 11 attacks, we must also look for ways to provide relief to those brave men and women who have been called up to protect us from further attacks.

I ask the Senate to support the members of our National Guard and Reservists and agree to my amendment.

In conclusion—I may want to speak to these amendments a little bit later—these are four opportunities for us to help people who need help and stimulate the economy at the same time. These are working women, for the most part, single mothers, working women who have children at home, to exempt that first $10,000 in tip income; to help the reservist who is called up on active duty who has a tough time now making payments on the home; third, to help those who work in one State and have to pay taxes in that State even though they do not get any vote on it; and finally, the property tax where with the above-the-line deduction, if you don't itemize, you can deduct your property taxes.

That will help mostly seniors, those people who are on fixed incomes who are basically property poor. They do not want to sell their house. They don't want to mortgage their house. Why should they have to? They have worked all their lives for it. They can't pay the taxes on it. This will give them a chance to deduct it right off their income.

My amendment will provide tax relief to low income homeowners who do not have enough in deductions to itemize.

Giving low income working Americans an above the line tax deduction for their family home will encourage home ownership and provide a much needed economic stimulus in financially challenged neighborhoods.

School districts depend, in large part, on property taxes. Encouraging home ownership will increase greater tax dollars to these school districts and provide greater learning opportunities for our children.

As a former teacher, I believe it is very important to our children and our economy.

I ask that the Senate consider the working poor and agree to this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment offered by the Senator from New Hampshire is the pending business.

Mr. SESSIONS. I ask unanimous consent to lay aside the pending amendment in order that I might introduce my own amendment, along with Senator ALLEN.

The PRESIDING OFFICER (Mr. CARPER). Is there objection?

Mr. REID. Reserving the right to object, what is the consent request?

The PRESIDING OFFICER. The Senator will repeat his request.

Mr. SESSIONS. That we lay aside the pending amendment and I and Senator ALLEN be allowed to offer an amendment.

Mr. REID. I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, I announce to Members that we are trying to have a consent agreement entered into within the next few minutes to have a vote on or about a quarter to 4 today on the Harkin amendment. We have an agreement that was formalized last night to alternate amendments. And that is what we have been doing. We have a formal agreement that during this stimulus package we are alternating amendments. The next two that were to be in order were two Democratic amendments. We are going to dispose of these. We are going vote on the Harkin amendment and vote on Senator ALLEN's and work our way through this matter. Senator SMITH offered four amendments. The manager on the other side can decide how to handle those. We will do what we have been doing. Unless Senator SMITH combines those into one amendment, we will spread those out, having four amendments on the other side.

I have no objection at this time to Senator SESSIONS offering the amendment in keeping with the agreement that was entered. His amendment would be offered in the normal course of the alternating amendments.

Does the Senator from Iowa agree with me?

Mr. GRASSLEY. Mr. President, if what the Senator is saying is that when it comes to a Member who offered four amendments, we would only vote on one of his amendments and alternate back and forth. Is that your goal?

Mr. REID. Yes. It doesn't matter to me how the manager of the bill handles that. It is strictly up to him.

Mr. GRASSLEY. Since we started the other day with an agreement to go back and forth with one Democratic amendment and one Republican amendment, we will stick with that.

Mr. REID. We entered into that agreement yesterday.

I withdraw my objection to Senator SESSIONS' amendment.

I ask unanimous consent that the Senate vote at 3:45 on or in relation to the Harkin amendment, there be no amendments in order prior to that time, and the time be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Alabama.

AMENDMENT NO. 2736

Mr. SESSIONS. Mr. President, I thank the Senator from Nevada for his courtesy which he displays so often.

The American Family Security and Stimulus Act is a stimulus package that I offered along with Senator ALLEN and Senator SMITH. Several other Senators also support it. It is designed to provide a stimulus to this economy and to middle-class working Americans, by emphasizing help to families who tend to be hurt most in an economic slowdown and by trying to get money into this economy in a way that can move us out of here. It is time to blast out of this recession—not ease out of it.

When we look at our budget numbers and our hopes for the future and jobs in America, what we know is that the sooner we get this economy humming again the better. It will even benefit the politicians because we will have more money in our Government Treasury. But, most importantly, it will help create jobs and income for American families and workers.

It is time for us to quit dawdling about and get moving on something that can be reached. I know the great leadership on both sides of the aisle has worked really hard. Sometimes I have been wont to call them masters of the universe, as they told us they were going to work out something. Sooner or later, they were going to get an agreement. But time has gone by and no agreement has been reached. So I suggest the plan that we would offer today—Senator ALLEN and I—is a bipartisan plan that can include much of what is in other people's plans. It also includes some items that would provide stimulus to the economy that are not special interest oriented but family oriented. So everybody should be able to rally behind them.

I will make a few brief remarks and then I will allow Senator ALLEN to

make some comments. I hope I might be able to speak on it as the day goes by.

The components of this plan include a number of items. I believe one of them that has not been given sufficient thought in this process is the requirement that we advance payment of the earned-income tax credit—a $31 billion program for low-income workers. They get that earned-income tax credit the year after they work as a refund on their tax return. If we could begin to put it on their paychecks now—it is 5 percent—they would receive maybe a 60-cent, 80-cent, or 90-cent-an-hour increase in their pay. It would advance payment maybe $10 billion or $15 billion in this fiscal year's economy when we need that advanced payment, and it would reduce next year's payment. It would be a one-time infusion of cash for hard-working Americans with low income with no cost to the budget over a 2-year period. In fact, I think that is the right approach.

I do not believe I sent my amendment to the desk. I send it at this time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] for himself, Mr. ALLEN, Mr. SMITH of New Hampshire, and Mr. HUTCHINSON proposes an amendment numbered 2736 to the language proposed to be stricken by amendment No. 2698.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SESSIONS. Mr. President, the cost is $15 billion this year, but it saves the Treasury $15 billion next year because that money would have been paid out earlier than would otherwise have been the case.

I ask that we accelerate the 25-percent individual income tax rate reduction that is now set at 27 to go to 25 by the year 2002, instead of 2006. We would accelerate that to this year providing families a break on their tax return. For example, an individual making $27,000 to $67,000 would receive a 2-percent break on their tax return.

We would allow penalty-free IRA withdrawals for health insurance premiums for unemployed workers. That has the potential to help people who are hurting and need health insurance. We would increase the child tax credit from $500, as it is today for the year 2001, to $1,000 per child, allowing families to receive an additional $500 tax credit on their tax returns for this year. We would do that just for 1 year because it is my belief that we need a stimulus in the economy now. It is going to phase into a $1,000 tax credit for families over 10 years, but for 1 year we would accelerate that in these economic times to provide relief for families.

We would increase from $3,000 to $5,000 the capital loss deduction. A number of plans have had that—both Democrat and Republican.

We provide a 3-month $500 tax credit for the purchase of computers for elementary and secondary students, for which Senator ALLEN is such a passionate proponent, and who will explain in detail.

We will extend the unemployment benefit by 13 weeks and provide the option for States to provide unemployment, if they choose, for part-time workers.

I think that goes beyond Senator DASCHLE's proposal and, I believe, would be very much a compromise that would be acceptable across the aisle.

We would provide $5 billion for national emergency grants to States for people who are hurting and provide temporary business relief by allowing an additional 2-year depreciation deduction of 30 percent of the adjusted basis of certain qualified properties. That is projected at an approximate $38 billion cost, and it would have a cost this year when the money is pumped into the economy. But by allowing people to take that depreciation deduction early, it would be something not available to them in the future, thereby saving Government expenditures or costs in income in the future.

That is a good package. I know Senator ALLEN wants to talk about it. I believe it is a step in the right direction. There is nothing in this that is not bipartisan. There is nothing in this that is special interest. Every bit of it is fair and just, which stimulates the economy, over $100 billion worth, without creating a bureaucracy, without creating a welfare program, and actually doing the things we want it to do.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Virginia.

Mr. ALLEN. Mr. President, I commend Senator SESSIONS for his leadership and echo all of the comments he made in support of this measure. I strongly support, as a cosponsor, this amendment which is entitled the American Family Economic Security and Stimulus Act.

This amendment, due to the great leadership of Senator SESSIONS, as well as his ingenuity, has provided us with what I believe to be a very common sense, compassionate, pro-family package that will help stimulate the economy and help American families and businesses get through the current economic recession.

When one thinks of stimulus or stimulus policy—I know the Presiding Officer remembers the discussion on the concept of stimulus—it should be a change in policy which will induce or spur economic activity, whether it is investment or whether it is spending, that would otherwise not occur but for the change in policy.

This amendment represents a very worker-oriented, pro-family economic aid and stimulus package that will provide immediate financial relief to working families. It will ensure more of their hard-earned money stays in their wallets, and they spend it as they see fit. There is the additional $150 a month in the hands of working Americans through advanced payment on the earned-income tax credit. That is really an immediate 50 to 60 cents per hour pay raise for workers in the lowest income levels.

It increases the child tax credit to $1,000 for the current fiscal year, and it accelerates the rate reduction for the 28 percent tax bracket to 25 percent.

I thank Senator SESSIONS for including the educational opportunity tax credit in this important legislation. This is a concept that I ran on in my campaign. It is one many have heard me discuss. What I am doing in adapting this idea, the education opportunity tax credit, to a stimulus package is to create an immediate incentive for families, parents of children who are in kindergarten through 12th grade, to buy computers, educational software, or computer peripherals. It is a technology-related amendment.

Specifically, what this amendment, the Sessions-Allen amendment, would do is provide parents who have children in kindergarten through 12th grade with an immediate $2,500 tax credit to buy computers, educational software, or peripherals. It would be for only 3 months. It would provide those families with the financial means necessary to provide their children with greater educational choice and opportunities best suited to their individual needs.

Parents know the needs of their children better than anyone. We know in studies about the digital divide that youngsters who have computers at home do better in school. They stay in school. They don't drop out. This is an important way of empowering parents to provide computers and educational software and peripherals to their children.

As far as the economic stimulus of it, if the idea of education and empowering parents is not sufficient to convince my colleagues, let's recognize what this will do for the economy. We can look at the States as our laboratories for a lot of good ideas.

Experience shows in the States that even a small temporary reduction in taxes can bring about huge increases in computer sales. In South Carolina, they had a sales tax holiday on computers for only 3 days. What was the result? Computer sales increased more than tenfold, over 1,000 percent, in those 3 days. In Pennsylvania, they eliminated the sales tax on computers for 1 week. CPU sales increased sixfold in that time.

The PRESIDING OFFICER. All time controlled by the minority has expired.

Mr. ALLEN. Mr. President, I hope the Senate will support this idea of empowering parents, helping with technology, and helping out our economy

as well. It is a good, commonsense approach. I thank the Presiding Officer for giving me the additional 30 seconds.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I believe we have consent from the other side to let the Senator from Virginia speak longer.

Mr. ALLEN. I would appreciate that, Mr. President.

Mr. GRASSLEY. I ask unanimous consent to give the Senator 3 additional minutes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Virginia is recognized for an additional 3 minutes.

Mr. ALLEN. Mr. President, as I was stating, the educational opportunity tax credit, empowering parents with a $500 tax credit for a 3-month period to buy computers and educational software and peripherals for their children, as we see from the States, works very well. It is not just the computers themselves. Again, South Carolina realized about a 664 percent increase in monitor sales and a 700 percent increase in printer sales, with only a 5 percent tax break. Pennsylvania had a similar experience.

The impact of this will be at least $5 billion of stimulus into this sector of the economy while also helping out the education of children in this country.

We know that this will have much more of an impact than that because whoever is fabricating the chips, the semiconductor chips, whoever the contractors and vendors may be, whoever the sales folks are, all of them, the computer software writers, all of those people will benefit from more business investment, more sales in the tech sector. This idea is supported by Information Technology Industries; Global Learning System; ITIC, which is the Information Technology Industry Council; John Chambers with CISCO, who is well known for his efforts in education and technology, Gateway Computers, who have seen the impact of this in the States, the Consumer Electronics Association, Radio Shack, and Circuit City.

This is a good, balanced, pro-family, pro-taxpayer, pro-jump starting, and ''stimulating this economy to create more jobs'' idea. I hope we will find bipartisan support for this idea that will really allow families to keep more of their money, help educate their children, and also provide the job placement and financial assistance needed to workers during this economic downturn while also making sure that businesses have the capabilities to make investments with accelerated depreciation.

I look forward to working with my colleagues as we move this country forward in a way of trusting free people and free enterprise.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, if I may, I ask unanimous consent to add as cosponsors of the Sessions-Allen amendment Senator TIM HUTCHINSON of Arkansas and Senator BOB SMITH of New Hampshire.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment of the Senator from Virginia be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2700

Mr. GRASSLEY. Mr. President, on behalf of Senator MCCAIN, I call up amendment No. 2700, and I ask unanimous consent that it be explained and then laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], 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, and Mr. COCHRAN, proposes an amendment numbered 2700 to the language proposed to be stricken by amendment No. 2698.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence)

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.

Mr. MCCAIN. Mr. President, I, along with 39 cosponsors, am proud to sponsor amendment 2700 to H.R. 622 to allow members of the Uniformed and Foreign Services, who are deployed or are away on extended active duty, to qualify for the same tax relief on the profit generated when they sell their main residence as other Americans. I am pleased to announce that Secretary of State Colin Powell fully supports this legislation and this legislation enjoys overwhelming support by the senior uniformed military leadership—the Joint Chiefs of Staff—as well as the Office of Management and Budget Director Mitch Daniels, the 31-member associations of the Military Coalition, the American Foreign Service Association, and the American Bar Association.

The average American participates in our Nation's growth through home ownership. Appreciation in the value of a home because of our country's overall economic growth allows everyday Americans to participate in our country's prosperity. Fortunately, the Taxpayer Relief Act of 1997 recognized this and provided this break to lessen the amount of tax most Americans will pay on the profit they make when they sell their homes.

The 1997 home sale provision unintentionally discourages home ownership among members of the Uniformed and Foreign Services, which is bad fiscal policy. Home ownership has numerous benefits for communities and individual homeowners. Owning a home provides Americans with a sense of community and adds stability to our Nation's neighborhoods. Home ownership also generates valuable property taxes for our Nation's communities.

This amendment will not create a new tax benefit. Let me say that again: this bill will not create a new tax benefit, it merely modifies current law to suspend the time members of the Uniformed and Foreign Services are away from home on active duty. In short, this amendment treats service members and foreign service officers fairly, by treating them like all other Americans.

The Taxpayer Relief Act of 1997 delivered sweeping tax relief to millions of Americans through a wide variety of important tax changes that affect individuals, families, investors, and businesses. It was also one of the most complex tax laws enacted in recent history.

As with any complex legislation, there are winners and losers. But in this instance, there are unintended losers: service members and Foreign Service Officers.

The 1997 act gives taxpayers who sell their principal residence a much-needed tax break. Prior to the 1997 act, taxpayers received a one-time exclusion on the profit they made when they sold their principal residence, but the taxpayer had to be at least 55 years old and live in the residence for 2 of the 5 years preceding the sale. This provision primarily benefitted elderly taxpayers, while not providing any relief to younger taxpayers and their families.

Fortunately, the 1997 act addressed this issue. Under this law, taxpayers who sell their principal residence on or after May 7, 1997, are not taxed on the first $250,000 of profit from the sale; joint filers are not taxed on the first $500,000 of profit they make from selling their principal residence. The taxpayer must meet two requirements to qualify for this tax relief. The taxpayer must, first, own the home for at least 2 of the 5 years preceding the sale; and, second, live in the home as their MAIN home for at least 2 years of the last 5 years.

I applaud the bipartisan cooperation that resulted in this much-needed form of tax relief. The home sales provision sounds great and it is. Unfortunately, the second part of this eligibility test unintentionally and unfairly prohibits many of our men and women in the Armed Forces and Foreign services from qualifying for this beneficial tax relief.

Constant travel across the United States and abroad is inherent in the military and Foreign Services. Nonetheless, some service members and Foreign Service Officers choose to purchase a home in a certain locale, even though they will not live there much of the time. Under the new law, if a service member does not have a spouse who resides in the house during his or her absence or the spouse is also in the military and also must travel, that service member will not qualify for the full benefit of the new home sales provision, because no one ''lives'' in the home for the required period of time. The law is prejudiced against dual-military couples who are often away on active duty, because they would not qualify for the home sales exclusion because neither spouse ''lives'' in the house for enough time to qualify for the exclusion.

This amendment simply remedies an inequality in the 1997 law. It amends the Internal Revenue Code so that the 5-year time period is suspended while the service member or Foreign Service Officer is ordered, I underscore ordered, away from their primary home of residence. In short, active and reserve service members will still be required to live in their primary residence for 2 years, but the 5-year time period is suspended while they are stationed to such places like Afghanistan, the Philippines, Bosnia, the Persian Gulf, in the ''no man's land,'' commonly called the DMZ between North and South Korea, or anywhere else on active duty orders.

In 1998 alone, the United States had approximately 37,000 men and women deployed to the Persian Gulf region, preparing to go into combat, if so ordered. There were also 8,000 American troops deployed in Bosnia, and another 70,000 U.S. military personnel deployed in support of other commitments worldwide. That is a total of 108,000 men and women deployed outside of the United States, away from their primary home, protecting and furthering the freedoms we Americans hold so dear. Since the September 11th attacks on the United States we have asked well over 110,000 service members to deploy abroad to seek out and destroy the terrorists and their supporting organizations responsible for this barbaric deed.

We cannot afford to discourage military service by penalizing military personnel with higher taxes merely because they are doing their job. Military and Foreign service entails sacrifice, such as long periods of time away from friends and family and the constant threat of mobilization into hostile territory. We must not allow the Tax Code to heap additional burdens upon our men and women in uniform.

In my view, the way to decrease the likelihood of further inequities in the Tax Code, intentional or otherwise, is to adopt a fairer, flatter tax system that is far less complicated than our current system. But, in the meantime, we must insure that the Tax Code is as fair and equitable as possible.

The Taxpayer Relief Act of 1997 was designed to provide sweeping tax relief to all Americans, including our men and women in uniform. It is true that there are winners and losers in any tax code, but this inequity was unintended. Enacting this narrowly-tailored remedy to grant equal tax relief to the members of our Uniformed and Foreign Services restores fairness and consistently to our increasingly complex Tax Code.

I ask unanimous consent that the letters of support from the American Foreign Service Association, the Joint Chiefs of Staff, American Bar Association, the Military Coalition, the Office of Management and Budget, and the Secretary of State be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, DC, November 30, 2001.

The Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I am writing in support of the legislation you have introduced to provide members of the Foreign Service, as well as military personnel, the same relief extended to other Americans in the sale of their principal residence. Your efforts on behalf of the men and women of the Foreign Service are very much appreciated.

The Tax Relief Act of 1997 has acted to the disadvantage of many members of the Foreign Service by requiring that they must live in their principal residence for two of the five years prior to sale. Much of a Foreign Service member's career is spent serving his or her country far away from that residence, thereby making it impossible for many of them to utilize the capital gains tax exclusion. Not counting the time on extended duty away from the principal residence as part of the five-year period will give to our Foreign Service personnel and their military colleagues the same tax treatment enjoyed by their fellow Americans.

Sincerely,

COLIN L. POWELL.

JOINT CHIEFS OF STAFF,
Washington, DC, November 27, 2001.

The Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I join the Service Chiefs and strongly endorse the Military Homeowners Equity Act. This legislation would correct an inequity in the Internal Revenue Code of 1997 and would afford Service members the same opportunity to build equity in a home that most other Americans enjoy.

One of the most effective ways to maintain outstanding combat capability in our military personnel is to allow them to concentrate fully on their mission without worrying excessively about the home front. This Bill would be a major step in the right direction.

Thank you for the opportunity to review the legislation, and for your efforts on behalf of our soldiers, sailors, airmen, marines, and coastguardsmen.

Sincerely,

RICHARD B. MYERS,
Chairman.

CHIEF OF NAVAL OPERATIONS,
November 21, 2001.

The Hon. JOHN MCCAIN,
Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: Thank you for your efforts on behalf of our service members to correct the disparity created by the Tax Relief Act of 1997. I would like to extend my support for your legislative tax relief proposal, S. 1678 which would help relieve the hardships experienced by military homeowners and encourage more members to purchase homes.

Many military homeowners who sold their homes after the Tax Relief Act of 1997 have been unable to meet the two-year residency requirement. I ask that you also consider adding language to your proposal to make the tax relief retroactive to sales and exchanges that occurred after the 1997 act, adding a specific exception to the statute of limitations period for filing refund claims.

Please let me know if I may be of further assistance.

Sincerely,

VERN CLARK,
Admiral, U.S. Navy.

October 31, 2001.

The Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Your efforts to improve the quality of service enjoyed by our Navy-Marine Corps team are greatly appreciated. I would like to extend my support for the legislation that you intend to introduce to correct the tax disadvantage created by The Tax Reform Act of 1997.

The Marine Corps has been tracking several bills intended to correct this tax disadvantage. As you know, The Tax Reform Act repealed certain portions of the existing law that allowed military members to maintain the status quo with other taxpayers for exclusion of capital gains. The Act provided for an exclusion, obviously not intended to disadvantage military service members or members of the Foreign Service. In order to qualify, a taxpayer must ''own and use'' the property for two of the five years preceding the sale. Since our personnel seldom remain in one location for over three years, it is difficult to qualify for the exclusion.

Please let me know if there is any way in which I can be of assistance or service.

Semper Fidelis,

J.L. JONES,
General, U.S. Marine Corps,
Commandant of the Marine Corps.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF STAFF,
Washington, DC, November 27, 2001.

The Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I strongly support the legislation you have introduced, S. 1678, to correct the inequitable tax consequences suffered by many soldiers when they sell their principal residence.

As you are aware, under the 1997 Tax Relief Act, a homeowner who sells a principal residence can exclude gain of $250,000 ($500,000 for joint fliers) if the taxpayer owned and used the residence for two of the five years immediately preceding the date of sale. Unlike the previous law, the 1997 Tax Relief Act does not recognize an exception for military service. Accordingly, service members making frequent military moves are often unable to meet the two-year residency requirement required for the home sale exclusion.

Your legislation would correct this inequity by permitting service members to apply time served on extended active duty toward the use of a principal residence to qualify for the home sale exclusion. This change would allow many more service members and their families to take advantage of the home ownership tax incentives enjoyed by other Americans.

I greatly appreciate your commitment to enhance the quality of life for service members and their families. Thank you for your continued support.

Sincerely,

JOHN M. KEANE,
General, United States Army,
Vice Chief of Staff.

HQ USAF/CC,
1670 AIR FORCE PENTAGON,
Washington, DC, November 28, 2001.

The Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Your consistent commitment to improving the quality of life of our Airmen is greatly appreciated. The Air Force fully supports your Military Homeowners' Equity Act—S. 1678. This bill will correct the tax disadvantaged created by the Tax Reform Act of 1997 by allowing members of the Uniformed Services who are deployed or are away on extended active duty to qualify for the same tax relief on the profit generated when they sell their main residence as other Americans. Ideally, this legislation would be retroactive to the effective date of the Tax Reform Act.

The 1997 Tax Reform Act repealed certain portions of the existing law that allowed military members to maintain the status quo with other taxpayers for exclusion of capital gains. The Act provided for an exclusion, obviously not intended to disadvantaged military service members or members of the Foreign Service. In order to qualify, a taxpayer must ''own and use'' the property for two of the five years preceding the sale. With the frequent moves required by military service, it is often times difficult for our service members to qualify for the exclusion. Your bill corrects that inequity.

Thank you again for your continuing support and leadership.

Sincerely

JOHN P. JUMPER,
General, USAF, Chief of Staff.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, November 15, 2001.

The Hon. GRANT S. GREEN, JR.,
Under Secretary for Management, Department of State, Washington, DC.

DEAR GRANT: Thank you for your letter regarding Senator McCain's tax relief proposal. After careful review, there is a case to be made that the current capital gains tax system poses a burden on servicemen and women and foreign service officers. These men and women spend much of their careers being assigned overseas and moving from post to post. We should not penalize these Americans in effect for serving their country.

The Office of Management and Budget supports Senator McCain's proposal which would allow military and foreign service personnel equitable capital gains tax treatment. I appreciate your persistence on this matter as we continue to ensure that our Foreign Service Officers and Military service men and women enjoy such benefits especially during these difficult times.

Sincerely,

ROBIN CLEVELAND,
Associate Director,
National Security Programs.

THE MILITARY COALITION,
Alexandria VA, November 6, 2001.

The Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: The Military Coalition, a consortium of nationally prominent uniformed services and veterans organizations, representing more that 5.5 million members, plus their families and survivors, is grateful to you for introducing The Military Homeowners Equity Act—a bill that would restore capital gains tax equity for military homeowners.

Your legislation is essential to correct a serious oversight in the Taxpayer Relief Act of 1997, which inadvertently penalizes servicemembers who are assigned away from their principal residence for more than three years on government orders. Very often, servicemembers keep their homes while reassigned overseas or elsewhere in the hopes of returning to their residence. On occasions when this proves impossible, and the home must be sold to permit purchase of a new principal residence, servicemembers find themselves subjected to substantial tax liabilities—all because military orders kept them from occupying their principal residence for at least two of the five years before the sale.

The 1999, both the House and Senate passed corrective legislation (H.R. 865) as part of the Taxpayer Refund and Relief Act of 1999, but the President vetoed this bill over an unrelated issue. Your new bill will be important to resurrect this fairness issue and allow servicemembers to comply with government orders and leave home to serve their country without risking a large capital gains tax liability.

The Military Coalition pledges to work with you to seek inclusion of your bill in the pending economic stimulus package so military members can once again enjoy the same capital gains tax relief already provided to all other Americans.

Sincerely,

The Military Coalition.

AMERICAN FOREIGN SERVICE ASSOCIATION,
Washington, DC, November 5, 2001.

The Hon. JOHN MCCAIN,
Senate Russell Building,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the 23,000 active-duty and retired members of the Foreign Service which the American Foreign Service Association (AFSA) represents, thank you for your leadership and support with your soon-to-be introduced bill extending to the Uniformed Services and Foreign Service the tax treatment enjoyed by all other Americans when they sell their principal residence.

As you know this is an important active-duty issue for the Uniformed Services and the Foreign Service. Your bill, amending section 121(d) of the Internal Revenue Code of 1986, addresses an inequity faced by our members because of the particular nature of our profession. As you are well aware, our careers require us to live for years at a time away from our homes in duty posts around the world in service to our nation. In the case of the Foreign Service, our duty assignments range from 2–4 years. Back-to-back assignments abroad are common. It is no unusual for a member of the Foreign Service to spend six or more years abroad before returning to Washington for an assignment here. With the current two-in-five year occupancy test, many of our members in both the Uniformed Services and the Foreign Service find that we do have the same flexibility in selling our homes as enjoyed by our fellow Americans. After several years abroad, there are many reasons why we may with to sell our homes upon returning home. As with other Americans, we would like our homes to reflect and be suited-to the changes in our lives—the increase or decrease in the size of our families, divorce, retirement, promotions and the ability to pay more for a house, the schools our children would attend, etc. Yet because of current law, we cannot sell our principal residences without living in them again for two years or else pay a serious tax penalty. Your bill, gratefully, addresses these problems.

The members of the Uniformed Services and the Foreign Service have been faced with this problem since the change in the tax code in 1997. We hope that your provision can become law soon. If we can be of any assistance, please do not hesitate to contact me or Ken Nakamura, AFSA's Director of Congressional Relations at (202) 944–5517 or by e-mail at nakamura@afsa.org.

Sincerely,

JOHN K. NALAND,
President.

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
November 7, 2001.

The Hon. JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the American Bar Association, I would like to commend you for your leadership in developing a proposal on the issue of the military homeowners capital gains exemption. Such legislation is needed to correct an inequity that occurred as a result of the Taxpayer Relief Act of 1997 (Public Law No. 105–34).

As you know, Section 121 of the Internal Revenue Code permits a single taxpayer to exclude up to $250,000 of the capital gains on the sale of a principal residence and permits a married couple filing jointly to exclude up to $500,000 on such a sale. Yet in order to qualify for such an exclusion, a taxpayer must have owned and used the home as a principal residence for two out of the five years prior to its sale. Otherwise, a taxpayer must pay taxes on all or a pro rata share of the capital gains on the sale of the home.

Unfortunately, this provision penalizes service members who are unable to use a principal residence for two out of the five years prior to its sale, because they are deployed overseas or required to live in military housing. The ABA urges Congress to amend Section 121 of the IRC to either: (1) treat time spent away from a principal residence while away from home on official active duty as counting towards the ownership and use requirement, or (2) suspend the ownership and use requirement for time spent away from a principal residence due to official active duty. Earlier this year, the ABA submitted comments to the Internal Revenue Service on proposed regulations regarding Section 121. A copy of our comments is enclosed for your review.

We want to thank you for your plans to rectify the inequity created for service members by Section 121. We look forward to working with you to establish a military homeowners capital gains exemption.

Sincerely,

ROBERT D. EVANS.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is set aside.

AMENDMENT NO. 2719

Mr. BAUCUS. Mr. President, what is the regular order?

The PRESIDING OFFICER. The time has arrived for the vote with respect to the amendment of the Senator from Iowa.

Mr. BAUCUS. Is the Chair about to put the question for a vote?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I raise a point of order under section 302(f) of the Congressional Budget Act against the pending amendment, which is No. 2719, for exceeding the spending allocations of the Senate Committee on Finance.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of the act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from Connecticut (Mr. DODD) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS), the Senator from New Hampshire (Mr. GREGG), and the Senator from Nevada (Mr. ENSIGN) are necessarily absent.

I further announce that if present and voting the Senator from Montana (Mr. BURNS) would vote ''no.''

The yeas and nays resulted—yeas 54 nays 41, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—54

Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Biden	Feinstein	Murkowski
Bingaman	Graham	Murray
Boxer	Harkin	Nelson (FL)
Breaux	Hollings	Reed
Byrd	Hutchinson	Reid
Campbell	Inouye	Rockefeller
Cantwell	Jeffords	Sarbanes
Carnahan	Johnson	Schumer
Carper	Kennedy	Sessions
Cleland	Kerry	Shelby
Clinton	Kohl	Snowe
Collins	Landrieu	Stabenow
Corzine	Leahy	Torricelli
Daschle	Levin	Warner
Dayton	Lieberman	Wellstone
Dorgan	Lincoln	Wyden

NAYS—41

Allard	Feingold	McConnell
Allen	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Brownback	Grassley	Santorum
Bunning	Hagel	Smith (NH)
Chafee	Hatch	Smith (OR)
Cochran	Helms	Specter
Conrad	Hutchison	Stevens
Craig	Inhofe	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Enzi	McCain	

NOT VOTING—5

Akaka	Dodd	Gregg
Burns	Ensign	

The PRESIDING OFFICER (Mr. EDWARDS). On this vote the yeas are 54, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

The Senator from Colorado.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, for the information of Members, we are in the process of arranging a unanimous consent request to have a vote on or about 4:45 p.m. today on the Allen amendment, and the second would be on the Baucus amendment.

While we are doing that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I say to my friend from Virginia, if he could start his remarks, I ask his permission we be allowed to interrupt him to enter the unanimous consent agreement when that is ready.

Mr. ALLEN. You have my agreement.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 2702

Mr. ALLEN. Mr. President, I wish to speak to my amendment, the Terrorist Zone Tax Exemption Act, which I believe will be the next measure on which we will be voting.

Last fall the attack on our country represented the worst of mankind, but at the same time it demonstrated the best of the American spirit.

While we as a nation are united and resolved to combat terrorism, unfortunately other things have changed as a result of these attacks. As my colleagues know, this war on terrorism has changed our definition of combatants. For terrorism targets not only military personnel and equipment but innocent men, women, and children at work in office buildings and, as we have seen, on civilian aircraft. So it is also with those tasked to respond to these attacks. Under the threat of terrorism, not only are military personnel tasked to locate and eradicate potential terrorist threats, but civilian fire, police, and rescue personnel are charged with maintaining public safety after a terrorist attack. We read about and heard about the heroic acts of firefighters, rescue personnel, and police officers—whether at the Pentagon or at the World Trade Center—who risked their lives with burning debris, toxic gases and fumes who tried and indeed did save hundreds if not thousands of lives. And like their military counterparts, they too are subject to attack and risks themselves.

As my colleagues know, our tax laws recognize that the income of those brave men and women in military uniforms fighting overseas and serving in a zone designated as a combat zone is exempt from taxation. Recognizing that the war on terrorism has sadly changed the way we look at war, and recognizing that our local and State fire police and rescue personnel are now pressed into homeland defense, we ought to similarly change our tax laws to reflect this new reality.

My Amendment would allow the income of those who are working in designated terrorist attack zones—for example, at the World Trade Center or at the Pentagon, if so designated by the President—to be exempt from Federal taxes.

The fiscal implication of this is about $205 a month for the September attack—a cost of a little over $7 million to the federal government. And it is retroactive to September 11, although we pray we will never need to use this again.

It is supported by many groups—from the International Association of Fire Chiefs, the Fraternal Order of Police with nearly 300,000 members, the National Association of Police Organizations which represents over 220,000 police officers, the Detectives' Endowment Association which represents 7,500 City of New York Detectives, and other organizations, including the Capitol Police Labor Board.

These firefighters and police and rescue personnel are heroes. They are super heroes. Let us give them this recognition to boost their morale and show our appreciation to them as they protect us here in our homeland.

I hope in a bipartisan nature we can work and vote in favor of this logical, commonsense amendment and I ask for my colleagues' support.

Mr. NICKLES. Mr. President, will the Senator yield for a question concerning the cleanup at the Pentagon or at the World Trade Center? They are still cleaning up. Under the Senator's amendment, would that still be classified as a terrorist center, and, therefore, they would still be exempt? If the cleanup lasted a year, would the cleanup crews be exempt from taxation for a year?

Mr. ALLEN. The designation of a terrorist attack zone would be made by the President. Once you get past the rescue mission, the immediate response, and when the zone is designated a recovery scene, the tax exemption ends. The intent is for this to benefit those who rush in when there is still an opportunity to save a life; those first responders who themselves are endangered by the initial attack. I would not imagine that would last for anymore than a month. And again, it is validated on a monthly basis, like the combat zone tax exemption.

Mr. NICKLES. I thank my colleague.

Mr. REID. Mr. President, I appreciate the Senator from Virginia rushing through with his presentation. It was very articulate. I appreciate his recognizing that we are trying to get this agreement before the vote.

Mr. President, I ask unanimous consent that the time until 4:45 p.m. today be equally divided with respect to the Allen amendment No. 2702 and the Baucus amendment No. 2718, that no second-degree amendments be in order to either amendment prior to the vote in relation to each amendment; that the first vote be in relation to the Allen amendment; and that regardless of the outcome there be 4 minutes equally divided prior to the vote in relation to the Baucus amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I ask unanimous consent that Senator HELMS be added as a cosponsor of amendment No. 2702.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, does the Senator from Montana wish to discuss this amendment? I only have maybe 30 seconds, and I would be happy to yield to the Senator from Montana.

Mr. BAUCUS. I thank my good friend. I have looked at the Senator's amendment. It is a good idea. I support it. There are a few little wrinkles that I want to look at to make sure the definitions coincide with the definitions for income taxes excluded for combat zones and make sure all those declarations are the same and equitable. That is just a minor matter. We will work that out.

I commend the Senator for offering this amendment. It is a good idea.

Mr. ALLEN. Mr. President, I thank the Senator from Montana, Mr. BAUCUS, for his support. I look forward to further discussion. If there are some amendments that need to be made in the definitions, we have been working on this for several months, but nevertheless we will continue to work together on it. I conclude by saying very strongly that we need to adapt our tax policy and properly and logically provide similar tax benefits for the fire, rescue, and police personnel who are serving here in our homeland. This is where these terrorist attacks have occurred and we all agree that these heroes have responded in the true spirit of America. Please stand with our heroes, our firefighters, and police and rescue workers.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, we have two amendments pending and at least two votes at approximately 5:45. We have discussed the amendment offered by the Senator from Virginia, which I support.

I don't know whether the Senator wishes to discuss the amendment. If he doesn't, that is fine. Otherwise, I was going to ask my friend from Oregon, Senator SMITH, if he wishes to say a few words before the other votes that will occur following the vote on the amendment offered by the Senator from Virginia. That, of course, is up to my good friends from Virginia and Colorado.

Mr. ALLEN. Mr. President, I would rather make sure there is adequate discussion on the other votes. I believe there is complete agreement on my amendment.

I yield my time to the Senator so he may explain his amendment.

Mr. BAUCUS. I haven't heard anybody speak in opposition to the Senator's amendment. I think he is pretty close to his goal.

Mr. ALLEN. Ok. I had better sit down.

Mr. BAUCUS. Mr. President, I see my friend from Oregon in the Chamber.

The PRESIDING OFFICER. Who is yielding time?

Mr. BAUCUS. I yield such time as my friend from Oregon would desire.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 2718

Mr. SMITH of Oregon. Mr. President, I thank the Chair and I thank the chairman of the Finance Committee for yielding time.

I learned as a little boy from my mother that if you at first don't succeed you should try and try again.

I come to the Chamber to try again on the issue of accelerated depreciation. I am proud to be joined by Senator BAUCUS. This is the Baucus-Smith amendment now. The point is simply to try and bridge the difference between the two sides on the whole idea of how best to give a meaningful stimulus to business to take advantage of this accelerated depreciation, this bonus depreciation over a period of time that on the one hand will stimulate in a timely way the economy and in another way will help the States to be able to afford this action.

I believe the Baucus-Smith amendment is the compromise that will provide real stimulus to the underlying package that is offered by the majority which, I respectfully say again, is just simply too short a period of time to be meaningful to our economy.

The point was made that my amendment over 3 years was too much time. Then surely 2 years is enough. I believe Senator BAUCUS and I have provided a compromise that will give business people time sufficient—I wish it were more—to be able to buy the equipment, do the planning, do the environmental studies, and make the investments that will allow employers to call employees back to work.

In addition, we are doing something that is very much needed by the States. That is, we will provide an increase in the Federal Medical Assistance Percentage known as FMAP. Most States, mine included, are struggling with how to continue to provide the resources for Medicaid. I understand that very well in my own State. Our State has a budget shortfall that approaches $1 billion. I have been reminded by people in my State that accelerated or bonus depreciation would only make that situation worse. I am not unmindful of that, and Senator BAUCUS and I have a way in this amendment to fix that, not just for my State but for every State.

Senator HARKIN's amendment was just defeated. I suggest that what Senator BAUCUS and I are proposing is in the same spirit of that but within the realm of financial responsibility. It is the moderate view that I believe will find over 60 votes in the Senate. I certainly hope it will.

What this does specifically, the FMAP increase will provide immediate fiscal relief to States such as Oregon which are increasingly cash strapped in the current recession as the demand for State social services rises but State revenues drop.

For example, this provision would bring an additional $97 million to Oregon in the first year. Depending on certain factors, they may get in excess of an additional $105 million in the following year, for a 2-year total of more than $205 million.

I can imagine that my State, as well as the State of the Presiding Officer, could use that assistance in this time of recession. Again, I remind both sides that whether it is former Treasury Secretary Robert Rubin or Chairman Greenspan, they have both said this will be helpful to stimulate the economy. It doesn't go too far. It is not too long. I think for business people who are on their toes and trying to make plans, it will be enough time to have the economic incentives to improve our Nation's economy.

America, moreover, is hungering for a sense that the Senate can get something done. Our proposal is that middle ground that allows us to make progress and to go to the State of the Union tonight well on the way to passing a stimulus package. There is something for both sides. But more importantly, there is something for the American people that provides real health care dollars to people in need in States with shortfalls and real business stimulus to employers so that the best social welfare we could possibly foster will be available, and that is a private sector family wage job.

Again, I believe Senator BAUCUS and I have come upon the right formula to make better the underlying proposal and to find the bipartisan support which will ultimately be essential if we are to get beyond 60 votes and get something to conference and then to the desk of the President. The American people deserve that. We should do no less.

I yield back my time to the manager of this bill.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this is a good example of how we should pass legislation; that is, working together. Senator SMITH from Oregon and I have come together and crafted an amendment which directly meets concerns of Senators. We have done it together. Is it perfect in the minds of everyone on one side of the aisle? No. Is it perfect in the minds of all Senators on the other side of the aisle? No. But is it good? Is it basically a good idea? I believe the answer is yes.

Essentially, we are going to provide for bonus depreciation for capital investment at 30 percent over a period of 2 years. The big question, I remind the Chair, is, should it be 1 year, 2 years, or 3 years? We have agreed on 30 percent for all intents and purposes. During private conversation on the floor on both sides of the aisle, somewhat presumptuously I will say that I heard, I believe, it should be 2 years. That is what it should be. We debated 3 years. That did not pass. We, in effect, debated 1 year. It did not quite reach fruition, but that certainly is not going to pass.

The PRESIDING OFFICER. The time controlled by the majority has expired.

Mr. BAUCUS. I thank the Chair. Might I ask who controls the remaining time?

The PRESIDING OFFICER. The Senator from Virginia or his designee.

Mr. GRASSLEY. Mr. President, I grant the Senator from Montana 2 more minutes.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I have about 4 minutes to comment on Senator MCCAIN's amendment. I was giving a speech and I could not be here when he brought it up. I would like to be able to use that time, if you don't need all the time. Otherwise, I will wait.

Mr. BAUCUS. That would be fine. I just have 2 minutes. That would be fine with me.

Mr. ALLARD. I would like to have 4 minutes whenever it works out.

Mr. BAUCUS. Mr. President, again, to remind all Senators, this is a compromise. It is an effort on the part of Senator SMITH of Oregon and myself to find the proper number of years of bonus depreciation. It is an effort to find the proper amount of reimbursement to States for lost Medicaid dollars. All Senators agree this is not only in the ballpark, it is probably so close to filling up the ballpark that it really cannot be improved upon a heck of a lot. I think it is a good amendment.

Further, I remind my colleagues, with the split in this body basically 50–50, this is the only way we are going to accomplish anything of consequence. That is, by sitting down and not engaging in rhetoric and preaching to people through the cameras, making them feel good, but, rather, working together to pass legislation that makes people's lives better and significantly better. That is what we are charged to do.

If you were to ask voters, do you want your Senator to make speeches just for the sake of making speeches or do you want your Senator to get something done that really makes sense for us in the State, it may not be all we want but he has done a pretty good job, clearly the answer is the latter. They want us to do something that makes sense. That is what the Senator from Oregon and I are doing.

I strongly urge my colleagues to take a good, strong look at it. It is a bipartisan amendment. It has bipartisan support. More than that, it has the support of the people of the country.

I yield back the remainder of my time.

Mr. HATCH. I rise in support of this amendment, recognizing the need for Congress to undertake immediate corrective measures to help those who have suffered the adverse effects of the recent economic downturn. And while I do support this amendment, there are issues associated with it that are of serious concern, issues which I hope will be addressed in conference.

As we have heard throughout this debate, most states are experiencing serious budget shortfalls. In fact, in my own state of Utah, many vital state programs are slated for reductions this year. I am very concerned about that situation, and sympathetic to the need to work with the States to alleviate these concerns where we are able.

But it is also true that the Federal budget is under severe pressure because of the economic slowdown, and we must be very careful when we move to authorize what amounts to new spending, especially in an entitlement program.

Obviously, we must carefully examine our budget constraints and balance the need to address the economy with the need to restrain the growth of spending.

But as I have said, I share the States' concern about the budgetary impact of the economic downturn. Many important programs are being cut-back, a serious concern to those of us who have worked so hard to weave a strong safety net.

In fact, the Utah CHIP program is no longer enrolling new children because it is running out of money. I cannot tell you how disappointed I am about this situation. Seeing the CHIP program become federal law in 1997 was probably one of my proudest accomplishments as a U.S. Senator.

And, as one of the principal authors of CHIP, it has been my hope that we can expand the program, not scale it back. However, my discussions with our Governor, Mike Leavitt, have made it perfectly clear that the State feels it has no alternative, and I respect that decision, however painful. But, perhaps if we are giving additional funds to the States to assist with the health care needs of the low income, those funds would be better used if they were provided to the CHIP program as well, or instead, since in many cases a CHIP dollar can go so much further than a Medicaid dollar.

I would also point out that increasing the Federal matching percentage for Medicaid is only a short-term solution to a long-term problem. Again, I heartily support efforts to provide greater assistance to families, especially low-income families, who are feeling the ill effects of the economic downturn. That being said, I do question whether expanding this entitlement program is absolutely the best way to address the health care needs of people who have been hurt by the economy. There are literally millions of persons who have no access to health care at all, and their needs must also be factored in to our overall spending plans.

Let me take a moment to address the FMAP funding formula itself.

The FMAP formula is an attempt to direct Federal resources to the States based on their populations in need. It is not a perfect formula, as many of us have widely acknowledged. These structural flaws must be addressed by

Congress, and I would not like to see action today which would lock into concrete, in reality or politically, a formula which needs to be reexamined.

As a related issue, we need to look at the effect of providing a 1½-percent across the board FMAP increase to States for a program which is certain to have a disproportionate impact in the various States given their differing matching percentages. For example, some States have a Federal matching percentage which is relatively high, as high as 76 percent. Others have a percentage as low as 50 percent. Obviously, a 1.5 percent increase is a substantially greater proportion of the 24 percent a State with the highest FMAP has to contribute, compared to 1.5 percent of the 50 percent a ''richer'' State must contribute.

The GAO has produced several reports which make recommendations on how this formula may be improved. Therefore, I believe that it would be prudent for Congress to carefully review the recommendations of the GAO before taking any final actions affecting FMAP policy.

In fact, I believe it might be prudent for the Finance Committee to hold a hearing on this important issue, and I would hope that the chairman might schedule one in the near future.

In addition, while I have not seen any figures on areas which are the most hard hit by the recession, I want to make certain that the areas in which we are targeting the greatest assistance under this amendment are the areas of greatest need during the downturn. Because of the way the formula is structured, these additional FMAP dollars may not be targeted to those whose access to health care was affected by the recession and the events of September 11.

Finally, it is my hope that this amendment does not follow the long tradition whereby Congress authorizes an extension for an entitlement program which for all intents and purposes becomes permanent. I certainly support the intention of this amendment, which is to provide temporary assistance to those who have suffered great hardships due to the recession and the terrorist attacks of last September. However, making these FMAP increases permanent would be a terrible mistake, especially since I believe that we would be, in essence, taking away dollars from other deserving Federal programs.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 2700

Mr. ALLARD. Mr. President, I am pleased to join Senator JOHN MCCAIN in sponsoring amendment No. 2700, the military homeowners tax equity amendment, to H.R. 622. This amendment will correct a serious, inadvertent oversight in the Taxpayer Relief Act of 1997 and provide much needed tax equity to our members of the uniformed services and the Foreign Service. The content of this amendment is the exact language as S. 1678, which Senator MCCAIN and I introduced last year.

The Taxpayer Relief Act of 1997 exempted up to $250,000–$500,000 per couple in capital gains from federal income taxes for homes occupied as a principal residence for at least 2 of the last 5 years. Unfortunately, Uniformed and Foreign Service members may have difficulty meeting the 2 year requirement. Service members are directed to move to meet the needs of the U.S. Government and may be directed to move prior to owning a residence for 2 full years. Many service members keep their homes while reassigned overseas or elsewhere in hopes of returning to their residence. On occasions when this proves impossible, the members are subjected to substantial tax liabilities.

Prior to the 1997 law, service members who were assigned overseas or otherwise away from their principal residence on military orders for an extended period of time had a special provision that allowed them to ''rollover'' capital gains. The 1997 Taxpayer Relief Act made many improvements to the tax code by replacing the capital gain ''rollover'' rules with the tax exclusion, but failed to provide for those on military orders. This amendment will correct this oversight by providing that absences from the principal residence due to serving on a qualified official duty as a member of a uniformed service or the Foreign Service be treated as using the residence in determining the exclusion of gain from the sale of such residence.

In 1999 both the House and Senate passed the Taxpayer Refund and Relief Act which included language to correct this oversight, but that act was vetoed by then-President Clinton.

S. 1678, which as I stated earlier mirrors our amendment, has support from all four service chiefs, the Chairman of the Joint Chiefs of Staff, the 31 organization members of the Military Coalition, the American Bar Association, the American Foreign Service Association.

Our service men and women face enough challenges today. They should not have to face additional tax liabilities in return for serving their country.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 2702

Mr. ALLEN. Mr. President, I yield back whatever time remains so we can proceed with the vote on amendment No. 2702.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2702. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Connecticut (Mr. DODD), and the Senator from New Jersey (Mr. TORRICELLI,) are necessarily absent.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG), the Senator from Nevada (Mr. ENSIGN), and the Senator from Montana (Mr. BURNS) are necessarily absent.

I further announce that if present and voting the Senator from Montana (Mr. BURNS) would vote ''yea.''

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 2, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—92

Allard	Edwards	McCain
Allen	Enzi	McConnell
Baucus	Feingold	Mikulski
Bayh	Feinstein	Miller
Bennett	Fitzgerald	Murkowski
Biden	Frist	Murray
Bingaman	Graham	Nelson (FL)
Bond	Gramm	Nelson (NE)
Boxer	Grassley	Nickles
Breaux	Hagel	Reed
Brownback	Harkin	Reid
Bunning	Hatch	Roberts
Byrd	Helms	Rockefeller
Campbell	Hollings	Santorum
Cantwell	Hutchinson	Sarbanes
Carnahan	Hutchison	Schumer
Carper	Inhofe	Sessions
Cleland	Inouye	Shelby
Clinton	Jeffords	Smith (NH)
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerry	Specter
Corzine	Kohl	Stabenow
Craig	Kyl	Stevens
Crapo	Landrieu	Thomas
Daschle	Leahy	Thurmond
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Domenici	Lincoln	Wellstone
Dorgan	Lott	Wyden
Durbin	Lugar	

NAYS—2

Chafee	Thompson

NOT VOTING—6

Akaka	Dodd	Gregg
Burns	Ensign	Torricelli

The amendment (No. 2702) was agreed to.

Mr. ALLEN. Mr. President, I thank my colleagues for their support of the amendment. I ask unanimous consent that Senators COLLINS, HELMS, and JOHN WARNER be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2718

The PRESIDING OFFICER. There are now 4 minutes equally divided prior to a vote in relation to amendment No. 2718. Who yields time? The Senator from North Dakota.

Mr. CONRAD. Mr. President, could I have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I support bonus depreciation. I support Medicaid assistance to the States. But I do

not support 2 years of bonus depreciation. I do not support 2 years of additional spending on Medicaid for the States.

The reason is very simple. On the question of bonus depreciation, the whole purpose of this package is to encourage economic recovery, additional economic activity now. A 2-year provision reduces the stimulus, reduces the incentive to act now. That is not only my opinion, that is the opinion of the Congressional Budget Office that examined the various options before us and said: Don't do multiple years; you reduce the incentive to act now. This is the time we need additional economic activity.

Second, the history of fiscal stimulus is always that we have acted too late. We are on the brink of doing that again. A 2-year provision falls right into that trap.

The cost of this provision is $45 billion this year; $37 billion next year. That is digging the hole deeper when we have just been informed by the Congressional Budget Office that every penny of these resources will come out of the Social Security trust fund. For that reason, I will raise a budget point of order against this provision.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, on behalf of myself and also Senator SMITH of Oregon, let me make a couple of quick points.

No. 1, we know our country needs a boost, a shot in the arm. It is not totally clear, but it is far better to provide a little insurance because the economy might go south in the next couple of months or years—more than it has now. Various companies are going bankrupt. We all know about Enron, Kmart, and there will be other companies down the road. Many people are being laid off, particularly in the financial services industry, which we are going to find out about in February because they have 2- or 3-month contracts and they will be laid off a lot later. This is very important.

Second, many States are losing revenue because their economies are down. They will also lose more revenue as a consequence of the 2-year bonus depreciation. It is only proper with the passage of the Medicaid reimbursement amendment States are made whole so they do not have to cut Medicaid payments, so they do not have to cut payments to hospitals, to providers.

This amendment will allow States to refrain from making those cuts to doctors, to hospitals, other providers, and to Medicaid beneficiaries, and also prevent them from having to otherwise cut their budgets.

At the same time, we get a 2-year shot in the arm with bonus depreciation. It is a very modest provision. We all know bonus depreciation should be somewhere between 1 year and 3 years. This is where we all know it makes the most sense, 2 years. It should definitely be enacted.

I yield the remainder of my time to my friend from Oregon.

The PRESIDING OFFICER. The Senator has 11 seconds.

Mr. SMITH of Oregon. I am proud to cosponsor this legislation. If you want the middle ground, we are talking about it right now. This actually does stimulate the economy; it is insurance.

The chair of the Budget Committee, my friend, clearly is concerned about the budget. But if you want to help the budget get back into surplus, let's get our economy going. That is the most sure way to make this happen. What Senator BAUCUS and I have done is make sure that we do not leave the States high and dry.

The PRESIDING OFFICER. The time of the Senator is exhausted; 22 seconds remain.

Mr. NICKLES. I yield my colleague the remainder of my time, the 22 seconds in opposition to the amendment.

Mr. SMITH of Oregon. My last point was you can make these arguments against any expenditure. The point is, we can't leave the States high and dry as we try to stimulate the economy.

This is about real people needing jobs and health care. It is a win-win for Republicans and for Democrats. I urge the overwhelming passage of the amendment.

Mr. NICKLES. I compliment my colleague for making the point of order, and I wish to join him in that point.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, Senator DASCHLE has asked me to announce to the Membership that this will be the last vote of the evening prior to the State of the Union Message.

The leader has indicated there will be votes next Monday.

Mr. CONRAD. Mr. President, I raise a point of order that the pending amendment violates section 311(a)(2)(B) of the Congressional Budget Act of 1974, and I ask for the yeas and nays.

Mr. BAUCUS. Mr. President, on behalf of myself and Senator SMITH of Oregon, pursuant to section 904 of the Congressional Budget Office Act of 1974, I move to waive the applicable sections of the act for the purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from Connecticut (Mr. DODD) are necessarily absent.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG), the Senator from Nevada (Mr. ENSIGN), and the Senator from Nebraska (Mr. HAGEL) and are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted as follows—yeas 62, nays 33.

[Rollcall Vote No. 10 Leg.]

YEAS—62

Allen	Durbin	Murkowski
Baucus	Edwards	Murray
Bayh	Feinstein	Nelson (FL)
Bennett	Fitzgerald	Nelson (NE)
Biden	Grassley	Reid
Breaux	Harkin	Roberts
Brownback	Hatch	Rockefeller
Burns	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kerry	Stabenow
Collins	Kohl	Stevens
Corzine	Landrieu	Torricelli
Craig	Lincoln	Voinovich
Crapo	Lugar	Warner
Daschle	McCain	Wellstone
DeWine	Mikulski	Wyden
Domenici	Miller	

NAYS—33

Allard	Enzi	Lieberman
Bingaman	Feingold	Lott
Bond	Frist	McConnell
Boxer	Graham	Nickles
Bunning	Gramm	Reed
Byrd	Helms	Santorum
Campbell	Inhofe	Sarbanes
Chafee	Kennedy	Smith (NH)
Conrad	Kyl	Thomas
Dayton	Leahy	Thompson
Dorgan	Levin	Thurmond

NOT VOTING—5

Akaka	Ensign	Hagel
Dodd	Gregg	

The PRESIDING OFFICER. On this vote, the yeas are 62, the nays are 33. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. The point of order falls.

The question is on agreeing to amendment No. 2718, as modified.

The amendment (No. 2718), as modified, was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

CONGRATULATING SENATOR BAUCUS AND THE MONTANA GRIZZLIES

Mr. HOLLINGS. Mr. President, I congratulate the Senator from Montana for his victory on a very important amendment.

I also congratulate him on an even more important victory of the Montana team and its engagement in the 1 AA college finals last month with my Purple Paladins at Furman University, an outstanding university. In fact, the temptation is for me to challenge him to an academic final.

As far as the football final, I can tell my colleagues, I watched the game and that is a monster team if I have ever seen one. It is well coached and had an outstanding performance.

I lost the bet. The bet was if I lost, I would sing ''Up With Montana,'' their song. Fortunately, the rules of the Senate say no singing.

In congratulating Senator BAUCUS, I will recite this song publicly in the Chamber of the Senate. I want everybody to listen to this:

Up with Montana, boys, down with the foe,
Good ol' Grizzlies out for a victory;
We'll shoot our backs 'round the foeman's line;
Hot time is coming now, oh, brother mine.
Up with Montana, boys, down with the foe,
Good old Grizzlies triumph today;
And the squeal of the pig will float on the air;
From the tummy of the Grizzly Bear.

Isn't that something? The Senator says they are reciting this after every game?

Mr. BAUCUS. That is right.

Mr. HOLLINGS. No wonder they play so hard.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, may I say how gracious my good friend from South Carolina has been today. Before we knew the Furman Purple Paladins and the Montana Grizzlies were going to be playing in the 1 AA playoff for the championship of the country, we made a little wager. The wager was whoever loses reads the other team's fight song on the floor of the Senate.

I say to my good friend, I have no idea what the Purple Paladins' fight song is. Had the Grizzlies not won, I certainly would know their fight song.

For many days, the Senator from South Carolina has been talking about this song. He said: Egads, is this your fight song? Is this what I have to read on the floor?

I cannot thank him enough. It was a great game. I watched it on television as well.

Mr. HOLLINGS. It was an outstanding game. I think this was the second year in a row they won the championship.

Mr. BAUCUS. That is right.

Mr. HOLLINGS. It is an outstanding college and outstanding team.

Mr. BAUCUS. I thank the Senator.

HOPE FOR CHILDREN ACT—Continued

Mr. BAUCUS. Mr. President, I thank Senator SMITH of Oregon on the success of the last amendment. Without his help, I doubt the amendment would have been successful. We joined together and, frankly, I urge more of reaching across the aisle and accomplishing objectives that are in the best interest of the country and putting partisan politics aside.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I congratulate the Senator from Montana and suggest that never, ever has the Montana fight song been read quite like it was just read on the Senate floor.

AMENDMENT NO. 2758

Mr. KYL. Mr. President, I ask unanimous consent to lay aside the pending business for the purpose of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself, Mr. GRAMM, Mr. ENSIGN, Mr. NICKLES, and Mr. HUTCHINSON, proposes an amendment numbered 2758 to the language proposed to be stricken by amendment No. 2698.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To remove the sunset on the repeal of the estate tax)

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).

Mr. KYL. Mr. President, since the sponsor of the legislation wishes to get on with the conclusion of business tonight, I will simply say this amendment, which I hope will be considered at the beginning of next week, calls for the permanent repeal of the death tax.

As all of our colleagues know, we did repeal the death tax after phasing it down over a period of years, but the repeal only lasts for 1 year before that legislation is sunsetted, and we go right back after 10 years to the death tax as it currently exists.

I do not think any of us who voted for its repeal really intended that effect. We want to make its repeal permanent, and this amendment will do that. We will have the opportunity to vote on that next week as part of the stimulus package. I thank the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

MORNING BUSINESS

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—THE STATE OF THE UNION ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. REID. Mr. President, I ask unanimous consent that the Presiding Officer of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber for the joint session to be held tonight, Tuesday, January 29, 2002, at 9 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Nebraska is recognized.

STIMULUS LEGISLATION

Mr. NELSON of Nebraska. Mr. President, I rise today to express support for the Daschle consensus stimulus package, and I applaud the action of the Senate in passing the Baucus amendment to provide for accelerated depreciation over 2 years and 30 percent additional depreciation, as well as assisting and holding the States harmless for any lost revenue they might otherwise receive based on the support of the Medicaid Program at the State level.

I think it is clear to most everyone that we need to have some economic stimulus. What does not seem to be clear to everyone is of what that consists. What seems to be further unclear at times is whether we need to do it a certain way for a certain period of time.

I thank Senator DASCHLE for his efforts on this issue, not just for bringing forth the economic stimulus package but doing so in such a constructive way, trying to find that which was common among most of the proposals that have been offered and to bring together consensus where consensus can be achieved.

This legislation is, at the very least, a building block for a package with which most would be hard pressed to disagree. If each of us were to come up with what we thought was the best economic stimulus for the country and put together our own package, we would have had at least 100 different bills.

In fact, if I had my way, I would probably do some of this differently, but I think when a package is put together and we take a close look, as we are, at individual ideas that might differ with the package, that might be supplemental, we are certainly seeing what the Senate is all about, and that is diverse opinions being fully debated to try to help this country out of its economic doldrums. In fact, if I had my way, I would include a provision addressing the net operating losses, or the NOLs, for a longer period of time because I think by extending the period of time it would help business shoulder the burden of the current economic downturn. So I think it is important we consider an NOL extender as well.

Over the past few months, we have heard so much talk from both sides about the need for an economic stimulus. Recently, we had the Chairman of the Fed say perhaps it was not as necessary as it might have been before, and we have heard others say we should have done it last year.

As anyone knows, there were a handful of us—maybe more than a handful—who wanted to do it last year, but that is not a reason not to do something this year in the context of where we are.

I think that is what Senator DASCHLE has offered us, an opportunity to revisit, to rethink, and to package together a stimulus package that would work for the future to help us, if not come out of the deepest of a recession, from falling further into a recession or, if we are already on the way out of the recession, to expedite the return to economic prosperity.

There will be those who will say this package is not perfect. There is not anyone who says that it is. Legislation is never perfect, but it is as close to an agreement that has presented itself.

I certainly hope to thank Senator DASCHLE for taking this action because I think it will, in fact, help us enter a threshold of progress.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

INTERROGATION OF AL-QAIDA AND TALIBAN WAR CAPTIVES

Mr. SPECTER. Mr. President, I am writing to the President of the United States today concerning what I consider to be a very important subject, and that is the interrogation of the al-Qaida and Taliban war captives, where an issue has been raised as to whether they are prisoners of war or what is their status, with some people objecting to what is going on in the way they are being handled. There is no doubt that the captives are entitled to humane treatment. There have been inspection tours by national observers and by congressional observers. The reports are uniform that the captives are being treated humanely. They are being fed and clothed. There is medical care. They are permitted to attend to their religious activities. All of this is totally separate and apart from the basic availability of those individuals to be questioned, where information which they might provide could shed light on the possibility of additional terrorist attacks.

Having some experience as an investigator and a prosecutor, I know firsthand the value of interrogation and intensive interrogation. We are facing at this moment an enormous threat from al-Qaida. We saw what happened on September 11. There have been three terrorist alerts since then. The fact is there are al-Qaida spread all over the face of the Earth. They are in Somalia, they are in the Philippines, in Malaysia, in the Sudan. We know their tactics are based on long-term planning projects. We know they have sleeper cells. There is reason to be concerned that at any moment there could be another al-Qaida attack. We do not know where. We do not know when. We do not know if. But we have to be very vigilant.

Where these interrogations of the al-Qaida and Taliban captives might lead to some information, then that ought to be pursued, and it ought to be pursued vigorously.

As a matter of international law, there is a mistaken notion you can only ask a prisoner of war his name, rank, date of birth, and serial number. The international law experts, and I have cited them in my letter to President Bush, are in agreement that other questions may be asked. Certainly there cannot be torture. Certainly there cannot be coercion—physical coercion or mental coercion. But there is no reason why those captives cannot be questioned.

The Supreme Court of the United States has upheld deviations from standard constitutional rights where there is an imminent threat of harm. For example, in the landmark case of *Near* v. *Minnesota*, 283 U.S. 697, the issue came up on the question of prior restraint to stop the publication of a newspaper. And albeit dictum, the Supreme Court of the United States said there could be a curtailment of that kind of a fundamental constitutional right if, for example, the publication of the sailing date of a troop ship would place that ship in jeopardy. The possibility of another attack on the United States, considering what happened on September 11, we know is much more serious than an attack on a troop ship.

The Supreme Court of the United States, in a celebrated case called *New York* v. *Quarles*, 467 U.S. 649, came to the conclusion that the constitutional rights of a suspect under the *Miranda* decision could be circumvented if there was an immediate threat of danger to a police officer or the public. That matter involved a rape. A police officer pursued the suspect, saw the suspect wearing a holster, and without giving him ''Miranda'' warnings, asked where the gun was. The Supreme Court of the United States said that where there is an imminent threat to public safety, constitutional rights may be abrogated, and statements may be admissible into evidence.

But we know the very major difference between questioning for intelligence purposes and questioning for admissibility in court. I am not proposing this interrogation be continued for the purpose of obtaining evidence to use against these captives, but if there is any chance at all that this interrogation could lead to information which could thwart another terrorist attack, then it is the fundamental duty of the United States Government to pursue that kind of interrogation.

This matter is on the front pages today. It will be the subject of a lot of debate. I think it ought to be known generally that there is solid constitutional authority, international law authority, to question prisoners of war beyond name, rank, and serial number. No torture. Obviously, humane treatment. But if we can get any information which would prevent a terrorist attack, it is our duty to do so.

That is why I am writing to the President and want to make this brief statement.

I yield the floor.

SALUTING COLONEL EDWARD A. RICE, JR.

Mr. DASCHLE. Mr. President, today I want to honor the commanding officer at Ellsworth Air Force Base—who has just returned home after directing Air Force operations over Afghanistan and who will become a brigadier general this week.

This outstanding officer, Colonel Edward A. Rice, Jr., has demonstrated his leadership abilities in a number of settings, and my fellow Senators can expect to hear more of him as he assumes new roles and responsibilities in our nation's service.

As commander of the 28th Air Expeditionary Wing, Colonel Rice directed the main Air Force combat group operating over Afghanistan from late September until mid-January. This force of 1,800 personnel and 30 planes (including B–1 bombers, B–52 bombers, and KC–10 tankers), delivered most of the ordnance that was so effective in shattering the Taliban and al Qaeda forces.

All branches of the military played a role in this first victory in the war against terrorism, but as an Air Force veteran and a South Dakotan, I am particularly proud of the achievements of Colonel Rice and the forces under his command.

Our experience in Afghanistan extends a military trend that began in our war against Iraq—the unprecedented ability of modern air power to achieve strategic objectives. Clearly our planes and munitions were markedly more precise, quicker to hit emerging targets, and generally more effective than the Soviet forces of the 1980s. A recent book labeled this trend ''The Transformation of American Air Power,'' and I believe Afghanistan will become the most recent example, joining the impressive results of the Gulf War, Kosovo, and our other Balkan campaigns.

In addition, the 28th Air Expeditionary Wing broke new ground in several areas.

Its bombers were the first to deliver our near-precision munitions in combat. These use navigational signals from GPS satellites to locate targets. They are much cheaper than laser-guided ''precision'' munitions and are not hampered by low-visibility weather conditions. Also, in coordination with ground spotters, the bombers were able to use advanced communications to reduce dramatically the time from target identification to target strike.

Despite its controversial and troubled early years, I am also pleased that the B–1 continues its strong combat performance that began during Operation Desert Fox over Iraq and extended into the war in Kosovo. Its

range and expansive bomb bays allowed it to make a round trip of nearly 6,000 miles, and also loiter over the battlefield with a variety of munitions, waiting for targets to emerge. Throughout this demanding, round-the-clock operation, Colonel Rice reports, B–1 made all scheduled takeoffs, released all weapons successfully, and delivered ordnance with excellent accuracy.

Colonel Rice returned home from this mission about two weeks ago, just in time to be promoted to brigadier general. The Senate confirmed his nomination on September 26, 2001, and the pinning ceremony occurs Friday, February 1, at Ellsworth Air Force Base.

Since arriving at Ellsworth in May 2000, Colonel Rice's performance has been impressive, and I know that as a general, he will be a tremendous asset for the Air Force. During Rice's tenure, Ellsworth has dramatically improved its maintenance performance, chalked up impressive results in its 2001 Operational Readiness Inspection, and moved to the front of the pack in Air Combat Command assessments of command, control and communication; bomb removal; and response to nuclear-biological-chemical (NBC) hazards.

The men and women of Ellsworth have also benefitted from the dedicated service of Colonel Rice's wife, Teresa. When base personnel deployed for the war against terrorism. Teresa cohosted a series of town-hall meetings with the acting base commander to update spouses and families on the status of their loved ones and to educate them on the role their family was playing to make America safe. In less stressful times, she volunteers twice a week in the base thrift shop, has been active in the Officer Spouses Club, and has organized and attended holiday parties, retirement ceremonies, promotion celebrations and farewells—too many to count.

In closing, Mr. President, it gives me great pleasure to welcome Colonel Rice back home to Ellsworth after the successful execution of his mission in Operation enduring Freedom. His remaining time in South Dakota grows short, but I know I speak for many South Dakotans when I say it has been an honor to work with him and Teresa and to call them neighbors. They are a credit to their country, and we wish them all the best.

AMERICANS WITH DISABILITIES ACT

Mr. CLELAND. Mr. President, I rise today to bring to the Senate's attention a valuable report on the State of the Union for Americans with Disabilities. As a triple amputee, having lost my right arm and both legs in the Vietnam war, I believe that the Americans with Disabilities Act has not only helped me and others with disabilities but has also enabled society to benefit from the skills and talents of individuals with disabilities. The landmark legislation has also allowed us all to gain from their increased purchasing power and ability to use it, and has led to fuller, more productive lives for all Americans. However, there is still much to be done so I am pleased to highlight the efforts of the National Organization on Disability which celebrates the progress of the nation and works to increase access, opportunity, and inclusion for people with disabilities. I ask unanimous consent to print for the RECORD a copy of the National Organization on Disability's State of the Union 2002 for Americans with Disabilities which provides benchmarks for the current state of disability life in America, and calls for action on improvements that have still to be made.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE STATE OF THE UNION 2002 FOR AMERICANS WITH DISABILITIES

On January 29, President George W. Bush will deliver the State of the Union Address. He surely will focus heavily on the terrible attacks on the country just over four months ago, and the overwhelming national and international response to them. He also can be expected to address the core issues of the nation and his presidency, including the economy; employment; education; access to the goods and services people want and need; and strengthening the social fiber and community life that make people so proud to be Americans. He will strive to reach out to people from diverse parts of American life.

One group that we trust the President will mention—and that surely will be affected—is the disability community. As many as one in five Americans—54 million men, women and children—live with disabilities, as of course do their family members, friends, and service providers. Disabilities run a wide gamut, including mental and physical conditions; visible and non-visible ones; conditions that people are born with, or develop during their lifetimes as a result of illness, age, accident, or attack; and ones that have varying degrees of severity. But all fall within a common definition: They in some way limit people's ability to participate fully in one or more major life activities. Nobody should dismiss disability issues as unimportant to them, for any person can join the disability community in an instant.

As detailed below, Americans with disabilities remain pervasively disadvantaged in all aspects of American life. In his second week in office, President Bush sent a strong message of concern about this situation when he announced the New Freedom Initiative. Coming a decade after his father signed the Americans with Disabilities Act (ADA), the New Freedom Initiative lays out an ambitious agenda for assuring the full participation of people with disabilities in all aspects of American life. The New Freedom Initiative holds much promise. We look forward to working with the government and the American people to bring it to fruition.

The Disability Community in a Changed World September 11 and its aftermath, stunned, shook and saddened the nation. The terrorist attacks made all Americans, especially those touched by disabilities, reevaluate our lifestyles, and consider what we could change to better protect ourselves and our loved ones.

The nation was moved to learn of wheelchair users who perished while awaiting rescue when the World Trade Center towers fell. We also were inspired by the stories of several people who had severe disabilities and survived. One man escaped after walking down dozens of flights of stairs on his artificial leg, and another with the aid of his guide dog. Two wheelchair users were carried to safety by their colleagues.

These survivors, like many of the others who escaped before the towers collapsed, benefited from intensive emergency drills that had been conducted since the World Trade Center bombing in 1993. The survival is testament to how critical emergency planning and preparedness is—whether the emergency is natural, man-made or terrorist-driven. This has inspired a new focus in the disability community on disaster preparedness

According to a late 2001 Harris Poll survey released by the National Organization Disability (N.O.D.), 58 percent of people with disabilities say they do not know whom to contact about emergency plans for their community in the event of a terrorist attack or other crisis. Sixty-one percent say that they have not made plans to quickly and safely evacuate their home. Among those who are employed full or part time, 50 percent say no plans have been made to safely evacuate their workplace.

All these percentages are higher than for those without disabilities. The country as a whole has much catching up to do to be prepared, but people with disabilities lag behind everyone else. This is a critical discrepancy, because those of us with disabilities must in fact be better prepared to not be at a disadvantage in any emergency.

Intense national planning for emergencies is needed. This requires the enthusiastic cooperation of the government, business, and communities. People with disabilities should not be considered only as beneficiaries of emergency preparedness plans devised by others—they belong at the table, contributing their unique perspectives, insights and experiences, so the resultant plans will be the best for all Americans. People with disabilities must be included on community preparedness committees across the national and at the highest levels of government planning. We are pleased that Office of Homeland Security Director Tom Ridge has pledged to appoint at least one person with a disability to a high-level position in his organization.

EMPLOYMENT

The slowing economy was a significant issue before September 11, and this situation became more critical after the terrorist attacks. This is not an easy time for anyone to enter the workforce, but that is what many people with disabilities are desperately trying to do.

Only 32 percent of Americans with disabilities of working age are employed full or part time. That number is in contrast to 81 percent of other Americans, according to the comprehensive 2000 N.O.D./Harris Survey of Americans with Disabilities. It is a national tragedy that, nearly a dozen years after the passage of the Americans with Disabilities Act, the vast majority of Americans with disabilities remain unemployed. This is not by choice; two out of three who are not employed say they would prefer to be working. Any efforts that lead to their becoming employed are good investments that will benefit these individuals, the workforce, and the economy.

President Bush has demonstrated a commitment to greater employment for people with disabilities in the New Freedom Initiative. We now call on the President and the Congress to keep employment a priority and work together toward a national goal of 38 percent employment for people with disabilities by 2005, with continuing progress toward 50 percent in the decade to follow.

Indeed, employment numbers should be increasing, if for no other reason than that

there are new ways for people to be employed. Technology offers real hope. Computers and the Internet are opening doors. People who are deaf use ''instant messaging'' to have real-time conversations; people who are blind use voice-synthesis technology to write the read documents and website information; and people with limited ability to get to an office have new ways to work from home. Use of the Internet by people with disabilities is growing rapidly, in fact at twice the pace of other Americans.

Too often, even when people with disabilities find jobs, they are low-level, low-paying jobs. Yet it is well documented that employers find employees with disabilities excel at all levels. In the healthcare and education sectors, for example, there is room for many more people with disabilities.

The disability community is troubled by two recent employment-related Supreme Court decisions that undercut this group's primary civil rights law, the Americans with Disabilities Act. Last February's Garrett v. Alabama decision threatened the implementation of the ADA. This month's decision in Toyota v. Williams continues a disturbing trend by the Court to narrow the ADA's protections, and caused one of the 1990 law's Congressional authors to suggest revisiting the statute so that it meets the goal of expansive, not restrictive, coverage for workers with disabilities. People with disabilities belong in the workforce, and Congress must indeed make it a priority to strengthen and defend the legislation that affirms employment as a natural expectation. The Supreme Court will hear other cases that test the ADA. The Court must recognize that when it interprets the will of Congress and the Constitution, it has the opportunity to strengthen rather than weaken the ADA—and strengthening it reflects the will of the vast majority of Americans.

INCOME LEVELS

It is not surprising, given the lower rate of employment for people with disabilities, that a significant income gap exist between those with and without disabilities. People who have disabilities are roughly three times as likely to live in poverty, with annual household incomes below $15,000 (29 percent versus 10 percent). Conversely, people with disabilities are less than half as likely to live in households that earn more than $50,000 annually (16 percent versus 39 percent). This income gap contributes to and compounds the disadvantages that people with disabilities face.

ACCESS TO TRANSPORTATION

People who have disabilities often have insufficient access to transportation, with 30 percent citing this as a problem—three times the rate of the non-disabled. This creates a catch-22 situation: How can one have a job if one cannot get to it? How can one afford transportation if one does not have a job? There is an urgent need for more and better disability-friendly transportation in the cities and towns of America.

ACCESS TO HEALTH CARE

Health care is also less accessible to Americans with disabilities, who often are the citizens needing it most. Due in large part to their limited employment and reduced discretionary income, people with disabilities are more than twice as likely to delay needed health care because they cannot afford it (28 percent versus 12 percent of others).

There is a critical need for further legislation to protect people with disabilities who need medical treatment, and aid them in getting their needed medications. Congress and the Administration must pass the patients' bill of rights; expand health insurance coverage to cover all Americans, including those who are not employed; and ensure that peoples' opportunities to fully participate in life activities are not artificially restricted by their limited access to healthcare.

EDUCATION

Opportunity begins, in so many ways, with education. Currently, young people with disabilities are more than twice as likely to drop out of high school (22 percent versus 9 percent), and only half as likely to complete college (12 percent versus 23 percent). Education for students with disabilities is a critical priority. Students with special needs must be given the chance to develop their skills and their minds so they can be prepared for the workforce of the future. In the first decade of the new millennium, America should dramatically close these gaps in opportunities for students with disabilities.

It bodes well that Congress has increased funding for the Individuals with Disabilities Education Act (IDEA) 19 percent this year to $7.5 billion. This investment will pay huge dividends for the students and families impacted by the IDEA, and for the country.

Tremendous progress has been made in ''mainstreaming'' students with disabilities since the IDEA was first introduced nearly three decades ago. Mainstreaming is a win/win situation that increases opportunities for those students, and also acclimates other students to peer interaction. Youngsters who have friends and acquaintances with disabilities learn to move beyond the disability and judge the real person. They grow up expecting to interact with diverse people in the workforce and in their communities, dissolving prejudices and stereotypes in the process.

COMMUNITY LIFE

It is in the communities of this nation that its 54 million citizens with disabilities go about their daily lives, and this is where these citizens need to be involved. Great progress has been made; commitments from mayors and other leaders have transformed many communities. Disability advocates, no longer willing to be separated from the rest of society, have pushed their communities into becoming more accessible and welcoming places. There is much work still to be done.

Thirty-five percent of people with disabilities say they are not at all involved with their communities, compared to 21 percent of their non-disabled counterparts. Not surprisingly then, those with disabilities are one and a half times as likely to feel isolated from others or left out of their community than those without disabilities.

The current efforts for disaster mobilization are one example of an opportunity for the disability community to remind civic leaders of their responsibility to plan for all citizens. This work may open dialogue in many new and productive directions with regard to overall community efforts.

RELIGIOUS LIFE

Faith and religious life are important for many Americans. Churches, synagogues and mosques need to be accessible to all who wish to worship. With the theme ''Access: It begins in the heart,'' thousands of houses of worship have enrolled in the Accessible Congregations Campaign. Hopefully many other congregations in the country also will commit to identifying and removing barriers of architecture, communications and attitudes that prevent people with disabilities from practicing their faith.

POLITICAL INVOLVEMENT

Citizens with disabilities want to vote, and are doing so at increasing rates. What had been a 20 percentage point participation gap—31 percent versus more than 50 percent—in the 1996 Presidential election was halved when 41 percent of voting-aged citizens with disabilities cast ballots in 2000. This followed a national get-out-the-disability-vote effort. But many polling places remain inaccessible to wheelchair users and others with limited mobility. Once inside the building, others encounter voting machines they cannot use. Persons with limited vision or hand strength are particularly disadvantaged at the polls. People with disabilities want to vote on election day, at the polls, just like everyone else.

Technological improvements now available could make voting at the polls possible for nearly all people with disabilities. All that is needed is the will, or a legal requirement, to put such voting machines into use. The contested 2000 Presidential Election showed that every vote counts. The disability community is determined to have full enfranchisement.

Late in 2001, the House of Representatives passed a bill that did not adequately address the above issues. The Senate's version of the bill, currently under review, is far more promising. Millions of voters and potential voters will be tracking this legislation in the hope that it will improve the voting system for all Americans. None of the barriers that have kept citizens with disabilities from voting should be allowed to remain by the time of the 2004 Presidential election, and the disability community calls on the government at all levels to ensure these obstacles are removed.

THE OVERALL PICTURE

A clear majority of people with disabilities, 63 percent, say that live has improved for the disability community in the past decade. But when asked about life satisfaction, only 33 percent say they are very satisfied with their life in general—half as many as among those without disabilities. There is much room for improvement, and the disability community looks to the President and his Administration, the Congress, and all those in a position of community leadership to work proactively and productively with us to ensure that no person with a disability is left behind.

Anyone with a disability perspective who travels abroad returns impressed by the way America is, in many ways, the world leader in access, opportunity, and inclusion for people with disabilities. Much progress has been made, and many walls of exclusion have been leveled. People with disabilities celebrate the progress of this nation, and also remain dedicated to the vision of a day when all people, no matter how they are born or what conditions they acquire, will be full and equal participants in American life. This is our dream for the State of the Union.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 5, 1997 in Washington, D.C. A gay man was attacked by a person yelling anti-gay epithets. The assailant, Bobbie Eugene Ross, 30, was charged with simple assault, making threats of bodily harm, and possession of a prohibited weapon.

I believe that government's first duty is to defend its citizens, to defend them

against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

A REPORT ON OUR NATION'S GUN LAWS

Mr. LEVIN. Mr. President, the Brady Campaign to Prevent Gun Violence recently published a report highlighting the progress made in state laws to protect children from guns and gun violence. The evaluation focused on a number of laws addressing juvenile possession of guns, safe storage, childproof guns, background checks and carrying concealed weapons, among other issues. The nation as a whole received a grade of C+. However, 29 States received grades of D or F. The report reveals the fact that our Nation's gun laws are a patchwork providing uneven and often ineffective protection for our Nation's children. In fact, the death rate of youth in the 7 States that received an F grade was 33 percent higher than the average firearms death rate for the 10 States that received an A or a B. This discrepancy illustrates the need for common sense gun safety laws and is a strong argument for Federal action.

Last year, I cosponsored a bill introduced by Senator DURBIN, the Children's Firearm Prevention Act. Under this bill, adults who fail to lock up a loaded firearm or an unloaded firearm with ammunition would be held liable if the weapon is taken by a child and used to kill or injure themselves or another person. The bill also increases the penalties for selling a gun to a juvenile and creates a gun safety education program that includes parent-teacher organizations, local law enforcement and community organizations. This bill is similar to a bill President Bush signed into law during his tenure as the Governor of Texas. I support this bill and hope the Senate will act on it during this Congress.

ENDING THE WORST FORMS OF CHILD LABOR AND FORCED LABOR IN THE COCOA AND CHOCOLATE INDUSTRY WORLDWIDE

Mr. HARKIN. Mr. President, we all know that values matter to Americans. It is also becoming increasingly clear that they matter inside the global marketplace as well as outside. That explains why, according to a recent nationwide poll, 77 percent of Americans said they would likely look for a label when purchasing if there was a label on some products to indicate that they were made without the use of exploitive child labor.

Most Americans also understand that in today's complex, interwoven global economy, some of our cherished values come into conflict with one another in new and different ways and require very difficult trade-offs. For example, more free trade and free enterprise, as practiced in the real world versus more economic fairness, social justice and environmental sustainability. Recognizing this creative tension, 76 percent of Americans in a recent nationwide poll on globalization said they would pay more and buy a piece of clothing for $25 that is certified as not made in a sweatshop instead of buying the same article of clothing for $20 if they were not sure how it was made. Most Americans clearly want to bring our fundamental values—a sense of fair play, universal respect for human rights and worker rights, better stewardship of our shared environment, and more hope and equal opportunity for our children and grandchildren—into the conduct of international business and investment. But so far the global marketplace isn't readily giving American consumers and investors that choice.

Then what were we to do when the Knight-Ridder newspapers in June, 2001 brought us—a nation of chocaholics—face to face with child slavery in the production and harvesting of cocoa beans in the Ivory Coast. This impoverished West African country exports more than 40 percent of the world's supply of this agricultural commodity.

To his credit, Congressman ELLIOTT ENGEL from New York immediately saw the contradiction and reacted with outrage. He took to the House floor last summer and won passage of an amendment to the House version of the fiscal year 2002 Agriculture Appropriations bill on a very lop-sided, bipartisan vote. His amendment would have provided $250,000 for the Food and Drug Administration, FDA, to come up with a label to attach to all chocolate products for sale and distribution in the U.S. within one year to attest that they were made without any child slave labor. While both the FDA and the chocolate companies quickly protested that such a goal was unrealistic and impossible to attain, I shared Congressman ENGEL's resolve that clear and decisive corrective action had to be taken.

Accordingly, I called representatives of the major chocolate companies to a meeting early last July to underscore the seriousness of the forced child labor problem that had been exposed in their chain of production and to determine what they planned to do about it. I also reminded them at that time that U.S. law currently prohibits the importing of any products made, whole or in part, with forced or indentured child labor. And Senator KOHL, our Agriculture Appropriations Subcommittee chairman, and I gave notice of our intent to offer an amendment on the Senate floor, if need be, as early as last September. This set the stage for a series of lengthy, intense negotiations, set in motion by Senator KOHL, between ourselves and representatives of the major chocolate companies and cocoa bean processors.

I insisted from our first meeting that to avoid Senate legislation, the industry would have to meet two requirements:

First, they would have to commit to a set of principles and a time-bound action plan to eliminate the worst forms of child labor, including but not limited to forced child labor, throughout their chain of production and as a matter of the utmost urgency.

Second, if and when we might arrive at a mutually-acceptable framework agreement, they—the industry—would have to take that framework agreement to the other, non-industry stakeholders with an interest and expertise in child labor problem-solving and persuade them to participate as full partners in hammering out and fulfilling all of the requirements in this agreement on a mutually-acceptable basis and according to firm, prescribed deadlines.

I am happy to say these fundamental requirements were met when the Harkin-Engel Protocol on the Worst Forms of Child Labor in the Cocoa and Chocolate Industry was signed and announced publicly last October 1. This unprecedented framework agreement that will result in a credible, public certification system of industry-wide global standards within 4 years to attest that cocoa beans and all of their derivative products have been produced without any of the worst forms of child labor as clearly defined in ILO Convention No. 182.

We knew at the outset that it would not be easy to achieve this breakthrough. While there were strong, initial objections raised about labeling by some industry spokespersons, it also became clear in the course of our negotiations that a reliable labeling system could be developed, given the political will and incentives to do so. Officials of the ILO and some company representatives themselves acknowledged it could be achieved in this far-flung industry in 3–5 years. It was a matter of how quickly industry-wide standards could be defined, implemented, and subjected to effective, independent monitoring, and public reporting by all major stakeholders.

Let me be clear. The Harkin-Engel Protocol on the Worst Forms of Child Labor is a very good agreement, but it is not perfect. It is a breakthrough that sets out a specific, finite timetable during which something will be built incrementally that has never existed before—the capacity to publicly and credibly certify worldwide that cocoa beans and all of the products made from them have been produced and processed free of any of the worst forms of child labor.

Mr. President, I ask unanimous consent to have copies of this unprecedented agreement and its underlying principles re-printed in their entirety in the RECORD following my remarks. It is to be called the Protocol For The Growing And Processing Of Cocoa Beans In A Manner That Complies With ILO Convention 182 Concerning The Prohibition And Immediate Action

For The Elimination Of The Worst Forms Of Child Labor.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HARKIN. I want to briefly highlight key provisions that together make this framework agreement a real breakthrough:

First, it requires the industry to publicly acknowledge the use of forced child labor and to assume primary responsibility, including financial responsibility, for ending these intolerable practices. This is only fair and right.

Second, it requires the industry to partner and bargain every step of the way with the other major stakeholders cocoa producers, organized labor, nongovernmental organizations, consumer groups and governments among them—who have an interest and expertise in achieving the abolition of the worst forms of child labor in this sector. Last December 1, all of these stakeholders hammered out and signed a mutually-acceptable joint statement that recognizes and affirms their shared commitment to act together with urgency to eliminate the worst forms of child labor in the cocoa and chocolate business. I ask unanimous consent that this public statement also appear in the RECORD at the conclusion of my remarks.

Furthermore, by next May, a binding, public memorandum of cooperation must be agreed among all of the major stakeholders that establishes a joint program of research, information exchange, and action to enforce internationally-recognized standards to eliminate the worst forms of child labor and forced labor from this sector of agriculture and food processing worldwide.

Third, by next July, this industry will have made its initial down-payment of funds to establish a new international foundation to oversee and sustain over time the global effort to eliminate the worst forms of child labor and forced labor in the growing and processing of cocoa beans and their derivative products. This will be a private, non-profit foundation governed and administered by all of the major stakeholders. The support of field projects in the Ivory Coast and other cocoa-exporting countries along with the establishment of a clearinghouse on best practices to eliminate the worst forms of child labor will be among its initial purposes.

Fourth, this framework agreement must yield within 4 years the first-ever global capacity in this sector to publicly and credibly certify that the cocoa and chocolate products we eat and enjoy every day have been produced without any child slavery or use of any of the worst forms of child labor. This will be a giant step forward. A very diverse set of stakeholders has publicly committed ourselves for the first time in America and abroad to rooting out and ending the worst forms of child labor and forced labor, wherever they exist. The resulting system of public certification should take us 99 percent of the way during the next 4 years toward a credible and effective means of empowering consumers to reliably do the right thing. It would be my hope and expectation at that point in time, if not sooner, that one or many of the stakeholder companies will take the final step and decide for itself that it is in their own interest as well as the public interest to give their customers what most consumers in America and around the world want—products with a reliable label ensuring that none of the worst forms of child labor have been associated with their production.

Now I want to conclude my statement by recalling the life and vision of a great American, Milton Hershey, whose legacy from the 20th century is relevant to the 21st century challenge that has brought the Harkin-Engel Protocol into being. He grew up in family in Pennsylvania that was almost always broke and constantly on the move. Neighbors remembered seeing him as a boy going about the streets barefoot, selling berries door-to-door. But as a young man, he started a small company making caramels—The Lancaster Caramel Company—and built it into a thriving interstate business. At the age of 33, he was wealthier than he had ever dreamed. That was even before he started the Hershey Chocolate Company in a back corner of his caramel factory. The rest is history, as he went on to give America our first five-cent milk chocolate candy bar and became fabulously rich.

But it was Hershey's philanthropic example that stands out and is most relevant. In 1909, just 6 years after breaking ground for his first chocolate factory, he and his wife set up a trust fund to found a school for poor, orphaned boys. The Hershey Industrial School continues to flourish today, having provided a good home and a better chance in life for nearly a century for countless thousands of American children in need. In fact, at a comparative young age, he donated his entire estate to the Hershey Trust Fund for the benefit of the school, including land and all of his stock valued at more than $60 million in 1918.

Today, Milton Hershey's remarkable gift is worth more than $5 billion and the school is one of the richest private education institutions in our country. It continues to provide a home and quality education to more than 1,000 students every year—girls and boys of all races and religions who come mostly from broken families in poor inner-city neighborhoods.

If he was alive today, I think he would approve of this unprecedented framework agreement and the collaborative, child labor problem-solving process it has set in motion. He wouldn't see these child slaves in the Ivory Coast as children of a lesser god. Surely, he would open his heart and his wallet to do no less for the impoverished and powerless children of the Ivory Coast, Brazil, Ghana, Indonesia, and all the other cocoa-producing countries. All of the stakeholders in this breakthrough agreement should do no less. Now we have to roll up our sleeves, go to work building certification capacity, and meet all of the deadlines to confidently eliminate the worst forms of child labor and forced labor from the cocoa and chocolate business worldwide once and for all. In so doing, we will have hopefully blazed a new trail and provided a worthy model that is transferable to other industries where millions of child laborers work in darkness and without prospects for a brighter future.

EXHIBIT 1

CHOCOLATE MANUFACTURERS ASSOCIATION,
Vienna, VA.

PROTOCOL FOR THE GROWING AND PROCESSING OF COCOA BEANS AND THEIR DERIVATIVE PRODUCTS IN A MANNER THAT COMPLIES WITH ILO CONVENTION 182 CONCERNING THE PROHIBITION AND IMMEDIATE ACTION FOR THE ELIMINATION OF THE WORST FORM OF CHILD LABOR

Guiding Principles:

OBJECTIVE—Cocoa beans and their derivative products should be grown and processed in a manner that complies with International Labor Organization (ILO) Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor. ILO Convention 182 is attached hereto and incorporated herein by reference.

RESPONSIBILITY—Achieving this objective is possible only through partnership among the major stakeholders: governments, global industry (comprised of major manufacturers of cocoa and chocolate products as well as other, major cocoa users), cocoa producers, organized labor, non-governmental organizations, and consumers. Each partner has important responsibilities. This protocol evidences industry's commitment to carry out its responsibilities through continuation and expansion of ongoing programs in cocoa-producing countries and through the other steps described in this document.

CREDIBLE, EFFECTIVE PROBLEM SOLVING—In fashioning a long-term solution, the problem-solving process should involve the major stakeholders in order to maximize both the credibility and effectiveness of the problem-solving action plan that is mutually-agreed upon.

SUSTAINABILITY—A multi-sectoral infrastructure, including but independent of the industry, should be created to develop the action plan expeditiously.

ILO EXPERTISE—Consistent with its support for ILO Convention 182, industry recognizes the ILO's unique expertise and welcomes its involvement in addressing this serious problem. The ILO must have a ''seat at the table'' and an active role in assessing, monitoring, reporting on, and remedying the worst forms of child labor in the growing and processing of cocoa beans and their derivative products.

Key Action Plan and Steps to Eliminate the Worst Forms of Child Labor:

(1) Public Statement of Need for and Terms of an Action Plan—Industry has publicly acknowledged the problem of forced child labor in West Africa and will continue to commit significant resources to address it. West African nations also have acknowledged the problem and have taken steps under their

own laws to stop the practice. More is needed because, while the scope of the problem is uncertain, the occurrence of the worst forms of child labor in the growing and processing of cocoa beans and their derivative products is imply unacceptable. Industry will reiterate its acknowledgment of the problem and in a highly-public way will commit itself to this protocol.

(2) Formation of Mutli-Sectoral Advisory Groups—By October 1, 2001, an advisory group will be constituted with particular responsibility for the on-going investigation of labor practices in West Africa. By December 1, 2001, industry will constitute a broad consultative group with representatives of major stakeholders to advise in the formulation of appropriate remedies for the elimination of the worst forms of child labor in the growing and processing of cocoa beans and their derivative products.

(3) Signed Joint Statement on Child Labor to Be Witnessed at the ILO—By December 1, 2001, a joint statement made by the major stakeholders will recognize, as a matter of urgency, the need to end the worst form of child labor in connection with the growing and processing of West African cocoa beans and their derivative products and the need to identify positive developmental alternatives for the children removed from the worst forms of child labor in the growing and processing of cocoa beans and their derivative products.

(4) Memorandum of Cooperation—By May 1, 2002, there will be a binding memorandum of cooperation among the major stakeholders that establishes a joint action program of research, information exchange, and action to enforce the internationally-recognized and mutually-agreed upon standard to eliminate the worst forms of child labor in the growing and processing of cocoa beans and their derivative products and to establish independent means of monitoring and public reporting on compliance with those standards.

(5) Establishment of Joint Foundation—By July 1, 2002, industry will establish a joint international foundation to oversee and sustain efforts to eliminate the worst forms of child labor in the growing and processing of cocoa beans and their derivative products. This private, not-for-profit foundation will be governed by a Board comprised of industry and other, non-government stakeholders. Industry will provide initial and on-going, primary financial support for the foundation. The foundation's purposes will include field projects and a clearinghouse on best practices to eliminate the worst forms of child labor.

(6) Building Toward Credible Standards—In conjunction with governmental agencies and other parties, industry is currently conducing baseline-investigative surveys of child labor practices in West Africa to be completed by December 31, 2001. Taking into account those surveys and in accordance with the other deadlines prescribed in this action plan, by July 1, 2005, the industry in partnership with other major stakeholders will develop and implement credible, mutually-acceptable, voluntary, industry-wide standards of public certification, consistent with applicable federal law, that cocoa beans and their derivative products have been grown and/or processed without any of the worst forms of child labor.

We, the undersigned, as of September 19, 2001 and henceforth, commit the Chocolate Manufacturers Association, the World Cocoa Foundation, and all of our members wholeheartedly to work with the other major stakeholders, to fulfill the letter and spirit of this Protocol, and to do so in accordance with the deadlines prescribed herein.

Mr. Larry Graham, Chocolate Manufacturers Association.

Mr. William Guyton, World Cocoa Foundation.

WITNESSETH

We hereby witness the commitment of leaders of the cocoa and chocolate industry evidenced on September 19, 2001 and henceforth to fulfill the letter and spirit of this Protocol to eliminate the worst forms of child labor from this sector as a matter of urgency and in accordance with the terms and deadlines prescribed herein.

Senator Tom Harkin, Senator Herbert Kohl, Congressman Eliot Engel.

Ambassador Youssoufou Bamba, Embassy of the Ivory Coast.

Mr. Frans Roselaers, Director, International Labor Organization.

Mr. Ron Oswald, Catering, Tobacco and Allied Workers' Associations (IUF).

Mr. Kevin Bales, Free The Slaves.

Ms. Linda Golodner, National Consumers League.

Ms. Darlene Adkins, The Child Labor Coalition.

We personally support the protocol entered into by industry Protocol for the Growing and Processing of Cocoa Beans and their Derivative products In a Manner that Complies with ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor and look forward to its successful execution which we support wholeheartedly.

Gary Guittard, Guittard Chocolate Company.

Edmond Opler, Jr., World's Finest Chocolate, Inc.

Bradley Alford, Nestle Chocolate & Confections USA.

Richard H. Lenny, Hershey Food Corporation.

Paul Michaels, M&M/Mars, Inc.

G. Allen Andreas, Archer Daniels Midland Company.

Henry Bloomer, Jr., Bloomer Chocolate Company.

Andreas Schmid, Barry Callebaut AG.

ASSOCIATION OF THE CHOCOLATE, BISCUIT AND CONFECTIONERY INDUSTRIES OF THE EU,
Brussels, Belgium, September 3, 2001.

PROTOCOL FOR THE GROWING AND PROCESSING OF COCOA BEANS AND THEIR DERIVATIVE PRODUCTS IN A MANNER THAT COMPLIES WITH ILO CONVENTION 182 CONCERNING THE PROHIBITION AND IMMEDIATE ACTION FOR THE ELIMINATION OF THE WORST FORMS OF CHILD LABOR

CAOBISCO is the Association of the Chocolate, Biscuit and Confectionery industries of the European Union with Association Members in Switzerland, Norway, Hungary and Poland, representing through its National Associations circa 1800 companies in Europe.

CAOBISCO, in addition to its own actions on this important issue, endorses the initiatives taken in the United States by political representatives, the industry and other stakeholders.

CAOBISCO associates itself with the above Protocol. CAOBISCO will also ensure that the appropriate political authorities in Europe are made fully conversant with the guiding principles of this Protocol and that there is complementarity between these principles and parallel actions pursued in Europe.

HANS RYSGAARD,
President.
DAVID ZIMMER,
Secretary General.

EUROPEAN COCOA ASSOCIATION,
Brussels, Belgium, September 4, 2001.

PROTOCOL FOR THE GROWING AND PROCESSING OF COCOA BEANS AND THEIR DERIVATIVE PRODUCTS IN A MANNER THAT COMPLIES WITH ILO CONVENTION 182 CONCERNING THE PROHIBITION AND IMMEDIATE ACTION FOR THE ELIMINATION OF THE WORST FORMS OF CHILD LABOUR

ECA is a trade association representing the European cocoa sector and includes companies from the entire cocoa industry chain. Members are cocoa converters, industrial chocolate producers, traders or are involved in warehousing and/or in related logistical aspects. Together, ECA members represent close to 75% of Europe's cocoa beans grinding, 50% of Europe's industrial chocolate production and 40% of world production of cocoa liquor, butter and powder.

The issue of exploitative child labour clearly requires the commitment of governments as well as co-operation across the entire cocoa chain. In this context, the ECA will continue to play an active role, and hence welcomes the protocol as a valuable step toward the definition of an international response by all concerned parties.

It may be expected that the European regulators and industry, taking into consideration their own external environment and relationship with the West African origin countries, will reach similar conclusions that will comfort the needed global approach. ECA, like Caobisco, will ensure that there is complementarity between the above initiative and parallel actions being pursued in Europe.

ROBERT A. ZEHNDER,
Secretary General.

INTERNATIONAL COCOA ORGANIZATION,
London, September 11, 2001.

PROTOCOL FOR THE GROWING AND PROCESSING OF COCOA BEANS AND THEIR DERIVATIVE PRODUCTS IN A MANNER THAT COMPLIES WITH ILO CONVENTION 182 CONCERNING THE PROHIBITION AND IMMEDIATE ACTION FOR THE ELIMINATION OF THE WORSE FORMS OF CHILD LABOUR

The International Cocoa Organisation (ICCO) is an intergovernmental institution created in 1972 under the auspices of the United Nations, with the aim to monitor the international cocoa market, for the benefit of both cocoa exporters and importers.

There are 42 member countries in the Organisation, of which 19 are exporting members and 22 importing members.

Exporting members are: Benin, Brazil, Cameroon, Cote d'Ivoire, Dominican Republic, Ecuador, Gabon, Ghana, Grenada, Jamaica, Malaysia, Nigeria, Papua New Guinea, Peru, Sao Tome and Principe, Sierra Leone, Togo, Trinidad and Tobago, Venezuela.

Importing members are: Austria, Belgium/Luxembourg; Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Netherlands, Norway, Portugal, Russian Federation, Slovak Republic, Spain, Sweden, Switzerland, United Kingdom.

The ICCO fully endorses the initiative taken in the United States, by political representatives, the industry and other stakeholders. This is in line with the Resolution adopted in June 2001 by the International cocoa council, on agricultural working practices, and with the provisions of Article 49 of the International cocoa agreement 1993, regarding fair labour standards.

The ICCO supports the above mentioned PROTOCOL.

The ICCO encourages its member Governments to investigate and eradicate any criminal child labour activity that might

exist in their territory in the field of agricultural working practices, in close co-operation with UNICEF, ILO, FAO and the private sector.

The ICCO has decided to include in the design of its relevant projects, activities in support of member countries in the eradication of unlawful practices concerning child labour.

KOUAMÉ EDOUARD,
Executive Director.

JOINT STATEMENT, November 30, 2001

The Association of the Chocolate, Biscuit and Confectionery Industries of the EU, the Chocolate Manufacturers Association of the USA, the Confectionery Manufacturers Association of Canada, the Cocoa Association of London and the Federation for Cocoa Commerce, the Cocoa Merchants Association of America, the European Cocoa Association, the International Office of Cocoa, Chocolate and Confectionery, the World Cocoa Foundation, the Child Labor Coalition, Free The Slaves, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations, and the National Consumers League (sometimes hereinafter the ''Signatories'') recognize the urgent need to identify and eliminate child labour in violation of International Labour Organization (''ILO'') Convention 182 with respect to the growing and processing of cocoa beans and their derivative products. The Signatories also recognize the need to identify and eliminate practices in violation of ILO Convention 29 with equal urgency.

The Signatories affirm their support for the International Labour Organization's (LIO) mission to improve working conditions worldwide, as exemplified in the ILO Declaration on Fundamental Principles and Rights at Work. We also share the view that practices in violation of ILO Conventions 182 (the ''worst forms of child labour'') and 29 (''forced labour'') result from poverty and a complex set of social and economic conditions often faced by small family farmers and agricultural workers, and that effective solutions to address these violations must include action by appropriate parties to improve overall labour standards and access to education.

The Signatories support the framework provided in the Protocol signed by the Chocolate Manufacturers Association and the World Cocoa Foundation on September 19, 2001, which provides for cooperation and for credible, problem solving in West Africa, where a specific program of research, information exchange, and action is immediately warranted. This Joint Statement expresses the shared commitment of the Signatories to work collaboratively toward the goal of eliminating the worst forms of child labour and forced labour in cocoa growing.

The strategies developed as part of this process will only be credible to the public and meet the expectations of consumers if there is committed engagement on the part of governments, global industry (comprised of major manufacturers of cocoa and chocolate products as well as other, major cocoa users), cocoa producers, labour representatives, non-governmental organizations, and consumers that have joined this process.

The Signatories recognize the need to work in concert with the ILO because the ILO will play an important role in identifying positive strategies, including developmental alternatives for children engaged in the worst forms of child labour and adults engaged in forced labour in the growing and processing of cocoa beans and their derivative products.

The strategies to be developed will be effective only if they are comprehensive and part of a durable initiative. The steps to be taken to sustain this initiative include: (i) execution of a binding memorandum of cooperation among the Signatories that establishes a joint action program of research, information exchange, and action to enforce the internationally-recognized and mutually-agreed upon standards to eliminate the worst forms of child labour in the growing and processing of cocoa beans and their derivative products; (ii) incorporation of this research that will include efforts to determine the most appropriate and practicable independent means of monitoring and public reporting in compliance with those standards; and (iii) establishment of a joint foundation to oversee and sustain efforts to eliminate the worst forms of child labour and forced labour in the growing the processing of cocoa beans and their derivative products. The Signatories welcome industry's commitment to provide initial and ongoing, primary financial support for the foundation.

We anticipate that other parties may be able to play a positive role in our important work. Subject to mutual consent by the Signatories, additional parties may be invited to sign onto this statement in the future.

Witnessed by the International Labour Organization this 30th day of November, 2001. Geneva, Switzerland.

Mr. Frans Roselaers, International Labor Organization.

Mr. David Zimmer, CAOBISCO.

Mr. Lawrence Graham, Chocolate Manufacturers Association of the USA.

Mr. John Rowesome, Confectionery Manufacturers Association of Canada.

Mr. Phil Sigley, Federation for Cocoa Commerce.

Mr. Thomas P. Hogan, Cocoa Merchants Association of America.

Mr. Robert Zehnder, European Cocoa Association.

Mr. Tom Harrison, International Office of Cocoa, Chocolate and Confectionery.

Mr. Bill Guyton, World Cocoa Foundation.

Ms. Darlene Adkins, The Child Labor Coalition.

Mr. Kevin Bales, Free the Slaves.

Mr. Ron Oswald, Allied Workers' Associations (IUF).

Ms. Linda Golodner, National Consumers League.

ASSOCIATION OF THE CHOCOLATE, BISCUIT AND CONFECTIONERY INDUSTRIES OF THE EU, CHOCOLATE MANUFACTURERS ASSOCIATION, CONFECTIONERY MANUFACTURERS ASSOCIATION OF CANADA, EUROPEAN COCOA ASSOCIATION,
December 1, 2001.

INTERNATIONAL ALLIANCE JOINS FORCES TO ADDRESS CHILD LABOUR ABUSE IN THE WEST AFRICAN COCOA SECTOR

The global cocoa and chocolate industry today joined a diverse group of partners to sign a joint statement re-affirming the urgent need to end the worse forms of child labour and forced labour in cocoa cultivation and processing in West Africa. The joint statement was signed by representatives of non-governmental organisations, anti-slavery and human rights experts, consumer groups and labour representatives. The International Labor Organization (ILO) witnessed signature of the statement.

The problems of the worst forms of child labour and forced labour are complex and can only effectively be addressed with the commitments of all the partners signing the statement today, together with governments. The global cocoa and chocolate industry is committed to playing an active part in this initiative. A significant effort is under way to asses the precise scope of the problem through independent investigative surveys. The data of the surveys will be analysed by experts during the first quarter of next year.

Today's joint statement is in keeping with the commitments made by industry to address the worst forms of child labour and forced labour. On 19 September this year, industry developed and signed a protocol, which lays out an action plan to combat the problem, with input from governments and human rights experts. Active implementation of the industry Protocol began in October this year.

In addition, industry has constituted a Broad Consultative Group to advise in the formulation of appropriate remedies for the elimination of the worst forms of child labour and forced labour in the growing and processing of cocoa beans. The signatories to the joint statement have been invited to join the Broad Consultative Group.

The signatories to the joint statement are: Cocoa and Chocolate Industry, The Association of the Chocolate, Biscuit and Confectionery Industries of the EU (CAOBISCO), International Labour Organisation (Witnessing); The Chocolate Manufacturers Association of the USA (CMA), Free The Slaves; The Confectionery Manufacturers Association of Canada (CMAC), The Child Labor Coalition; The Cocoa Association of London (CAL), The National Consumers League; The Cocoa Merchants Association of America (CMAA), The Federation for Cocoa Commerce (FCC), The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations (IUF); The European Cocoa Association (ECA); The World Cocoa Foundation (WCF); The International Office of Cocoa, Chocolate and Confectionery (IOCCC).

CHINESE MILITARY'S USE OF FOREIGN TECHNOLOGY

Mr. KYL. Mr. President, a recent article in the Far Eastern Economic Review on China's use of foreign technology to modernize its military explains the far-reaching impact of China's purchase of foreign technology on that country's military capabilities. For example, it describes Rolls Royce's recent sale to China of 90 Spey jet engines, some of which will likely be used for the Chinese military's JH–7 fighter bombers. The technology used in these engines is admittedly dated; but some are concerned that the sale may represent the beginning of a larger relationship between Rolls Royce and China. The article also details China's growing reliance on Russian-designed aircraft, missiles, and navy destroyers and submarines. A February 2001 article in Jane's Intelligence Review described the relationship further, stating:

> Between 1991 and 1996 Russia sold China an estimated $1 billion worth of military weapons and related technologies each year. That figure doubled by 1997. In 1999 the two governments increased the military assistance package for a second time. There is now a five-year program (until 2004) planning $20 billion worth of technology transfers.

Perhaps of even greater concern is that, according to the Wisconsin Project on Nuclear Arms Control, the United States approved $15 billion in ''strategically sensitive exports'' to China during the 1990s. These exports included equipment that can be used to design nuclear weapons, build nuclear

weapons components, improve missile designs, and build missile components. And it is important to remember China's primary objective in acquiring these and other military technologies, to be able to defeat our long-standing, democratic ally Taiwan in a conflict quickly enough to prevent American military intervention.

Last September, the Senate passed S. 149, the Export Administration Act of 2001. S. 149 was approved despite serious concerns of some, including myself, that the U.S. export control process is ineffective in stopping the export of militarily sensitive technologies to countries, like China, that pose a potential military threat to the United States or to U.S. interests abroad. S. 149, if enacted into law, would allow China to import even more sensitive technology than it has in the past. It would decontrol a number of dual-use technologies, including items used to make nuclear weapons and long-range missiles.

I urge my colleagues to take a moment to read the Far Eastern Economic Review article, and to consider the impact on China's military capabilities of foreign technology purchases and, more importantly, the potential long-term ramifications of further weakening the U.S. export control process.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Far Eastern Economic Review, Jan. 24, 2002]

CHINA—ARMS

(By David Lague in Hong Kong)

Buying Some Major Muscle: The People's Liberation Army is shopping for foreign arms and the latest military technology with a vengeance; Costing tens of billions of dollars a year, this drive will change the face of its forces at war and is unsettling some foreign governments.

In the field of frustration and broken dreams that for many foreign firms is the China market, arms dealers and suppliers of technology to boost military firepower have discovered their El Dorado.

International arms-trade monitors estimate that China is now the world's biggest arms importer as it steps up a drive to re-equip the People's Liberation Army so that, if necessary, it has the strength to recover Taiwan by force and can deter intervention by the United States in a cross-strait conflict.

From supersonic fighters and missiles to computer-aided-design software the PLA and its associated civilian agencies are filling order books across the world.

''In my view, practically every area of PLA modernization is affected by the acquisition, utilization, absorption or development of foreign technology,'' says PLA watcher Richard Fisher of the Jamestown Foundation in Washington.

The Stockholm International Peace Research Institute in its 2001 yearbook noted that China had become the world's biggest importer of arms in 2000, mainly through deliveries of ships and combat aircraft from Russia. These imports were valued at close to $3 billion, more than twice any other buyer's tally. In the secretive world of the international arms trade, the true value of Chinese offshore orders is difficult to uncover. Defence experts estimate up to half of Russia's $4 billion in military sales last year went to China. When combined with imports of so-called dual-use technology—equipment and know-how with military as well as civilian applications—most analysts expect the total to be much higher.

To pay for what Fisher described as its international military ''spending spree,'' Beijing announced in March last year that its published defence budget was jumping more than 17% to $17.2 billion. Real annual spending, including payments for foreign weapons and technology, is estimated by many analysts at more than $60 billion. The government is already signalling that it plans further defence-budget increases this year.

The main beneficiaries of Chinese spending: Russia and Israel, since the West imposed an arms embargo in retaliation of the 1989 Tiananmen Massacre. U.S. and European makers of nonlethal military hardware and dual-use technology are, however, eager suppliers.

The independent U.S. Wisconsin Project on Nuclear Arms Control calculates that Washington approved some $15 billion in strategically sensitive exports to China in the decade up to 1999. These included advanced computers needed to design and test nuclear weapons, machine tools for making missile parts and specialized equipment used for making military semiconductors.

Some key customers for U.S. technology are the China Precision Machinery Import-Export Corp., a maker of anti-ship missiles, the National University of Defense Technology, which designs weapons, and Huawei Technologies—accused by Washington of helping Iraq improve its air-defense system.

In recent years, much international attention has focused on sensational allegations of Chinese espionage at U.S. nuclear-arms laboratories. But far from having to steal much of the latest military technology, Beijing is simply buying it.

''Western companies want to get into this market,'' says Taipei-based PLA analyst Tsai Min-yen of the Taiwan Research Institute. ''The way they can build contacts with China is to sell these dual-use or nonlethal technologies.''

Even such top Western firms as British engine-maker Rolls-Royce are looking for a piece of the action. It sells defense equipment as part of its broader aerospace, marine and energy business in China—though it is reluctant to give details of its military sales.

Rolls-Royce confirmed to the REVIEW that it recently supplied up to 90 Spey jet engines and spares to China that defence analysts believe the PLA intends to fit on to its JH–7 fighter-bombers—also being modified with modern radar and long-range missiles.

Rolls-Royce spokesman Martin Brodie says that the company first supplied this engine type to China in the 1970s and continues to support that original deal. ''The details of our support are, as with most companies, a matter of commercial confidence,'' he says.

The PLA needs more of the reliable Spey engines because it failed to copy those it received earlier and hasn't designed a local replacement. Rolls-Royce argues its Spey engines incorporate 1960s technology, implying they will not significantly boost PLA power. In contrast, Asia-based Western defense officials say the Pentagon objected to the latest deal on the grounds that it would enhance the PLA's capabilities.

Rolls-Royce indicates more defense-related business is on its mind. On a visit in October, Chief Executive John Rose discussed ''current cooperation and opportunities for the future'' with officials from China's Commission on Science, Technology and Industry for National Defense, according to a company statement.

Earlier British technology sales proved a boost to the PLA. In 1996, Racal Corp., now part of the French Thales Group, sold up to eight Skymaster long-range airborne radars to be fitted on PLA Navy Y–8 aircraft. Britain at the time justified the sale by saying it would help Beijing against rampant smuggling. Since then, the specialist defence press has reported that these aircraft are used to assist Chinese missile warships locate distant targets.

Other British sales are aimed at civilian use but seem to offer clear military advantages. Surrey Satellite Technology, perhaps the world's leading micro-satellite maker, has played a major role developing China's infant micro-satellite industry with technology transferred to China through a joint venture with Beijing's elite Qinghua University. Specialists have warned that this type of technology is vitally important for the Chinese military to mount combined air and sea operations in the Taiwan Strait.

Company spokeswoman Audrey Nice rejects any link between Surrey's technology and the Chinese military. ''The PLA does not exist as far as Surrey is concerned,'' she says. ''There are no defence applications whatsoever.'' However, she is unable to rule out Chinese military access to data from satellites launched as a result of the joint-venture collaboration. ''The satellite is owned by Qinghua University,'' says Nice, adding that any questions should be directed to the university.

To reduce its dependence on foreign suppliers, China is investing heavily in research and development to build a military industrial base. In the meantime, the PLA armoury resembles an overflowing shopping trolley at an international arms bazaar—with imported arms and technology ordered before the Tiananmen embargo being gradually introduced and combined with the newer purchases.

Should China go to war in the near future over Taiwan, its air force will rely on front-line Russian-designed strike aircraft alongside locally built fighters based on an Israeli design partially funded by the U.S.

Other Chinese-made aircraft will carry Russian and Israeli missiles and find their targets with British and Israeli radar and electronics. The navy will deploy a combination of powerful new Russian warships and submarines alongside locally built ships fitted with U.S. and Ukrainian engines and Italian torpedoes. French companies have supplier air-warfare missiles, tactical command-and-control systems and helicopters.

On land, the PLA will field modern Russian tanks and artillery. Many armoured vehicles will be protected with advanced Israeli-designed armour cladding. Older Chinese tanks have Israeli gun and gunsight systems.

Overhead, satellites built with British and German help will keep watch on the battlefield, fix positions for ground forces and feed target data to ships and aircraft. Meanwhile China's nuclear deterrent will be mounted on launchers improved with assistance supplied by the U.S.

Beijing isn't shy about its growing power. When one of the PLA navy's latest class of warship, the sleek 8,000-tonne guided-missile destroyer Shenzhen, berthed in Hong Kong in November after visiting Europe, it was touted as an example of how China was capable of building world-class warships.

That may be an exaggeration with most Western counterparts. But by regional standards, the Shenzhen's Ukrainian gas turbines,

French Crotale air-defense missiles, Russian YJ–2 anti-ship missiles and two Russian Ka–28 anti-submarine-warfare helicopters make it formidable vessel.

While the arms merchants pile in, there are clear signs of unease in some foreign capitals about the scale of China's arms-buying bonanza and the danger to regional security. For the U.S. and regional governments, the main concern is that short-term corporate greed is overpowering Western fears of arming a potential enemy of the future to the teeth.

Reflecting such official unease, New York-based satellite-maker Loral Space & Communications agreed with the U.S. Justice Department this month to pay a record $14 million fine to settle charges that it may have illegally given satellite know-how to Beijing.

Hughes Electronics of California is also expected to settle with Washington over its role in similar technology leaks.

A U.S. Congressional committee in 1999 accused both companies of helping overcome serious shortcomings in Chinese rocket launchers following an expensive series of failed satellite launches in the mid-1990s. Since then, China launched more than 30 satellites without a hitch. There are strong suspicions in Washington that the PLA's nuclear missiles carried on the same launchers and aimed at the U.S. are now more reliable because of information from U.S. firms.

At the same time as the probes into Hughes and Loral, Washington forced Israel to cancel a $1.25 billion sale of up to five Russian-built aircraft equipped with Israeli-made Phalcon early warning radar to the PLA. Such aircraft would be crucial in coordinating large-scale operations over the Taiwan Strait.

Anxious to keep its good relations as an arms supplier with Beijing, Tel Aviv is now negotiating to pay compensation to China for backing out of the deal. Diplomats say that discussions between both sides earlier this month in Beijing also covered what other hardware may be supplied by Israel.

But regardless of international pressure on sellers, tension across the Taiwan Strait is likely to prolong the feast for arms makers. As China's power grows, so does Taiwan's demand for yet more weapons to ensure parity. The Bush administration last year agreed to supply Taipei with its biggest arms package in decades, including a group of up to eight submarines that alone will cost more than $4 billion.

Watching the arms race, some analysts are questioning the wisdom of China buying hardware from such a range of suppliers. For a start, the logistical and technical support needed to maintain so many different weapons systems is a major challenge. And it takes more than just advanced hardware to be a military power. Training, military doctrine and the integration of weapons and sensors are also vital. There is also the danger that in trying to keep pace with Western firepower, China might overextend itself financially—as the Soviet Union did.

Nevertheless, analysts such as Tsai in Taipei believe that the sheer pace of its spending is allowing China to close the military gap with the U.S. and the rest of the West fast enough to pose a real security threat for Taiwan. ''It is unnecessary for China to catch up with the West in all fields,'' he says. ''They just need enough to deter the U.S. from becoming involved in the Taiwan Strait.''

FORMER WISCONSIN GOVERNOR JOHN REYNOLDS

Mr. FEINGOLD. Mr. President, one of Wisconsin's great progressives died a few days ago. Former Wisconsin Governor John Reynolds passed away on January 6. He was 80.

The son of an Attorney General, and the grandson of a Representative in the State Assembly, John Reynolds came from one of Wisconsin's most distinguished political families, and he himself was the model of what public service should mean.

Reynolds, a native of Green Bay, was one of the founding fathers of the modern Democratic Party of Wisconsin, but his roots were in the Progressive Party of Robert and Phil La Follette. His grandfather was elected to the State Assembly as a Progressive Republican, and his father, who served as the State's Attorney General, was chairman of the independent Progressive Party.

John Reynolds, like his father, served as Wisconsin's Attorney General. He was the State's Governor from 1963 to 1965, and was appointed by President Johnson to serve as a Federal Judge in Wisconsin's Eastern District where he served as Chief Judge from 1971 until 1986.

But as impressive as it is, that resume does not do him justice. In memorializing John Reynolds, the Wisconsin State Journal wrote that his true legacy was his support of the rule of law and equal rights under the U.S. Constitution. Indeed, he may be remembered best as a civil rights advocate. His most famous decision as a judge was his 1976 order that Milwaukee schools be desegregated.

As columnist John Nichols wrote of him, ''John Reynolds never surrendered the Progressive vision that the political and economic rights of individuals must be protected against encroachments by corporate and political elites bent on self-service.''

In 1963, as a sitting Governor, John Reynolds supported civil rights demonstrations. In a statement he made in support of those demonstrations, John Reynolds said: ''The time is long past when Americans can be content with foot-dragging in civil rights. Those who have urged caution forget that those who suffer the pains of discrimination suffer them every day.''

Those words ring true today. They are a mark of the greatness of John Reynolds, a greatness that did not come from the offices he held, but from his principled compassion and political courage.

NATIVE AMERICAN TRUST FUNDS

Mr. JOHNSON. Mr. President, I rise today to express my deep concern for the outlook of the trust fund management system. I have requested on numerous occasions that the Department of the Interior to consult with tribes on this issue. I understand this is difficult, given the scope and expanse of the approximate 560 Tribes in the United States, but it must be done in a far more meaningful manner than has been the case up until now.

Tribes feel that the Department of the Interior has presented a plan, and are simply going through the motions of ''consultation.'' The very idea of consultation is not to formulate a plan and then impose it upon the interested party. It is to work with the effected parties and formulate a plan together. This is the essence of consultation between the Federal Government and Indian Country; it is at the heart of true government-to-government relationship.

The present and future challenge the Department of the Interior, Bureau of Indian Affairs and the Office of Special Trustee face are a high priority for South Dakota's Indian tribes. As a member of both the Senate Indian Affairs Committee, as well as, the Appropriations Committee, I look forward to working on efforts to improve the quality of services provided by the Department, and to protect the interests of tribes in my state of South Dakota and across the country.

The issue of Trust Fund mismanagement is one of the most urgent problems we are faced with in Indian Country. Of all the extraordinary circumstances we find in Indian Country, and especially in South Dakota, I do not think there is any more complex, more difficult and more shocking then the circumstances we have surrounding trust fund mismanagement.

This problem has persisted literally for generations, and continues today. Administrations of both political parties have been inadequate in the response, and the level of direction and the resource provided by Congresses over past decades has also been sadly inadequate. The Federal Government, by law, is to be the trustee for Native American people. When the Trust Fund Management Act of 1994 has passed, I was hopeful that this accounting situation would at last be remedied. Unfortunately, this has not been the case.

In 1996, I was appointed by Chairman YOUNG to the Congressional Task Force on Indian Trust Fund Management, to review and study the management and reconciliation of funds administered by the Department of the Interior's Office of Trust Fund Management. Those meetings were informative but far from productive as three years and many millions of dollars later, this problem still persists.

My concern remains, where are we now, and what does the Department hope to accomplish from the creation of another bureau? Far too much time and resources have been exhausted attempting to remedy this deplorable situation, which affects far too many of South Dakota's poorest people.

This is one of the most urgent problems we face in Indian Country, and there are so many more problems that flow from, or the solutions stem from the inability to come to terms with this issue. Congress has reviewed his issue over 10 times in recent years. We should not have to continue to revisit this issue ten more times to get it solved.

On January 21, 2002, The Sioux Falls Argus Leader published an editorial entitled ''Tribes Capable of Managing Own Trust Funds.'' I commend this editorial to my colleagues. It urges Secretary Norton and the Assistant Secretary for Indian Affairs, Neal McCaleb, in the strongest possible terms, to consult with tribes.

The Federal Government is fond of saying that it will operate ''government to government'' with Indian tribes, but then too often it consults after the fact in an insulting manner. It is time to give tribes greater responsibility over their assets and their budgets.

It is imperative that we remedy this situation. More years will go by and more opportunities to correct this great injustice will be passed unless Congress and the administration at last give resolution of this trust fund crisis the attention and the resources it deserves.

Mr. President, I ask unanimous consent that The Sioux Falls Argus Leader editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Argus Leader, Jan. 21, 2002]

TRIBES CAPABLE OF MANAGING OWN TRUST FUNDS—GOVERNMENT NEEDS COOPERATION

(By the Editorial Staff)

At a meeting in Albuquerque, N.M., tribes vigorously opposed a plan by the Department of Interior and Bureau of Indian Affairs to create a new agency to manage Indian trusts.

The same thing happened at a meeting in Minneapolis.

And again in Oklahoma City.

And most recently in Rapid City.

Each time, the reason was the same. Plans to create the new Bureau of Indian Trust Asset Management were developed by the Interior Department and BIA, without consulting a single tribe.

''Decisions for Indian people should be made by Indian people. Let us do it,'' said Tom Ranfranz, Flandreau Santee Sioux tribal chairman. ''We're good people. We know banking, we know business, we know farming. Let us do it.'' Amen.

If there's one main problem with white-Native American relations during the years we've been a nation, it's just this: Whites always think they know what's best for Indians.

Guess what, it's not always true. Literally billions of dollars are at stake in whatever is decided. The trust fund is built up from money—about $500 million a year—taken from grazing, agriculture, mining, oil production, logging and right-of-way easements. The BIA has managed the fund and doled out money to tribes and individuals.

We say ''managed'' in a loose sort of way. The BIA can't account for at least $2.4 billion supposed to have been collected and handed out since 1972. Maybe the money is there and maybe it isn't. No one knows.

That has led to an ongoing lawsuit against the Department of Interior, and each time the parties are in court, revelations of mismanagement seem to get more bizarre. Most recently, it was determined that the computer system used for the trust fund was so horrible just about anybody could hack into it—despite millions of dollars in studies and recommendations on how to fix the problems.

A judge shut down the system entirely, delaying payments to thousands of people around the country.

Now, the government officials who created the mess are telling the tribes they have the solution. Part of it is to put former BIA Director Ross Swimmer in charge of the new agency.

This is the same Swimmer who lost millions of dollars in coal revenue for the Navahos through an unfair agreement he negotiated.

This is the same Ross Swimmer who destroyed a Cherokee Nation corporation by making bad loans to corporation members.

Tribal officials are howling about the appointment of Swimmer, and for good reason.

They've suggested, instead, a task force of tribal representatives from around the country to come up with a better way of doing things. There are some disagreements about how that would work, but it is clearly the right solution.

Interior Secretary Gale Norton and BIA Director Neal McCaleb seem to have good intentions. It appears they want to undo this long-standing mess and replace the current operation with something that works. For that, we praise them.

But whatever they do will never work unless it's done in consultation with the tribes. To even try to do otherwise is ludicrous. If they think tribes will buy in to the current plan, they're deluding themselves.

ORDERS FOR RECESS, JOINT SESSION, ADJOURNMENT, UNTIL MONDAY, FEBRUARY 4, 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess until this evening at 8:30 p.m.; further, that at 8:40 p.m. the Senate proceed to the House Chamber for the joint session, and that following the joint session the Senate adjourn under the provisions of S. Con. Res. 95 until the hour of 1 p.m. Monday, February 4; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that there be a period for morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each; further, that at 2 p.m. the Senate resume consideration of H.R. 622.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have conferred with the majority leader and he has indicated there will be votes Monday. They will be after 5 p.m.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO MR. AND MRS. PAVEL

• Mrs. MURRAY. Mr. President, I rise today to pay tribute to Donald and Anne Pavel of Shelton, WA, in celebration of their 50th wedding anniversary on January 31, 2002.

Mr. and Mrs. Pavel are life-long residents of Shelton. Mr. Pavel graduated from Shelton High School and went on to a 20-year career in the U.S. Air Force, which included decorated service during the Korean conflict. In 1969, he retired from the Air Force as a Master Sergeant. Following his service to this country, Mr. Pavel started his own successful dump truck business, Pavel Trucking. His company worked on many major projects in Washington State, including the ''Loop'' around the Olympic Peninsula. Mr. Pavel operated Pavel Trucking until his retirement.

Mrs. Pavel also graduated from Shelton High School and then received her nursing degree from St. Joseph's Hospital in Tacoma, WA. In addition to raising her family and pursuing her nursing career, Mrs. Pavel, a member of the Skokomish Tribe, was active in tribal politics. She was the Skokomish Tribe's first Judge and served as Chairwoman and General Counsel President of the Tribe for a number of years. Mrs. Pavel also served as the Tribe's first Health Director, overseeing the first dental and health clinics on the reservation.

Mr. and Mrs. Pavel have six children: three daughters, Victoria, Barbara, and Mary; and three sons, Joseph, Michael and Gregg, whom they lost in 1997. They are also blessed with nine grandchildren. All of the Pavel children graduated from Shelton High School and attended college and/or graduate school in Washington State. Today they are engaged in fulfilling careers, ranging from fisheries management to education.

I ask the Senate to join me in sending my warmest congratulations to Mr. and Mrs. Pavel for this very important wedding anniversary. I wish them many more happy years together. It is an honor and a privilege to represent them in the U.S. Senate.•

TRIBUTE TO JAMES RAYMOND TOULOUSE

• Mr. DOMENICI. Mr. President, I rise today to pay tribute to James Raymond Toulouse who passed away on January 24, 2002. My heartfelt sympathies go out to his family and friends.

James was born in Albuquerque, NM, in 1919, and graduated from Albuquerque High School in 1936. He also graduated from the University of New Mexico in 1940 and received a law degree in 1949 from Georgetown Law School. Prior to entering law school, James served during WW II as a Specialist A Second Class in the United States Navy. His education and dedication to his country served him well during his successful law career.

Since 1949, James actively practiced law often representing cases involving civil rights. His work did not go unnoticed. For his work on behalf of the Albuquerque Chapter of the NAACP in 1985, James received their ''Keeping the Dream Alive Award.'' In 1986, the New Mexico Bar Association awarded him the Courageous Advocacy Award. In addition, Rodney Barker in his 1992 book, ''The Broken Circle,'' wrote an

account of James' representation of Navajo rights.

New Mexico has lost an invaluable native who advocated for the rights of others. I want to take this opportunity to salute the lifetime achievements of James Raymond Toulouse. I join with his family and friends in mourning his loss.●

TRIBUTE TO ROBERT K. KRICK

● Mr. JEFFORDS. Mr. President, today I honor Mr. Robert K. Krick on his recent retirement from the National Park Service and for his distinguished career as a Civil War historian and preservationist. Mr. Krick joined the National Park Service in 1966, working both at Fort McHenry National Monument and Fort Necessity National Battlefield. In 1972, he became the Chief Historian at Fredericksburg & Spotsylvania National Military Park. It is a position he held for twenty-nine years until his retirement last month.

During his tenure at Fredericksburg & Spotsylvania National Military Park—an area which comprises four battlefields—the total amount of park acreage grew from under 3000 to over 8000 today. Nearly half of all the historians at Civil War battlefield parks learned their trade under Bob Krick. His contributions to the preservation of historic land are numerous. Bob's tireless efforts to expand and improve the National Park Service will continue to be appreciated by the millions of individuals who visit these historic areas each year.

Although preservation of Civil War battlefields was a large part of Bob's career, he found the time to become a distinguished author and scholar. He has written 12 books, including ''Stonewall Jackson at Cedar Mountain,'' and ''Conquering the Valley: Stonewall Jackson at Cross Keys and Port Republic, as well as countless articles and book reviews. His works will undoubtedly influence future generations.

More than a decade ago I began touring various battlefields with Bob and several other Civil War historians. We relived Jackson's battles of the 1862 campaign and retraced the Union campaign of 1864. With Bob by my side, I was able to visualize the 1862 battles and could feel Jackson's presence. I came away from the trip with the strong feeling that it was my responsibility as a U.S. Senator to help preserve this part of our national heritage. Since that time I have been dedicated to preserving our Nation's most cherished and sacred lands. As a first step, I introduced legislation that directed the Park Service to undertake a study of Civil War sites. Congress responded by passing legislation, in 1991, that created a national Civil War Sites Advisory Commission. Composed of distinguished historians, supported by a staff of National Park Service experts, the commission for two years studied the remaining Civil War Battlefields. The 1993 report presented a plan of action for protecting what remained of the Civil War Battlefields. Since 1993, I have helped to secure $19 million in Federal funds to preserve these priceless links to America's past.

Although much work has been done in the last decade to preserve battlefields, there is a lot to do as our nation's history is still being demolished and bulldozed at an alarming pace. Bob will continue to be a preservation leader as a Board member of the Richmond Battlefields Association. I look forward to working with and calling upon Bob for advice in the future.●

COMMEMORATING THE LIFE OF THOMAS J. CLEAR, JR.

● Mr. DOMENICI. Mr. President, I rise today to join the people of Albuquerque, NM, in mourning the loss of Thomas J. Clear, Jr. He helped to establish a better way of life for his family and the people of New Mexico. He was a friend to all.

Respected throughout the State, Thomas was known for his friendship and dedication to the things that he loved, his friends and family. He first came to New Mexico as a student at the University of New Mexico where Thomas dedicated his studies to education, but also where he met the love of his life and future wife of 50 years, Iris. After he completed law school, Thomas and Iris again returned to New Mexico in order to begin what would be a long and dedicated legal career serving the people of New Mexico.

Friends say that Thomas was able to serve New Mexicans so well because he truly cared about their best interests, and he served to protect those interests. He will be remembered for more than just his legal and adversarial roles by the people of New Mexico, he will be known for the love and friendship he provided to all of those who he came in contact with.

Thomas died last week surrounded by family and friends, much the same way as he spent his life. He was devoted to the interests of his family and the people of New Mexico. Mr. President, I share the grief of the friends and family of Thomas and my heartfelt condolences go out to them.●

THE RETIREMENT OF ELEANOR TOWNS

● Mr. BINGAMAN. Mr. President, I rise today to pay tribute to a dedicated and distinguished public servant. Eleanor Towns, Regional Forester for the United States Forest Service's Southwestern Region, is retiring at the end of this month. Eleanor ''Ellie'' Towns will conclude more than two decades of outstanding achievement with the Forest Service.

For the past four years, Ellie has served as the Regional Forester in New Mexico. In this position, she served as one of nine regional foresters in the agency and assumed leadership of 11 National Forests and 4 National Grasslands comprising more than 20 million acres of National Forest System lands in Arizona and New Mexico. Prior to this, Ellie was the Director of Lands for the Forest Service in Washington, DC and director of Lands, Soils, Water, and Minerals for the Rocky Mountain Region, headquartered in Denver, CO. She joined the Forest Service in 1978 and worked in a number of progressively responsible positions. She came to the Forest Service from the Bureau of Land Management. Ellie holds a bachelor's degree from the University of Illinois, a master's degree from the University of New Mexico, and a juris doctor degree from the University of Denver's College of Law.

I am pleased and gratified that my work in the Senate has allowed me to get to know Ellie. We worked together in preserving the Valles Caldera National Preserve and in securing additional funding for hazardous fuels projects to reduce fire threats to communities adjacent to national forests. She also testified before the Energy and Natural Resources Committee several times and I can honestly say that she was one of the best witnesses the Forest Service has ever sent up here.

Ellie's dedication and enthusiasm have provided the Forest Service with effective, professional management and direction. During her tenure, she has been successful in building strong relationships with many Forest Service partners and customers. In so doing, Ellie has garnered the respect, admiration and trust of here employees as well as all of those who have worked with her. She also promoted a collaborative stewardship in caring for the land and serving the people who own them. We will miss her, and I know that the Forest Service will miss her even more.

The Forest Service and the nation owe Ellie Towns a great deal of gratitude for her fine work at the Forest Service, I wish her the best in all of her future endeavors.●

HONORING THE PROMOTION OF COLONEL EDWARD RICE TO BRIGADIER GENERAL

● Mr. JOHNSON. Mr. President, I rise today to congratulate the commander of Ellsworth Air Force Base's 28th Bomber Wing on his promotion to brigadier general.

On February 1, 2002, Colonel Edward A. Rice, Jr., will pin on his first star, and I cannot think of a member of the Air Force more deserving of this promotion. I have known Colonel rice since May 2000, when he took command of the 28th Bomber Wing at Ellsworth, in my home state of South Dakota. Ellsworth is home to one of the Air Force's two B–1B wings, with 26 aircraft and more than 3,500 military and civilian members assigned. Colonel Rice joined a distinguished line of commanders of the wing, and has become the fifth consecutive commander to be promoted to brigadier general.

Colonel Rice has recently returned from Diego Garcia, where he was the commander of the 28th Air Expeditionary Wing, overseeing the entire B–1B operation for the ongoing war against terror, Operation Enduring Freedom. In addition to coordinating bombing missions from the command center on the ground, Colonel Rice added to his more than 3,600 hours of air time in combat aircraft by flying bombing missions against Taliban and al-Quaida controlled strongholds in Afghanistan. I applaud the efforts of Colonel Rice and all of the men and women in Operation Enduring Freedom. Since joining Congress in 1987 I have appreciated the professionalism, hard work, and commitment to excellence of Ellsworth's commanders and personnel. Colonel Rice has added to that tradition, and under his leadership the effectiveness of the B–1B, especially in recent operations in Afghanistan, has proven again why that aircraft is the backbone of our Nation's bomber fleet.

Colonel Rice graduated from the Air Force Academy in Colorado Springs, Colorado, in 1978, and went to flight school to become a B–52 pilot. He also has experience flying aircraft that include the B–1 and the B–2 Stealth bomber.

Throughout his distinguished career, Colonel Rice has held a variety of significant operational positions including commander of the 34th Bomb Squadron at Castle Air Force Base, CA; deputy commander of the 509th Operations Group, at Whiteman Air Force Base in MO; and commander of the 552nd Operations Group, at tinker Air Force Base, OK.

Colonel Rice served as a White House fellow from 1990–1991. The program selects midcareer professionals for a variety of assignments, usually from outside of their normal field of expertise. Colonel Rice worked in the office of the Secretary of Health and Human Services.

In 1994 and 1995, Colonel Rice served on a blue-ribbon government panel examining the military's structure in the post-Cold War era. Colonel Rice moved to the West Wing of the White House in 1997, when he was named deputy executive secretary to the National Security Council. He served in the White House until he was assigned to Ellsworth for his first command of a combat bomb wing.

I would like to take this opportunity to congratulate Colonel Rice, his wife Teresa, and their children, on this well-deserved promotion.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE STATE OF THE UNION MESSAGE FROM THE PRESIDENT—PM 65

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was ordered to lie on the table.

To the Congress of the United States:

Mr. Speaker, Vice President CHENEY, Members of Congress, distinguished guests, and fellow citizens:

As we gather tonight, our Nation is at war, our economy is in recession, and the civilized world faces unprecedented dangers. Yet the state of our Union has never been stronger.

We last met in an hour of shock and suffering. In four short months, our Nation has comforted the victims . . . begun to rebuild New York and the Pentagon; rallied a great coalition; captured, arrested, and rid the world of thousands of terrorists; destroyed Afghanistan's terrorist training camps; saved a people from starvation; and freed a country from brutal oppression.

The American flag files again over our embassy in Kabul. Terrorists who once occupied Afghanistan now occupy cells at Guantanamo Bay. And terrorist leaders who urged followers to sacrifice their lives are running for their own.

America and Afghanistan are now allies against terror . . . we will be partners in rebuilding that country . . . and this evening we welcome the distinguished interim leader of a liberated Afghanistan: Chairman Hamid Karzai.

The last time we met in this chamber, the mothers and daughters of Afghanistan were captives in their own homes, forbidden from working or going to school. Today women are free, and are part of Afghanistan's new government, and we welcome the new Minister of Women's Affairs, Doctor Sima Samar.

Our progress is a tribute to the spirit of the Afghan people, to the resolve of our coalition, and to the might of the United States military. When I called our troops into action, I did so with complete confidence in their courage and skill—and tonight, thanks to them, we are winning the war against terror. The men and women of our armed forces have delivered a message now clear to every enemy of the United States: Even seven thousand miles away, across oceans and continents, on mountaintops and in caves—you will not escape the justice of this Nation.

For many Americans, these four months have brought sorrow, and pain that will never completely go away. Every day a retired firefighter returns to Ground Zero, to feel closer to his two sons who died there. At a memorial in new York, a little boy left his football with a note for his lost father: ''Dear Daddy, Please take this to Heaven. I don't want to play football until I can play with you again someday.'' Last month, at the grave of her husband, Micheal, a CIA officer and Marine who died in Mazar-e Sharif, Shannon Spann said these words of farewell: ''Semper Fi, my love.'' Shannon is with us tonight.

Shannon, I assure you and all who have lost a loved one that our cause is just, and our country will never forget the debt we owe Micheal and all who gave their lives for freedom.

Our cause is just, and it continues. Our discoveries in Afghanistan confirmed our worst fears, and show us the true scope of the task ahead. We have seen the depth of our enemies' hatred in videos where they laugh about the loss of innocent life. And the depth of their hatred is equaled by the madness of the destruction they design. We have found diagrams of American nuclear power plants and public water facilities, detailed instructions for making chemical weapons, surveillance maps of American cities, and thorough descriptions of landmarks in America and throughout the world.

What we have found in Afghanistan confirms that—far from ending there—our war against terror is only beginning. Most of the 19 men who hijacked planes on September 11th were trained in Afghanistan's camps—and so were tens of thousands of others. Thousands of dangerous killers, schooled in the methods of murder, often supported by outlaw regimes, are now spread throughout the world like ticking time bombs—set to go off without warning.

Thanks to the work of our law enforcement officials and coalition partners, hundreds of terrorists have been arrested. Yet tens of thousands of trained terrorists are still at large. These enemies view the entire world as a battlefield, and we must pursue them wherever they are. So long as training camps operate, so long as nations harbor terrorists, freedom is at risk—and America and our allies must not, and will not, allow it.

Our Nation will continue to be steadfast, and patient, and persistent in the pursuit of two great objectives. First, we will shut down terrorist camps, disrupt terrorist plans, and bring terrorists to justice. Second, we must prevent the terrorists and regimes who seek chemical, biological, or nuclear weapons from threatening the United States and the world.

Our military has put the terror training camps of Afghanistan out of business, yet camps still exist in at least a dozen countries. A terrorist underworld—including groups like Hamas, Hezbollah, Islamic Jihad, and Jaish-i-Mohammed—operates in remote jungles and deserts, and hides in the centers of large cities.

While the most visible military action is in Afghanistan, America is acting elsewhere. We now have troops in the Philippines helping to train that country's armed forces to go after terrorist cells that have executed an American, and still hold hostages. Our soldiers, working with the Bosnian government, seized terrorists who were plotting to bomb our embassy. Our navy is patrolling the coast of Africa to block the shipment of weapons and the establishment of terrorist camps in Somalia.

My hope is that all nations will heed our call, and eliminate the terrorist parasites who threaten their countries, and our own. Many nations are acting forcefully. Pakistan is now cracking down on terror, and I admire the leadership of President Musharraf. But some governments will be timid in the face of terror. And make no mistake: If they do not act, America will.

Our second goal is to prevent regimes that sponsor terror from threatening America or our friends and allies with weapons of mass destruction.

Some of these regimes have been pretty quiet since September 11th. But we know their true nature. North Korea is a regime arming with missiles and weapons of mass destruction, while starving its citizens.

Iran aggressively pursues these weapons and exports terror, while an unelected few repress the Iranian people's hope for freedom.

Iraq continues to flaunt its hostility toward America and to support terror. The Iraqi regime has plotted to develop anthrax, and nerve gas, and nuclear weapons for over a decade. This is a regime that has already used poison gas to murder thousands of its own citizens—leaving the bodies of mothers huddled over their dead children. This is a regime that agreed to international inspections—then kicked out the inspectors. This is a regime that has something to hide from the civilized world.

States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world. By seeking weapons of mass destruction, these regimes pose a grave and growing danger. They could provide these arms to terrorists, giving them the means to match their hatred. They could attack our allies or attempt to blackmail the United States. In any of these cases, the price of indifference would be catastrophic.

We will work closely with our coalition to deny terrorists and their state sponsors the materials, technology, and expertise to make and deliver weapons of mass destruction. We will develop and deploy effective missile defenses to protect America and our allies from sudden attack. And all nations should know: America will do what is necessary to ensure our Nation's security.

We will be deliberate, yet time is not on our side. I will not wait on events, while dangers gather. I will not stand by, as peril draws closer and closer. The United States of America will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons.

Our war on terror is well begun, but it is only begun. This campaign may not be finished on our watch—yet it must be and it will be waged on our watch.

We cannot stop short. If we stopped now—leaving terror camps intact and terror states unchecked—our sense of security would be false and temporary. History has called America and our allies to action, and it is both our responsibility and our privilege to fight freedom's fight.

Our first priority must always be the security of our Nation, and that will be reflected in the budget I send to Congress. My budget supports three great goals for America: We will win this war, we will protect our homeland, and we will revive our economy.

September 11th brought out the best in America, and the best in this Congress, and I join the American people in applauding your unity and resolve. Now Americans deserve to have this same spirit directed toward addressing problems here at home. I am a proud member of my party—yet as we act to win the war, protect our people, and create jobs in America, we must act first and foremost not as Republicans, not as Democrats, but as Americans.

It costs a lot to fight this war. We have spent more than a billion dollars a month—over 30 million dollars a day—and we must be prepared for future operations. Afghanistan proved that expensive precision weapons defeat the enemy and spare innocent lives, and we need more of them. We need to replace aging aircraft and make our military more agile to put our troops anywhere in the world quickly and safely. Our men and women in uniform deserve the best weapons, the best equipment, and the best training—and they also deserve another pay raise. My budget includes the largest increase in defense spending in two decades, because while the price of freedom and security is high, it is never too high—whatever it costs to defend our country, we will pay it.

The next priority of my budget is to do everything possible to protect our citizens and strengthen our Nation against the ongoing threat of another attack. Time and distance from the events of September 11th will not make us safer unless we act on its lessons. America is no longer protected by vast oceans. We are protected from attack only by vigorous action abroad, and increased vigilance at home.

My budget nearly doubles funding for a sustained strategy of homeland security, focused on four key areas: bioterrorism, emergency response, airport and border security, and improved intelligence. We will develop vaccines to fight anthrax and other deadly diseases. We will increase funding to help states and communities train and equip our heroic police and firefighters. we will improve intelligence collection and sharing, expand patrols at our borders, strengthen the security of air travel, and use technology to track the arrivals and departures of visitors to the United States.

Homeland security will make America, not only stronger, but in many ways better. Knowledge gained from bioterrorism research will improve public health, stronger police and fire departments will mean safer neighborhoods, stricter border enforcement will help combat illegal drugs.

And as government works to better secure our homeland, America will continue to depend on the eyes and ears of alert citizens. A few days before Christmas, an airline flight attendant spotted a passenger lighting a match. The crew and passengers quickly subdued the man, who had been trained by al-Qaida, and was armed with explosives. The people on that airplane were alert, and as a result, likely saved nearly 200 lives—and tonight we welcome and thank flight attendants Hermis Moutardier and Christina Jones.

Once we have funded our national security and our homeland security, the final great priority of my budget is economic security for the American people. To achieve these great national objectives—to win the war, protect the homeland, and revitalize our economy—our budget will run a deficit that will be small and short term so long as Congress restrains spending and acts in a fiscally responsible way. We have clear priorities and we must act at home with the same purpose and resolve we have shown overseas: We will prevail in the war, and we will defeat this recession.

Americans who have lost their jobs need our help and I support extending unemployment benefits, and direct assistance for health care coverage. Yet American workers want more than unemployment checks—they want a steady paycheck. When America works, America prospers, so my economic security plan can be summed up in one word: jobs.

Good jobs begin with good schools—and here we've made a fine start. Republicans and Democrats worked together to achieve historic education reform so no child in America will be left behind. I was proud to work with Members of both parties—Chairman JOHN BOEHNER and Congressman GEORGE MILLER, Senator JUDD GREGG—and I was so proud of our work I even had nice things to say about my friend TED KENNEDY. The folks at the Crawford coffee shop couldn't quite believe it—but our work on this bill shows what is possible if we set aside posturing and focus on results.

There is more to do. We need to prepare our children to read and succeed in school with improved Head Start and early childhood development programs. We must upgrade our teacher colleges and teacher training and

launch a major recruiting drive with a great goal for America: a quality teacher in every classroom.

Good jobs also depend on reliable and affordable energy. This Congress must act to encourage conservation, promote technology, build infrastructure, and it must act to increase energy production at home so America is less dependent on foreign oil.

Good jobs depend on expanded trade. Selling into new markets creates new jobs, so I ask Congress to finally approve Trade Promotion Authority. On these two key issues, trade and energy, the House of Representatives has acted to create jobs—and I urge the Senate to pass this legislation.

Good jobs depend on sound tax policy. Last year, some in this hall thought my tax relief plan was too small—and some thought it was too big. But when those checks arrived in the mail, most Americans thought tax relief was just about right. Congress listened to the people and responded by reducing tax rates, doubling the child credit, and ending the death tax. For the sake of long-term growth and to help Americans plan for the future, let's make these tax cuts permanent.

The way out of this recession, the way to create jobs, is to grow the economy by encouraging investment in factories and equipment, and by speeding up tax relief so people have more money to spend. For the sake of American workers, let's pass a stimulus package.

Good jobs must be the aim of welfare reform. As we re-authorize these important reforms, we must always remember the goal is to reduce dependency on government and offer every American the dignity of a job.

Americans know economic security can vanish in an instant without health security. I ask Congress to join me this year to enact a Patients' Bill of Rights, to give uninsured workers credits to help buy health coverage, to approve an historic increase in spending for veterans' health, and to give seniors a sound and modern Medicare system that includes coverage for prescription drugs.

A good job should lead to security in retirement. I ask Congress to enact new safeguards for 401(k) and pension plans, because employees who have worked hard and saved all their lives should not have to risk losing everything if their company fails. Through stricter accounting standards and tougher disclosure requirements, corporate America must be made more accountable to employees and shareholders and held to the highest standards of conduct.

Retirement security also depends upon keeping the commitments of Social Security—and we will. We must make Social Security financially stable and allow personal retirement accounts for younger workers who choose them.

Members, you and I will work together in the months ahead on other issues: productive farm policy; a cleaner environment; broader home ownership, especially among minorities; and ways to encourage the good work of charities and faith-based groups. I ask you to join me on these important domestic issues in the same spirit of cooperation we have applied to our war against terrorism.

During these last few months, I have been humbled and privileged to see the true character of this country in a time of testing. Our enemies believed America was weak and materialistic, that we would splinter in fear and selfishness. They were as wrong as they are evil.

The American people have responded magnificently, with courage and compassion, strength and resolve. As I have met the heroes, hugged the families, and looked into the tired faces of rescuers, I have stood in awe of the American people.

And I hope you will join me in expressing thanks to one American for the strength, and calm, and comfort she brings to our Nation in crisis: our First Lady, Laura Bush.

None of us would ever wish the evil that was done on September 11th, yet after America was attacked, it was as if our entire country looked into a mirror, and saw our better selves. We were reminded that we are citizens, with obligations to each other, to our country, and to history. We began to think less of the goods we can accumulate, and more about the good we can do.

For too long our culture has said, ''If it feels good, do it.'' Now America is embracing a new ethic and a new creed: ''Let's roll.'' In the sacrifice of soldiers, the fierce brotherhood of firefighters, and the bravery and generosity of ordinary citizens, we have glimpsed what a new culture of responsibility could look like. We want to be a Nation that serves goals larger than self. We have been offered a unique opportunity, and we must not let this moment pass.

My call tonight is for every American to commit at least two years—four thousand hours over the rest of your lifetime—to the service of your neighbors and your Nation.

Many are already serving and I thank you. If you aren't sure how to help, I've got a good place to start. To sustain and extend the best that has emerged in America, I invite you to join the new USA Freedom Corps. The Freedom Corps will focus on three areas of need: responding in case of crisis at home, rebuilding our communities, and extending American compassion throughout the world.

One purpose of the USA Freedom Corps will be homeland security. America needs retired doctors and nurses who can be mobilized in major emergencies, volunteers to help police and fire departments, transportation and utility workers well-trained in spotting danger.

Our country also needs citizens working to rebuild our communities. We need mentors to love children, especially children whose parents are in prison, and we need more talented teachers in troubled schools. USA Freedom Corps will expand and improve the good efforts of AmeriCorps and Senior Corps to recruit more than 200,000 new volunteers.

And America needs citizens to extend the compassion of our country to every part of the world. So we will renew the promise of the Peace Corps, double its volunteers over the next five years, and ask it to join a new effort to encourage development, and education, and opportunity in the Islamic world.

This time of adversity offers a unique moment of opportunity—a moment we must seize to change our culture. Through the gathering momentum of millions of acts of service and decency and kindness, I know: We can overcome evil with greater good.

And we have a great opportunity during this time of war to lead the world toward the values that will bring lasting peace. All fathers and mothers, in all societies, want their children to be educated and live free from poverty and violence. No people on earth yearn to be oppressed, or aspire to servitude, or eagerly await the midnight knock of the secret police.

If anyone doubts this, let them look to Afghanistan, where the Islamic ''street'' greeted the fall of tyranny with song and celebration. Let the skeptics look to Islam's own rich history—with its centuries of learning, and tolerance, and progress.

America will lead by defending liberty and justice because they are right and true and unchanging for all people everywhere. No nation owns these aspirations, and no nation is exempt from them. We have no intention of imposing our culture—but America will always stand firm for the non-negotiable demands of human dignity: the rule of law, limits on the power of the state, respect for women, private property, free speech, equal justice, and religious tolerance.

America will take the side of brave men and women who advocate these values around the world—including the Islamic world—because we have a greater objective than eliminating threats and containing resentment. We seek a just and peaceful world beyond the war on terror.

In this moment of opportunity, a common danger is erasing old rivalries. America is working with Russia, China, and India in ways we never have before to achieve peace and prosperity. In every region, free markets and free trade and free societies are proving their power to lift lives. Together with friends and allies from Europe to Asia, from Africa to Latin America, we will demonstrate that the forces of terror cannot stop the momentum of freedom.

The last time I spoke here, I expressed the hope that life would return to normal. In some ways, it has. In others, it never will. Those of us who have lived through these challenging times have been changed by them. We've

come to know truths that we will never question: Evil is real, and it must be opposed. Beyond all differences of race or creed, we are one country, mourning together and facing danger together. Deep in the American character, there is honor, and it is stronger than cynicism. Many have discovered again that even in tragedy—especially in tragedy—God is near.

In a single instant, we realized that this will be a decisive decade in the history of liberty—that we have been called to a unique role in human events. Rarely has the world faced a choice more clear or consequential.

Our enemies send other people's children on missions of suicide and murder. They embrace tyranny and death as a cause and a creed. We stand for a different choice—made long ago, on the day of our founding. We affirm it again today. We choose freedom and the dignity of every life.

Steadfast in our purpose, we now press on. We have known freedom's price. We have shown freedom's power. And in this great conflict, my fellow Americans, we will see freedom's victory.

Thank you, and may God bless the United States of America.

GEORGE BUSH.

THE WHITE HOUSE, *January 29, 2002*.

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1762. An act to amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.

H.R. 700. An act to reauthorize the Asian Elephant Conservation Act of 1997.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 1904. A bill to suspend temporarily the duty on railway electric multiple unit (EMU) gallery commuter coaches of stainless steel; to the Committee on Finance.

By Mr. ROCKEFELLER (by request):

S. 1905. A bill to amend title 38, United States Code, to enhance veterans' programs and the ability of the Department of Veterans Affairs to administer them; to the Committee on Veterans' Affairs.

By Mr. CLELAND (for himself and Mr. MILLER):

S. 1906. A bill to designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the ''Major Lyn McIntosh Post Office Building''; to the Committee on Governmental Affairs.

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. 1907. A bill to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Con. Res. 95. A concurrent resolution providing for conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

ADDITIONAL COSPONSORS

S. 540

At the request of Mr. DEWINE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 822

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 822, a bill to amend the Internal Revenue Code of 1986 to modify the treatment of bonds issues to acquire renewable resources on land subject to conservation easement.

S. 829

At the request of Mr. BROWNBACK, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 829, a bill to establish the National Museum of African American History and Culture within the Smithsonian Institution.

S. 1067

At the request of Mr. GRASSLEY, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1067, a bill to amend the Internal Revenue Code of 1986 to expand the availability of Archer medical savings accounts.

S. 1476

At the request of Mr. CLELAND, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Oregon (Mr. SMITH), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1476, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1516

At the request of Mr. SANTORUM, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1516, a bill to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

S. 1566

At the request of Mr. REID, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1566, a bill to amend the Internal Revenue code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 1644

At the request of Mr. CAMPBELL, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 1644, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1895

At the request of Mr. FITZGERALD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1895, a bill to require investment advisers to make prominent public disclosures of ties with companies being analyzed by them, and for other purposes.

AMENDMENT NO. 2702

At the request of Mr. ALLEN, the names of the Senator from North Carolina (Mr. HELMS), the Senator from Virginia (Mr. WARNER), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of amendment No. 2702.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 2702 supra.

AMENDMENT NO. 2717

At the request of Ms. COLLINS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 2717 proposed to H.R. 622, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

AMENDMENT NO. 2718

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of amendment No. 2718.

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 2718 supra.

AMENDMENT NO. 2719

At the request of Mr. JOHNSON, his name was added as a cosponsor of amendment No. 2719.

AMENDMENT NO. 2722

At the request of Mr. ALLARD, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of amendment No. 2722.

At the request of Mr. JOHNSON, his name was added as a cosponsor of amendment No. 2722 supra.

AMENDMENT NO. 2723

At the request of Mr. DOMENICI, the names of the Senator from Missouri (Mr. BOND) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of amendment No. 2723.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER (by request):

S. 1905. A bill to amend title 38, United States Code, to enhance veterans' programs and the ability of the Department of Veterans Affairs to administer them; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, today I introduce legislation requested by the Secretary of Veterans Affairs, as a courtesy to the Secretary and the Department of Veterans Affairs, VA. Except in unusual circumstances, it is my practice to introduce legislation requested by the Administration so that such measures will be available for review and consideration.

This ''by-request'' bill would, among other things, include care for newborn children of women veterans provided by a contract provider among those medical services VA is allowed to provide, authorize VA to provide dental care to former Prisoners of War, POW, and change the definition of ''minority veterans'' to conform to the new Race & Ethnic Standards used in Federal statistical reporting and in the 2000 U.S. Census.

I ask unanimous consent that the text of the bill and Secretary Principi's transmittal letter that accompanied the draft legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

(a) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—VETERANS HEALTH-CARE IMPROVEMENTS

Sec. 101. Care for Newborn Children of Enrolled Women Veterans.
Sec. 102. Outpatient Dental Care for All Former Prisoners of War.
Sec. 103. Pay Comparability for Director, Nursing Service.

TITLE II—VETERANS' BENEFIT PROGRAMS

Sec. 201. Limitation on provision of certain benefits.
Sec. 202. Clarification of procedures regarding disqualification of certain individuals for memorialization in veterans cemeteries.
Sec. 203. Clarification of the period for appealing rulings of the Board of Veterans' Appeals.

TITLE III—VA PROGRAM ADMINISTRATION IMPROVEMENTS

Sec. 301. Repeal of Cap on Number of Non-Career Members of Senior Executive Service Serving in VA.
Sec. 302. Repeal of Preceding-Service Requirement for VA Deputy Assistant Secretaries.
Sec. 303. Revolving Supply Fund Amendments.
Sec. 304. Redefinition of ''minority group member'' in 38 U.S.C. § 544(d).

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS HEALTH-CARE IMPROVEMENTS

SEC. 101. CARE FOR NEWBORN CHILDREN OF ENROLLED WOMEN VETERANS.

Section 1701 is amended:

(a) in subsection (6),

(1) by striking out ''and'' at the end of paragraph (A);

(2) by adding ''and'' at the end of paragraph (B); and

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

''(C) care for newborn children.''; and

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

''(11) The term ''care for newborn children'' means care provided to an infant of a woman veteran enrolled in the VA health care system. Such care may be provided until the mother is discharged from the hospital after delivery of the child or for 14 days after the date of birth of the child, whichever period is shorter, and only if the Department contracted for the delivery of the child.''.

SEC. 102. OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR.

Section 1712(a)(1)(F) is amended by striking out ''for a period of not less than 90 days''.

SEC. 103. PAY COMPARABILITY FOR DIRECTOR, NURSING SERVICE.

(a) Section 7306(a)(5) is amended by adding at the end thereof, ''The position shall be exempt from the provisions of section 7451 of this title and shall be paid at the maximum rate payable to a Senior Executive Service employee under 5 U.S.C. §§ 5304(g) and 5382.''.

(b) Section 7404(d) is amended by deleting ''section'' the first time it appears and inserting in its place ''sections 7306(a)(5) and''.

TITLE II—VETERANS' BENEFIT PROGRAMS

SEC. 201. LIMITATION ON PROVISION OF CERTAIN BENEFITS.

(a) PROHIBITIONS.—(1) Section 112 is amended by adding at the end the following new subsection:

''(c) A certificate shall not be furnished under this program on behalf of a deceased veteran described in section 2411(b) of this title.''

(2) Section 2301 is amended by adding at the end the following new subsection:

''(f) A flag shall not be furnished under this section on behalf of a deceased veteran described in section 2411(b) of this title.''

(3) Section 2306 is amended by adding at the end the following new subsection:

''(f)(1) A headstone or marker shall not be furnished under subsection (a) for the unmarked grave of an individual described in section 2411(b) of this title.

''(2) A memorial headstone or marker shall not be furnished under subsection (b) for the purpose of commemorating an individual described in section 2411(b) of this title.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to deaths occurring on or after the date of its enactment.

SEC. 202. CLARIFICATION OF PROCEDURES REGARDING DISQUALIFICATION OF CERTAIN INDIVIDUALS FOR MEMORIALIZATION IN VETERANS CEMETERIES.

Section 2411(a)(2) is amended—

(1) by striking ''The prohibition'' and inserting ''In the case of a person described in subsection (b)(1) or (b)(2), the prohibition''; and

(2) by striking ''or finding under subsection (b)'' and inserting ''referred to in subsection (b)(1) or (b)(2), respectively''.

SEC. 203. CLARIFICATION OF THE PERIOD FOR APPEALING RULINGS OF THE BOARD OF VETERANS APPEALS.

(a) CLARIFICATION.—Paragraph (1) of section 7266(a) is amended by striking ''notice of the decision is mailed pursuant to section 7104(e) of this title'' and inserting ''a copy of the decision, pursuant to section 7104(e) of this title, is mailed or sent to the claimant's representative or, if the claimant is not represented, mailed to the claimant''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to Board of Veterans' Appeals decisions made on or after the date of enactment of this Act.

TITLE III—VA PROGRAM ADMINISTRATION IMPROVEMENTS

SEC. 301. REPEAL OF CAP ON NUMBER OF NON-CAREER MEMBERS OF SENIOR EXECUTIVE SERVING IN VA.

(a) Section 709(a) is repealed.

(b) Section 709 is amended by re-designating subsections (b) and (c) as subsections (a) and (b), respectively.

SEC. 302. REPEAL OF PRECEDING-SERVICE REQUIREMENT FOR VA DEPUTY ASSISTANT SECRETARIES.

(a) Section 308(d)(2) is repealed.

(b) Section 308 is amended by deleting ''(1)'' from subsection (d).

SEC. 303. REVOLVING SUPPLY FUND AMENDMENTS.

Section 8121(a) is amended—

(1) by adding ''and for medical supplies, equipment, and services for the Department of Defense'' after ''Department'';

(2) in paragraph (2), by adding ''of the Department and the Department of Defense'' after ''appropriations''; and

(3) in paragraph (3), by adding ''of the Department and the Department of Defense'' after ''appropriations''.

SEC. 304. REDEFINITION OF "MINORITY GROUP MEMBER" IN 38 U.S.C. § 544(d).

Section 544(d) is amended to read as follows:

''(d) In this section, the term ''minority group member'' means an individual who is—

(1) American Indian or Alaska Native;

(2) Asian;

(3) African American;

(4) Native Hawaiian or other Pacific Islander; or

(5) Hispanic, Spanish, or Latino.''

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, January 9, 2002.

Hon. RICHARD B. CHENEY,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am transmitting a draft bill to enhance a number of veterans'

programs and our ability to manage them. Details regarding the context and justification of the bill's 10 provisions are provided in the enclosed section-by-section analysis. If enacted, this legislation would:

Sec. 101—authorize VA to provide medical care for newborn children of enrolled women veterans;

Sec. 102—authorized VA to provide outpatient dental care to more former prisoners of war;

Sec. 103—establish pay comparability for the Director of the Nursing Service with other VHA executives;

Sec. 201—prohibit provision of presidential memorial certificates, burial flags, and headstones and markers on behalf of individuals who have committed capital crimes;

Sec. 202—clarify procedures relating to the prohibition against allowing individuals who had committed capital crimes to be interred or memorialized in national veterans' cemeteries;

Sec. 203—clarify current law regarding the date on which the 120-day period for appeal of a Board of Veterans' Appeals decision to the U.S. Court of Appeals for Veterans Claims begins to run;

Sec. 301—conform the VA 5-percent limitation on non-career SES members to the Government-wide 10-percent limitation;

Sec. 302—eliminate the requirement that at least two-thirds of VA deputy assistant secretaries must have served continuously for 5 years in the Federal civil service immediately prior to their appointments;

Sec. 303—authorize the Department of Defense to purchase medical items and services through VA's Revolving Supply Fund; and

Sec. 304—conform the current-law definition of minority veterans to the new Race & Ethnic Standards used in Federal statistical reporting and in the 2000 U.S. Census.

I request that this bill be promptly considered and enacted.

Advise has been received from the Office of Management and Budget that, from the standpoint of the Administration's program, there is no objection to enactment of this draft bill.

Sincerely yours,

ANTHONY J. PRINCIPI.

Enclosures.

SECTION-BY-SECTION ANALYSIS AND JUSTIFICATION

SECTION 101—CARE FOR NEWBORN CHILDREN OF ENROLLED WOMEN VETERANS

Section 101 would amend the definition of medical services that VA may provide to veterans to include care provided by a contract provider to newborn children of women veterans. To receive this benefit, a veteran must be enrolled in the VA health care system. VA would contract for this care until the mother is discharged from the hospital after delivery of the child or for 14 days after the birth of the child, whichever period is shorter, and only if VA contracted for delivery of the child. After childbirth, some veterans may need this limited benefit to give them time to apply for medical assistance. Offering this care would also be consistent with the normal pregnancy and delivery coverage in the community.

The discretionary-cost estimate for enactment of this proposal is as follows:

Fiscal year	Cost
2002	$5,344,795
2003	5,451,691
2004	5,560,725
2005	5,671,939
2006	5,785,378
2007	5,901,085
2008	6,019,107
2009	6,139,489
2010	6,262,279
2011	6,387,525
Total	55,524,013

SECTION 102—OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR

Section 102 would authorize VA to provide outpatient dental care to former prisoners of war (POW's) regardless of the length of their detention or internment. Currently, the law only permits VA to provide such care to former POW's who were detained or interned for 90 days or more. This provision is needed to ensure that former POW's receive all needed care for conditions that may be attributable to the privations of their service.

There would be insignificant costs resulting from enactment of this proposal.

SECTION 103—PAY COMPARABILITY FOR DIRECTOR, NURSING SERVICE

This section of the draft bill would amend section 7306(a)(5) to exempt the position of the Director of Nursing Service, VA's chief nurse executive, from the nurse-pay restrictions in section 7451 and require that the Director of Nursing Service be paid at a rate comparable to that of other non-physician (SES) VA executives. The current pay-rate disparity is unjustified.

There are no significant costs associated with this proposal.

SECTION 201—LIMITATION ON PROVISION OF CERTAIN BENEFITS

Section 201 of the draft bill would amend sections 112, 2301, and 2306 of title 38, United States Code, to prohibit VA, in the case of a death occurring after the date of enactment, from furnishing a presidential memorial certificate, a burial flag, a headstone or marker, or a memorial headstone or marker on behalf of a person barred from burial or memorialization in a national cemetery by operation of 38 U.S.C. §2411. Section 112 currently authorizes the Secretary of Veterans Affairs to conduct a program for honoring the memory of deceased veterans by preparing and sending to eligible recipients a certificate bearing the signature of the President and expressing the country's grateful recognition of the veteran's service in the Armed Forces. Section 2301(a) currently requires the Secretary to furnish a burial flag to drape the casket of any deceased veteran who: (1) was a veteran of any war or of service after January 31, 1955; (2) served at least one enlistment; (3) was released from active service for a disability incurred or aggravated in the line of duty; or, (4) was entitled to receive retirement pay at age 60 based on service in the Reserves or National Guard. Section 2306(a) currently requires the Secretary to furnish on request a headstone or marker for the unmarked grave of: (1) any individual buried in a national cemetery; (2) many individuals eligible for burial in a national cemetery but not buried there; (3) Civil War soldiers; (4) spouses, surviving spouses, and children of certain eligible individuals, when buried in a state veterans' cemetery; and (5) certain reservists and retired reservists with 20 years of service. Section 2306(b) currently requires the Secretary to furnish on request a memorial headstone or marker for the purpose of commemorating a veteran or the spouse or surviving spouse of a veteran, whose remains are unavailable.

Section 2411 of title 38, United States Code, prohibits burial in a national cemetery of persons who: (1) have been convicted of a Federal capital crime and sentenced to death or life imprisonment; (2) have been convicted of a State capital crime and sentenced to death or life imprisonment without parole; or, (3) are found administratively by clear and convincing evidence to have committed such a crime but not been convicted due to death or flight to avoid prosecution. This provision would amend sections 112, 2301, and 2306 to prohibit the furnishing of presidential memorial certificates, burial flags, headstones or markers, and memorial headstones or markers by VA on behalf of these three classes of persons. This amendment is a limited and logical extension of the section 2411 prohibition that would avoid placing the United States in the position of honoring at the time of death a person who has committed a heinous crime.

There is no cost associated with this proposal.

SECTION 202—CLARIFICATION OF PROCEDURES REGARDING DISQUALIFICATION OF CERTAIN INDIVIDUALS FOR MEMORIALIZATION IN VETERANS CEMETERIES

Section 202 of the draft bill would amend Section 2411 of title 38, United States Code, to correct a technical defect in the prohibition against the interment or memorialization in a cemetery operated by the National Cemetery Administration (or in Arlington National Cemetery) of certain persons who have committed Federal or state capital crimes. Under Section 2411(a), the Secretary of Veterans Affairs (or the Secretary of the Army, with respect to Arlington National Cemetery) may not inter the remains of or memorialize in such a cemetery: (1) a person who has been convicted of a Federal capital crime for which the person was sentenced to death or life imprisonment; (2) a person who has been convicted of a state capital crime for which the person was sentenced to death or life imprisonment without parole; or (3) a person who is found administratively to have committed a Federal or state capital crime, but to have avoided conviction of such crime by reason of unavailability for trial due to death or flight to avoid prosecution. Administrative findings regarding the third category of persons would be made by the Secretary of Veterans Affairs in the case of a VA national cemetery and the Secretary of the Army in the case of Arlington National Cemetery.

Section 2411(a)(2) provides that the prohibitions against interment and memorialization do not apply unless the appropriate Secretary has received from the Attorney General, in the case of a Federal capital crime, or an appropriate state official, in the case of a state capital crime, written notice of a disqualifying conviction or administrative finding before approval of an application for interment or memorialization. The notification requirement appears to have been included in error with respect to a case involving an administrative finding that an individual had committed a capital offense but was not convicted by reason of unavailability for trial due to death or flight to avoid prosecution. Since the Secretary of Veterans Affairs or the Secretary of the Army would have made the finding in the first place, there would appear to be no reason to require the Attorney General or an appropriate state official provide written notice to the Secretary concerned regarding that Secretary's own finding. Nonetheless, persons requesting interment services may argue that the interment prohibition is inoperative in the absence of such notice. Accordingly, we believe the reference to notification of administrative findings should be removed.

There is no cost associated with this proposal.

SECTION 203—CLARIFICATION OF THE PERIOD FOR APPEALING RULINGS OF THE BOARD OF VETERANS' APPEALS

Section 203 of the draft bill would clarify an ambiguity created by past legislation.

Section 7266(a)(1) of title 38, United States Code, provides that, to obtain review by the United States Court of Appeals for Veterans Claims (Court) of a final Board of Veterans' Appeals (Board) decision, a person adversely affected by the decision must file a notice of appeal with the Court within 120 days after the date on which notice of the decision is mailed pursuant to 38 U.S.C. §7104(e). Before its amendment by the Veterans' Benefits Improvements Act of 1996, Pub. L. No. 104–275, 110 Stat. 3322, Section 7104(e) required the Board to promptly mail a copy of its decision to the claimant and the claimant's authorized representative, if any. The Court had construed those provisions as requiring, if a claimant is represented, the accomplishment of both mailings to begin the 120-day appeal period. See Paniag v. Brown, 10 Vet. App. 265, 267 (1997).

As amended by Section 509 of Pub. L. No. 104–275, 110 Stat. at 3344, Section 7104(e) now requires the Board to promptly mail a copy of its written decision to the claimant and, if the claimant has an authorized representative, to mail a copy of its written decision to the authorized representative or send a copy of its written decision to the authorized representative by any means reasonably likely to provide the representative with the decision as timely as if it were mailed first class. Thus, under Section 7104(e) as amended, the Board must still notify a claimant's representative, if any, but such notice may be made by mailing or sending the representative a copy of the decision. Although Section 7104(e) was so amended, no corresponding change was made to Section 7266(a)(1)'s reference to ''mail[ing] pursuant to Section 7104(e).'' See Dippel v. West, 12 Vet. App. 466, 470 (1999) (noting that Congress did not change Section 7266(a) and that Section 7104(e)'s plain meaning would suggest that Section 7266(a)(1)'s reference to ''mail pursuant to Section 7104(e)'' does not cover a decision sent pursuant to Section 7104(e)(2)(B)).

The amendment to former Section 7104(e) without a corresponding change to Section 7266(a)(1) has created an ambiguity. It is not clear when the 120-day appeal period prescribed by Section 7266(a)(1) begins if a claimant is represented and the Board mails copies of its decision to the claimant and the claimant's representative, but mails them on different days. Section 7266(a)(1) does not specify whether the appeal period in that situation begins on the date of mailing to the claimant, on the date of mailing to the representative, on the date of the earlier of both mailings, or on the date of the later of both mailings.

The draft bill would clarify that matter. Section 241 of the bill would amend Section 7266(a)(1) to require, for initiation of Court review of a final Board decision, that a notice of appeal be filed within 120 days after a copy of the decision, pursuant to Section 7104(e), is mailed or sent to the claimant's representative or, if the claimant is not represented, mailed to the claimant. Thus, the 120-day appeal period would begin when the Board mails or sends a copy of its decision to the claimant's authorized representative or, if the claimant is not represented, when the Board mails a copy of its decision to the claimant. We have chosen the date of mailing or sending to the representative, if any, because generally a representative stands in the claimant's place for the purpose of receiving notice of the decision. If the appeal period were to begin on the date of mailing to the claimant, a delay in providing notice of the decision to the representative could compromise the representative's ability to timely advise the claimant. Beginning the appeal period on the date of mailing or sending notice to the representative would maximize the time available to the representative to advise the claimant as to the best course of action.

Section 2(b) of the draft bill would make the amendment to Section 7266(a)(1) apply to any Board decision made on or after the date of enactment of this Act.

No costs or savings would result from enactment of this provision.

SECTION 301—REPEAL OF CAP ON NUMBER OF NON-CAREER MEMBERS OF THE SENIOR EXECUTIVE SERVICE SERVING IN VA

Section 301(a) of the bill would repeal the current statutory limitation applicable to VA on the number of non-career members of the SES that may serve in the Department. Currently, that number may not exceed five-percent (5%) of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year. This provision would not affect the Government-wide ten-percent (10%) limitation that generally applies to other agencies and departments. Section 301(b) would also make conforming amendments to 38 U.S.C. 709.

The Department would greatly benefit from being able to avail itself further of the experience and expertise of executive-level professionals from the private sector, as we restructure fundamental Departmental processes to improve the timely delivery of both health care services and benefits to veterans. The proposed flexibility in staffing would better position VA to increase its knowledge of successful private sector business practices, identify those that have application to VA, and successfully implement them. This, in turn, would enable VA to better meet the expectations of the beneficiaries of VA's programs. The proposal is consistent with the Government's policy of partnering with the private sector to improve Government performance.

VA would remain subject to the ten-percent (10%) Government-wide limitation on non-career SES positions, which OPM administers. The current five-percent (5%) cap on the number of non-career members of the Senior Executive Service is applicable only to VA. While mindful and appreciative of Congress' intention to limit policitization of the Department when it established VA as an Executive Department in 1988, we nonetheless believe that the number of non-career SES members appointed to VA positions should be based on the actual current leadership needs of the Department, as determined by the Administration, subject to the ten-percent (10%) Government-wide limitation. There would be no costs associated with enactment of this provision.

SECTION 302—REPEAL OF PRECEDING-SERVICE REQUIREMENT FOR VA DEPUTY ASSISTANT SECRETARIES

Section 302 of the draft bill would repeal section 308(d)(2), which now requires at least two-thirds of VA's Deputy Assistant Secretaries (DAS's) to have served continuously for five years in the Federal Civil Service in the Executive Branch immediately prior to their appointments. This requirement was established in 1988 to maintain the institutional memory and the Department's tradition of career service. However, this limitation has, in practice, proven to be overly prescriptive. It prevents utilization of highly competent people not meeting the criteria. Because the stringent continuous five-year service requirement applies to all but one-third of the DAS positions, it has required VA to utilize these limited ''non-career'' DAS slots for ''career'' appointees who are not political appointees but who simply fail to meet the service requirement. This includes career employees who have moved from the private sector, within the last five years. This limits the pool of candidates from which the Secretary may select his leadership team. We recommend eliminating the existing service requirement. VA could establish its own standards for these high-level positions, addressing Congress' original concerns of institutional memory and the tradition of career service while still providing needed flexibility for selecting the best-qualified persons.

No costs are associated with enactment of this provision.

SECTION 303—REVOLVING SUPPLY FUND AMENDMENTS

Section 303 would expand the services of the Revolving Supply Fund (38 U.S.C. §8121), to permit the Department of Defense (DOD) to enter into interagency agreements with the Revolving Supply Fund (Supply Fund) for the procurement of certain items and services under the purchase authority of the Supply Fund. Purchases would be limited to medical items and services, e.g., pharmaceuticals, medical/surgical supplies, equipment, and systems and consulting services. Currently, only offices funded by VA appropriations may purchase under that authority. DOD and other Federal agencies enter into interagency agreements with the Supply Fund under the Economy Act (31 U.S.C. §1535).

Congress traditionally has favored consolidated purchases because the increased buying power provides additional procurement leverage and resulting cost savings. Most recently, Congress, in §210 of the Veterans Millennium Health Care and Benefits Act (P.L. 106–117), required VA and DOD to jointly report on the cooperation between the two Departments in procuring pharmaceuticals, medical supplies and equipment. It is clear that Congress holds VA and DOD accountable for achieving efficiencies through the consolidation of contracting and logistics responsibilities.

The legislation, if enacted, would provide additional incentives for DOD to purchase medical items and services directly or through joint procurements from the Supply Fund, e.g., the ordering agencies' obligations remain payable in full from the appropriation initially charged irrespective of when performance occurs; and VA Supply Fund program managers are better able to negotiate contracts for bona fide high priority items because frantic year-end spending is eliminated.

The enactment of this proposal would not result in any cost to VA. The Supply Fund operates entirely upon fees assessed for services rendered.

SECTION 304—REDEFINITION OF ''MINORITY GROUP MEMBER'' IN 38 U.S.C. §544(d)

Section 306 is a technical amendment to 38 U.S.C. §544(d) to change the definition of minority veterans to make it conform to the new Race & Ethic Standards used in Federal statistical reporting and in the 2000 U.S. Census. The amendment would not change eligibility or entitlement to existing or future benefits. No costs would result from enactment of this proposal.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 95—PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following current

resolution; which was considered and agreed to:

S. CON. RES. 95

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

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

AMENDMENTS SUBMITTED AND PROPOSED

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

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

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

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

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

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

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

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

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

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

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

SA 2739. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SA 2755. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

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

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

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

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

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

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

TEXT OF AMENDMENTS

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

At the appropriate place, insert the following:

SEC. ___. MODIFICATIONS TO SMALL ISSUE BOND PROVISIONS.

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

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

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

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

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.''.

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

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

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

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

(b) DEFINITION OF MANUFACTURING FACILITY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

At the end add the following:

SEC. ___. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

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

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

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

''(B) DETERMINATION OF FAIR MARKET VALUE.—For purposes of this section, in the case of a charitable contribution of food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraph (A) of this paragraph) and which, solely by reason of internal standards of the taxpayer, lack of market, or similar circumstances, cannot or will not be sold, the fair market value of such contribution shall be determined—

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

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

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

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

At the end of title V, add the following:

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

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

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

At the appropriate place, insert the following:

TITLE ____—TEMPORARY EXTENDED UNEMPLOYMENT BENEFITS

SEC. ___01. SHORT TITLE.

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

SEC. ___02. FEDERAL-STATE AGREEMENTS.

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

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

(1) who—

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

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

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

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

(c) COORDINATION RULES.—

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

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

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

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

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

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

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

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

(3) the maximum amount of temporary extended unemployment compensation payable to any individual for whom a temporary extended unemployment compensation account is established under section ____03 shall not exceed the amount established in such account for such individual.

SEC. ___03. TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

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

(b) AMOUNT IN ACCOUNT.—

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

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

the individual's benefit year under such law; or

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

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

SEC. ___04. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

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

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

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

SEC. ___05. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used, in accordance with subsection (b), for the making of payments (described in section ___04(a)) to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums described in section ___04(a) which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account, as so established (or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, as so established) to the account of such State in the Unemployment Trust Fund (as so established).

SEC. ___06. FRAUD AND OVERPAYMENTS.

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

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

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

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

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

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

(c) RECOVERY BY STATE AGENCY.—

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

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

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

SEC. ___07. DEFINITIONS.

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

SEC. ___08. APPLICABILITY.

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

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

(2) ending before January 6, 2003.

TITLE ___—ASSISTANCE FOR MEDICAID COVERAGE

SEC. ___01. TEMPORARY INCREASES OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 3 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this section for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for the second, third, and fourth calendar quarters in fiscal year 2002, before the application of this section.

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

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

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

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

(2) HIGH UNEMPLOYMENT STATE.—

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

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

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

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

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

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

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

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

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

(h) DEFINITIONS.—In this section:

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

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

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

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

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

(a) WAIVER FOR CERTAIN DISTRIBUTIONS.—

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

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

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

''(C) CERTAIN EARLY WITHDRAWALS FROM RETIREMENT PLANS.—No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent such underpayment was created or increased by any distribution described in section 72(t)(2)(G).''.

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

(b) CATCH-UP CONTRIBUTIONS ALLOWED.—

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

''(D) CATCH-UP CONTRIBUTIONS FOR CERTAIN DISTRIBUTIONS.—In the case of an individual who has received a distribution described in section 72(t)(2)(G), the deductible amount for any taxable year shall be increased by an amount equal to—

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

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

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

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

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

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

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

''(2) LIMITATION ON AMOUNT OF ADDITIONAL DEFERRALS.—

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

''(i) the applicable dollar amount, or

''(ii) the excess (if any) of—

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

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

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

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

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

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

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

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

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

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

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

SEC. ___. PROHIBITION ON IMPOSITION OF INCOME TAXES BY STATES ON NONRESIDENTS.

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

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

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

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

''116. Prohibition on imposition of income taxes by States on nonresidents.''.

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

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

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

SEC. ___. TIPS RECEIVED FOR CERTAIN SERVICES NOT SUBJECT TO INCOME OR EMPLOYMENT TAXES.

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

''(d) TIPS RECEIVED FOR CERTAIN SERVICES.—

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

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

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

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

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

''(B) do not exceed the excess of—

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

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

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

(b) EXCLUSION FROM SOCIAL SECURITY TAXES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SA 2736. Mr. SESSIONS (for himself, Mr. ALLEN, Mr. SMITH of New Hampshire, Mr. HUTCHINSON, and Mr. BROWNBACK) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the end, add the following:

DIVISION II—AMERICAN FAMILY ECONOMIC SECURITY AND STIMULUS

SECTION 1. SHORT TITLE; ETC.

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

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

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—ADVANCE PAYMENT OF EARNED INCOME CREDIT

Sec. 101. Additional requirements to ensure greater use of advance payment of earned income credit.
Sec. 102. Extension of advance payment of earned income credit to all eligible taxpayers.

TITLE II—INDIVIDUAL PROVISIONS

Sec. 201. Acceleration of 25 percent individual income tax rate.
Sec. 202. Temporary expansion of penalty-free retirement plan distributions for health insurance premiums of unemployed individuals.
Sec. 203. Increase in child tax credit.
Sec. 204. Temporary increase in deduction for capital losses of taxpayers other than corporations.
Sec. 205. Nonrefundable credit for elementary and secondary school expenses.

TITLE III—UNEMPLOYMENT ASSISTANCE

Sec. 301. Short title.
Sec. 302. Federal-State agreements.
Sec. 303. Temporary extended unemployment compensation account.
Sec. 304. Payments to States having agreements for the payment of temporary extended unemployment compensation.
Sec. 305. Financing provisions.
Sec. 306. Fraud and overpayments.
Sec. 307. Definitions.
Sec. 308. Applicability.
Sec. 309. Special Reed Act transfer in fiscal year 2002.

TITLE IV—NATIONAL EMERGENCY GRANTS

Sec. 401. National emergency grant assistance for workers.

TITLE V—TEMPORARY BUSINESS RELIEF PROVISIONS

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

TITLE VI—ADDITIONAL PROVISIONS

Sec. 601. Emergency designation.

TITLE I—ADVANCE PAYMENT OF EARNED INCOME CREDIT

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

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

(1) each employer of an employee who the employer determines receives wages in an amount which indicates that such employee would be eligible for the earned income credit under section 32 of the Internal Revenue Code of 1986 to provide such employee with a simplified application for an earned income eligibility certificate, and

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

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

TITLE II—INDIVIDUAL PROVISIONS

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

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

(1) by striking ''27.0%'' and inserting ''25.0%'', and

(2) by striking ''26.0%'' and inserting ''25.0%''.

(b) REDUCTION NOT TO INCREASE MINIMUM TAX.—

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

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

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

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

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

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

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

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

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

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

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

SEC. 203. INCREASE IN CHILD TAX CREDIT.

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

"In the case of any taxable year beginning in—	"The per child amount is—
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 nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. CREDIT FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.

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

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

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

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

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

''(2) COMPUTER TECHNOLOGY OR EQUIPMENT.—The term 'computer technology or equipment' has the meaning given such term by section 170(e)(6)(F)(i) and includes Internet access and related services and computer software if such software is predominately educational in nature.

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

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

''Sec. 25C. Credit for elementary and secondary school expenses.''.

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

TITLE III—UNEMPLOYMENT ASSISTANCE

SEC. 301. SHORT TITLE.

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

SEC. 302. FEDERAL-STATE AGREEMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 303. TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

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

(b) AMOUNT IN ACCOUNT.—

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

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

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

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

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

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

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

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

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

SEC. 305. FINANCING PROVISIONS.

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

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

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

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

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

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

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

SEC. 306. FRAUD AND OVERPAYMENTS.

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

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

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

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

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

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

(c) RECOVERY BY STATE AGENCY.—

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

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

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

SEC. 307. DEFINITIONS.

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

SEC. 308. APPLICABILITY.

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

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

(2) ending before January 1, 2003.

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

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

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

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

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

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

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

''Special Transfer in Fiscal Year 2002

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

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

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

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

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

minus

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

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

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

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

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

''(I) regular compensation, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE IV—NATIONAL EMERGENCY GRANTS

SEC. 401. NATIONAL EMERGENCY GRANT ASSISTANCE FOR WORKERS.

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

(1) in paragraph (2), by striking ''and'',

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

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

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

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

''(f) COBRA CONTINUATION COVERAGE PAYMENT REQUIREMENTS.—

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

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

''(g) GOVERNMENT INTERVENTION SUPPLEMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE V—TEMPORARY BUSINESS RELIEF PROVISIONS

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

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

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

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

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

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

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

''(A) IN GENERAL.—The term 'qualified property' means property—

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

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

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

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

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

''(iii) which is—

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

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

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

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

''(i) IN GENERAL.—The term 'qualified property' includes property—

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

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

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

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

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

''(C) EXCEPTIONS.—

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

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

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

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

''(D) SPECIAL RULES.—

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

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

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

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

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

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

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

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

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

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

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

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

''(II) by the lessor of such portion,

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

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

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

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

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

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

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

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

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

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

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

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

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

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

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

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

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

TITLE VI—ADDITIONAL PROVISIONS

SEC. 602. EMERGENCY DESIGNATION.

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

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

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

SA 2737. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after ''**SECTION**'' and insert the following:

1. SHORT TITLE; ETC.

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

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

(c) TABLE OF CONTENTS.—

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

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

TITLE II—BUSINESS PROVISIONS

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

TITLE III—UNEMPLOYMENT ASSISTANCE

Sec. 301. Short title.
Sec. 302. Federal-State agreements.
Sec. 303. Temporary extended unemployment compensation account.
Sec. 304. Payments to States having agreements for the payment of temporary extended unemployment compensation.
Sec. 305. Financing provisions.
Sec. 306. Fraud and overpayments.
Sec. 307. Definitions.
Sec. 308. Applicability.
Sec. 309. Special Reed Act transfer in fiscal year 2002.

TITLE IV—TEMPORARY STATE HEALTH CARE ASSISTANCE

Sec. 401. Temporary State health care assistance.

TITLE V—ADDITIONAL PROVISIONS

Sec. 501. Emergency designation.

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

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

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

TITLE II—BUSINESS PROVISIONS

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

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

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

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

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

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

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

''(A) IN GENERAL.—The term 'qualified property' means property—

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

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

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

''(iii) which is—

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

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

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

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

''(i) IN GENERAL.—The term 'qualified property' includes property—

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

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

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

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

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

''(C) EXCEPTIONS.—

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

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

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

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

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

''(D) SPECIAL RULES.—

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

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

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

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

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the 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).''

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

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

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

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

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

TITLE III—UNEMPLOYMENT ASSISTANCE

SEC. 301. SHORT TITLE.

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

SEC. 302. FEDERAL-STATE AGREEMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 303. TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

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

(b) AMOUNT IN ACCOUNT.—

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

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

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

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

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

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

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

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

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

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

SEC. 305. FINANCING PROVISIONS.

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

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

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

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

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

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

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

SEC. 306. FRAUD AND OVERPAYMENTS.

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

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

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

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

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

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

(c) RECOVERY BY STATE AGENCY.—

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

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

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

SEC. 307. DEFINITIONS.

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

SEC. 308. APPLICABILITY.

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

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

(2) ending before January 1, 2003.

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

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

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

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

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

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

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

''Special Transfer in Fiscal Year 2002

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

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

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

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

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

minus

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

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

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

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

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

''(I) regular compensation, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE IV—TEMPORARY STATE HEALTH CARE ASSISTANCE

SEC. 401. TEMPORARY STATE HEALTH CARE ASSISTANCE.

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

''SEC. 2111. TEMPORARY STATE HEALTH CARE ASSISTANCE.

''(a) IN GENERAL.—For the purpose of providing allotments to States under this section, there are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $4,599,667,448. Such funds shall be available for expenditure by the State through the end of 2002. This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.

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

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

''(c) USE OF FUNDS.—

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

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

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

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

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

TITLE V—ADDITIONAL PROVISIONS

SEC. 501. EMERGENCY DESIGNATION.

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

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

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

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

At the end, add the following:

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

SEC. ____01. ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.

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

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

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

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

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

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

(b) TECHNICAL AMENDMENTS.—

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

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

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

SEC. ____02. ELIMINATION OF MARRIAGE PENALTY IN STANDARD DEDUCTION.

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

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

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

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

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

(4) by striking subparagraph (D).

(b) TECHNICAL AMENDMENTS.—

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

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

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

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

SEC. ___03. CONFORMING AMENDMENTS.

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

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

At the end, add the following:

SEC. . SENSE OF THE SENATE.

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

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

At the appropriate place insert the following:

SEC. . REPEAL OF SUNSET.

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

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

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

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

''(h) MAXIMUM CAPITAL GAINS RATE.—

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

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

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

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

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

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

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

(b) MINIMUM TAX.—

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

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

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

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

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

(c) CONFORMING AMENDMENTS.—

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

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

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

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

(d) EFFECTIVE DATES.—

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

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

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

At the appropriate place insert the following:

SEC. . REPEAL OF SUNSET.

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

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

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

At the appropriate place insert the following:

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

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

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

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

At the appropriate place insert the following:

SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.

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

''SEC. 901. SUNSET OF PROVISIONS OF ACT.

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

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

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

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

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

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

At the end, add the following:

SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.

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

''SEC. 901. SUNSET OF PROVISIONS OF ACT.

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

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

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

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

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

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

At the appropriate place insert the following:

SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.

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

''SEC. 901. SUNSET OF PROVISIONS OF ACT.

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

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

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

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

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

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

At the appropriate place insert the following:

SEC. . PRESERVATION OF THE 10% BRACKET.

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

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

At the appropriate place insert the following:

SEC. . ACCELERATED REDUCTION OF ALL MARGINAL TAX RATES.

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

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

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

(b) REDUCTION NOT TO INCREASE MINIMUM TAX.—

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

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

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

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

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

At the appropriate place insert the following:

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

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

(1) by striking ''27.0%'' and inserting ''25.0%'', and

(2) by striking ''26.0%'' and inserting ''25.0%''.

(b) REDUCTION NOT TO INCREASE MINIMUM TAX.—

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

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

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

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

SA 2749. Mr. GRAMM (for himself, Mr. MILLER, Mr. KYL, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . REPEAL OF SUNSET.

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

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

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

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

''(h) MAXIMUM CAPITAL GAINS RATE.—

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

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

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

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

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

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

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

(b) MINIMUM TAX.—

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

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

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

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

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

(c) CONFORMING AMENDMENTS.—

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

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

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

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

(d) EFFECTIVE DATES.—

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

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

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

At the appropriate place insert the following:

SEC. . REPEAL OF SUNSET.

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

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

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

At the appropriate place insert the following:

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

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

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

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

At the appropriate place insert the following:

SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.

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

''SEC. 901. SUNSET OF PROVISIONS OF ACT.

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

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

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

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

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

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

At the appropriate place insert the following:

SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.

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

''SEC. 901. SUNSET OF PROVISIONS OF ACT.

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

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

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

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

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

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

At the appropriate place insert the following:

SEC. . PERMANENT REDUCTION OF CERTAIN MARGINAL RATES.

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

''SEC. 901. SUNSET OF PROVISIONS OF ACT.

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

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

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

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

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

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

At the end, appropriate place insert the following:

SEC. . PRESERVATION OF THE 10% BRACKET.

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

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

At the appropriate place insert the following:

SEC. . ACCELERATED REDUCTION OF ALL MARGINAL TAX RATES.

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

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

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

(b) REDUCTION NOT TO INCREASE MINIMUM TAX.—

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

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

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

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

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

At the appropriate place insert the following:

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

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

(1) by striking ''27.0%'' and inserting ''25.0%'', and

(2) by striking ''26.0% and inserting ''25.0%.

(b) REDUCTION NOT TO INCREASE MINIMUM TAX—.

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

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

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

(d) SECTION 15 NOT TO APPLY.—NO AMENDMENT MADE BY THIS SECTION SHALL BE TREATED AS A CHANGE IN RATE OF TAX FOR PURPOSES OF SECTION 15 OF THE INTERNAL REVENUE CODE OF 1986.

SA 2758. Mr. KYL (for himself, Mr. GRAMM, Mr. ENSIGN, Mr. NICKLES, and Mr. HUTCHINSON) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the end, add the following:

SEC. . PERMANENT REPEAL OF ESTATE TAXES.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(1) by striking ''this Act'' and all that follows through ''2010.'' in subsection (a) and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.'', and

(2) by striking '', estates, gifts, and transfers'' in subsection (b).

SA 2759. Mrs. HUTCHISON (for Herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to 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. . 2-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND.

Section 45(c)(3)(A) of the Internal Revenue Code of 1986 (relating to wind facility) is amended by striking ''January 1, 2002'' and inserting''January 1, 2004''.

SA 2760. Ms. COLLINS (for herself Mr. WARNER, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 622 to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADJUSTED GROSS INCOME DETERMINED BY TAKING INTO ACCOUNT CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following:

''(D) CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.—The deductions allowed by section 162 which consist of expenses, not in excess of $1,000, paid or incurred by an eligible educator—

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

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

(b) ELIGIBLE EDUCATOR.—Section 62 is amended by adding at the end the following:

''(d) DEFINITION; SPECIAL RULES.—

''(1) ELIGIBLE EDUCATOR.—

''(A) IN GENERAL.—For purposes of subsection (a)(2)(D), the term 'eligible educator' means, with respect to any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

''(B) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.

''(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a)(2)(D) for expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning in calendar years 2002 and 2003.

SA 2761. Ms. COLLINS (for herself, Mr. WARNER, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADJUSTED GROSS INCOME DETERMINED BY TAKING INTO ACCOUNT CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following:

''(D) CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.—In the case of taxable years beginning during 2002 or 2003, the deductions allowed by section 162 which consist of expenses, not in excess of $250, paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom.''.

(b) ELIGIBLE EDUCATOR.—Section 62 is amended by adding at the end the following:

''(d) DEFINITION; SPECIAL RULES.—

''(1) ELIGIBLE EDUCATOR.—

''(A) IN GENERAL.—For purposes of subsection (a)(2)(D), the term 'eligible educator' means, with respect to any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

''(B) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.

''(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a)(2)(D) for expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.''.

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

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, February 14, 2002, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 202 and H.R. 2440, to rename Wolf Trap Farm Park as Wolf Trap National Park for the Performing Arts;

S. 1051 and H.R. 1456, to expand the boundary of the Booker T. Washington National Monument, and for other purposes;

S. 1061 and H.R. 2238, to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes;

S. 1649, to amend the Omnibus Parks and Public Lands Management Act of 1996 to increase the authorization of appropriations for the Vancouver National Historic Reserve and for the

preservation of Vancouver Barracks; and

H.R. 2234, to revise the boundary of the Tumacacori National Historical Park in the State of Arizona.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224–9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. 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, January 29, 2002, at 10 a.m. to conduct an oversight hearing on the Financial War on Terrorism and the Administration's Implementation of the Anti-Money Laundering Provisions of the USA Patriot Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, January 29 at 9:30 a.m. The Committee will conduct a hearing to receive testimony on the impact of the Enron collapse on energy markets.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, Subcommittee on Clean Air, Wetlands, and Climate Change be authorized to meet on Tuesday, January 29, 2002 at 9:30 a.m. to conduct a hearing to hear testimony on compliance options for electric power generators to meet new limits on carbon and mercury emissions contained in S. 556. The hearing will be held in SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. GRASSLEY. Mr. President, on behalf of Senator MCCAIN, I ask unanimous consent that his legislative fellow, Navy Lieutenant Commander Paul Gronemeyer, be granted the privilege of the floor during consideration of the Adoption Tax Credit Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I ask unanimous consent that Dana Casterlin, Julius Shapiro, Charles Donefer, and Jonathan Seibald, interns with the Senate Finance Committee, be granted the privilege of the floor during the Senate's consideration of H.R. 622.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Mr. President, I ask unanimous consent a fellow from my office, Carol Welsch, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. REID. Mr. President if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

Thereupon, the Senate, at 5:55 p.m., recessed until 8:31 p.m., and reassembled when called to order by the Presiding Officer (Mr. REED).

The PRESIDING OFFICER. The Senator from Michigan.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 540; that the nomination be confirmed; the motion to reconsider be laid on the table; the President be immediately notified of the Senate's action; any statements thereon be printed in the RECORD; and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

DEPARTMENT OF THE INTERIOR

Steven A. Williams, of Kansas, to be Director of the United States Fish and Wildlife Service.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO 107–157)

The PRESIDING OFFICER. The Senate will proceed to the Hall of the House of Representatives to hear the address by the President of the United States.

Thereupon, the Senate, preceded by the Assistant Sergeant at Arms, Ann Harkins, the Secretary of the Senate, Jeri Thomson, and the Vice President of the United States, RICHARD B. CHENEY, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, George W. Bush.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT UNTIL MONDAY, FEBRUARY 4, 2002, AT 1 P.M.

At the conclusion of the joint session of the two Houses, and in accordance with the provisions of H. Con. Res. 95, at 10:07 p.m., the Senate adjourned until Monday, February 4, 2002, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate January 29, 2002:

DEPARTMENT OF JUSTICE

JOHN SCHICKEL, OF KENTUCKY, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF KENTUCKY FOR THE TERM OF FOUR YEARS, VICE JOE RUSSELL MULLINS, RESIGNED.

WILLIAM R. WHITTINGTON, OF LOUISIANA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS, VICE JAMES ROBERT OAKES, TERM EXPIRED.

STEPHEN GILBERT FITZGERALD, OF WISCONSIN, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF WISCONSIN FOR A TERM OF FOUR YEARS, VICE DALLAS S. NEVILLE, TERM EXPIRED.

J.C. RAFFETY, OF WEST VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF WEST VIRGINIA FOR A TERM OF FOUR YEARS, VICE LEONARD TRUPO, TERM EXPIRED.

JAMES ANTHONY ROSE, OF WYOMING, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF WYOMING FOR THE TERM OF FOUR YEARS, VICE JUAN ABRAN DEHERRERA, TERM EXPIRED.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) DURET S. SMITH, 0000
REAR ADM. (LH) JERRY D. WEST, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) ROBERT R. PERCY III, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

SANDRA G. MATHEWS, 0000
MARGARET M. NONNEMACHER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

REBECCA A. DOBBS, 0000
MAX S. KUSH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ERNEST H. BARNETT, 0000
RICHARD C. BEAN, 0000
GLENN H. BROWN, 0000
MICHAEL J. CIANCI, 0000
TIMOTHY I. FINAN, 0000
MICHAEL E. IMMLER, 0000
DEXTER A. LEE, 0000
SANDRA K. MEADOWS, 0000
MARK L. POPE, 0000
MARC P. RESNICK, 0000
RONALD W. SCHMIDT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

SANDRA H. ALFORD, 0000

DWIGHT F. BUSHUE, 0000
MARILYN M. CHAMBERS, 0000
ROSEMARY J. DURNING, 0000
DOROTHY A. GOULD, 0000
MICHELLE M. HENDRICKS, 0000
BARBARA L. JACOB, 0000
VALERIE S. KNOBLOCH, 0000
CAROL A. LEDBETTER, 0000
CANDACE J. LEE, 0000
DONNA J. MEYERS, 0000
PATRICIA K. MURRAY, 0000
JOSEPH W. OROURKE, 0000
PAULA JAN PEYRE SHERMAN, 0000
CELESTE B. SUMINSBY, 0000
FRANCIS C. ZUCCONI, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RAUL A. AGUILAR, 0000
CARLOS W. M. BEDROSSIAN, 0000
JAMES A. BOURGEOIS, 0000
MICHAEL H. COLEMAN, 0000
MATTHEW T. DODDS, 0000
GLENN S. EKBLAD, 0000
ALBERT D. JOHNSON, 0000
BRIAN K. KLINK, 0000
RONALD S. MILLER, 0000
DONALD OSBORNE, 0000
MARIA A. PONS, 0000
GARY M. WALKER, 0000
PHILIP H. WATKINS, 0000
GILBERT L. WERGOWSKE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

LARRY W. ALEXANDER, 0000
FRANK E. ANDERSON, 0000
KASSE A. ANDREWSWELLER, 0000
STEPHEN J. ANTHONY, 0000
DONALD A. BAHR, 0000
DAVID J. BEAVIN, 0000
WILLIAM B. BINGER, 0000
ALAN K. BOOKER, 0000
RENE L. BOWARD, 0000
WILLIAM P. BRANDT, 0000
EDWARD C. BRASHER JR., 0000
MARK D. BRINSON, 0000
THOMAS C. BROWN III, 0000
JOHN T. BROWNE, 0000
ROBERT W. BROWNING, 0000
HERMAN C. BRUNKE JR., 0000
LARRY D. BUELOW, 0000
JON S. BURGESS, 0000
MATTHEW B. CAFFREY JR., 0000
NIDIA S. CARRERO, 0000
HORLIN CARTER SR., 0000
MARCUS A. CAUDILL, 0000
STEVEN R. CHARLES, 0000
CATHERINE A. CHILTON, 0000
ARTHUR CHIN, 0000
WILLIAM E. COBURN, 0000
LOUIS J. COCO JR., 0000
MARY L. COLAIANNI, 0000
RICHARD P. CONNIFF JR., 0000
PATRICK A. CORD, 0000
GARY L. CRONE, 0000
ERNEST A. DALPIAS, 0000
MICHAEL C. DAWSON, 0000
THOMAS N. DIETZ, 0000
FRANK DIPIERO, 0000
JOHN W. DOUGLAS, 0000
PHILIP B. EDELEN, 0000
WILLIAM A. EHRENSTROM, 0000
JOHN K. ELLSWORTH, 0000
BARRY FAGAN, 0000
WILLIAM N. FLANIGAN, 0000
CHARLES W. FOX, 0000
ROBERT W. FRENIERE, 0000
RICHARD W. GAULT, 0000
JEFFERY R. GLASS, 0000
TERRY B. GLYMPH, 0000
CHRISTOPHER J. GOLOB, 0000
GUY B. GORDON, 0000
GEORGE A. GORHAM, 0000
SHARON L. GRADY, 0000
RUPERT W. GRAHN, 0000
EUGENE W. GREEN JR., 0000
JOSEPH A. GREGOR, 0000
ROBERT M. HAIRE, 0000
JOHN P. HALL JR., 0000
STAYCE DIAMOND HARRIS, 0000
MICHAEL P. HAYES, 0000
JANE A. HESS, 0000
STEVEN A. HEUER, 0000
THOMAS F. HULSEY, 0000
KARL J. HURDLE, 0000
FREDERICK E. JACKSON, 0000
TILLUS B. JENKINS, 0000
ROBERT T. JUBIN, 0000
BRIAN W. KOWAL, 0000
KEITH D. KRIES, 0000
RONALD L. KRNAVEK, 0000
DOUGLAS J. KUPLIC, 0000
BANCROFT TRACY L. LASSETER, 0000
MICHAEL E. LEBIEDZ, 0000
DOUGLAS D. LEHMAN, 0000
STEVEN L. LESNIEWSKI, 0000
DELBERT D. LEWIS JR., 0000
MARY G. LOCKHART, 0000
ROBERT W. LOTT, 0000
KYLE G. MACDONALD, 0000
CHARLES L. MACRI, 0000
GEORGE M. MADELEN, 0000
NORRIS KATHLEEN A. MAHONEY, 0000
WILLIAM K. MANEY, 0000
STEVEN M. MAURER, 0000
HAROLD L. MAXWELL, 0000
JAMES M. MAXWELL, 0000
SEAMUS P. MCCAFFERY JR., 0000
JOSEPH E. MCCORMICK JR., 0000
NEAL L. MCFEETERS, 0000
JAMES L. MCGINLEY, 0000
THOMAS L. MCGOVERN III, 0000
KENNETH W. MELLOTT, 0000
EDWARD M. MORRIS JR., 0000
JANICE M. MORROW, 0000
JAMES J. MUSCATELL JR., 0000
EUGENE D. MYERS, 0000
ANTHONY NARDONE, 0000
SCOTT E. NIELSON, 0000
HEATH J. NUCKOLLS, 0000
MICHAEL W. OCHS, 0000
DENNIS P. ODONOGHUE, 0000
DAVID C. PETERSON, 0000
BENJAMIN W. PHILLIPS JR., 0000
DONALD W. PITTS, 0000
GERALD H. POUNDS, 0000
DONALD C. RALPH, 0000
WILLIAM A. RANDALL, 0000
SCOTT A. REYNOLDS, 0000
ROBERT C. RICHARDSON IV, 0000
JAMES D. ROBINSON, 0000
ROBERT B. ROSSOW, 0000
ROBERT A. ROWE, 0000
PATRICK M. SAATZER, 0000
GAIL S. SCHIKORA, 0000
RANDALL L. SCHULTZRATHBUN, 0000
DIANA J. SCHULZ, 0000
JUDITH E. SCOTTPETERSON, 0000
JON R. SHASTEEN, 0000
PATRICK J. SHAY, 0000
RICHARD L. SHELTON JR., 0000
LORAINE C. SIMARD, 0000
WILLIAM A. SINGLETON, 0000
DONALD W. SLOAN, 0000
JAMES D. SMITH, 0000
CHARLES M. SOLOMON, 0000
BRIAN R. SPENCER, 0000
KENNETH W. STEERE JR., 0000
RICHARD G. STEPHENS, 0000
PAMELA L. STEWART, 0000
KEVIN D. STUBBS, 0000
ROGER D. SUMMERLIN, 0000
MICHAEL E. SWANEY, 0000
TIMOTHY E. TARCHICK, 0000
PETER D. TRAPP, 0000
LEE G. TUCKER, 0000
JOSEPH A. VIANI, 0000
GERALD E. VOWELL, 0000
HARRY C. WEIRATH, 0000
WILLIAM O. WELCH, 0000
GLENN R. WHICKER, 0000
JON I. WILSON, 0000
DERRICK D. H. WONG, 0000
DOUGLAS J. WREATH, 0000
PETER S. YOGIS, 0000
WINIFRED H. YOUNGBLOOD, 0000
CLAUDIA R. ZIEBIS, 0000

CONFIRMATION

Executive nomination confirmed by the Senate January 29, 2002:

DEPARTMENT OF THE INTERIOR

STEVEN A. WILLIAMS, OF KANSAS, TO BE DIRECTOR OF THE UNITED STATES FISH AND WILDLIFE SERVICE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.