EXECUTIVE COMMITTEE MEETING ON THE ECONOMIC RECOVERY AND ASSISTANCE FOR AMERICAN WORKERS ACT OF 2001, WHICH THE CHAIRMAN WILL PROPOSE AS A SUBSTITUTE FOR H.R. 3090

THURSDAY, NOVEMBER 8, 2001

U.S. Senate,
Committee on Finance,
Washington, DC.

The meeting was convened, pursuant to notice, at 2:35 p.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Rockefeller, Daschle, Breaux, Conrad, Graham, Jeffords, Bingaman, Kerry, Torricelli, Lincoln, Grassley, Hatch, Murkowski, Nickles, Gramm, Lott, Thompson, Snowe, Kyl, and Thomas.

Also present: John Angell, Staff Director; Michael Evans, Deputy Staff Director; Kolan Davis, Republican Staff Director and Chief Counsel; Carla Martin, Chief Clerk.

Also present: Mark Weinberger, Assistant Secretary for Tax Policy, Treasury Department; Lindy Paull, Chief of Staff, Joint Committee on Taxation; Russ Sullivan, Chief Tax Counsel; Dr. Liz Fowler, Chief, Health and Entitlements Council; Greg Mastel, Chief, International Trade Council/Chief Economist; Ed McClellan, Council of

Economic Advisors; Allen Cohen, Senior Budget Advisor; Douglas Steiger, Professional Staff/Welfare.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

The Chairman. The committee will come to order.

I call the committee to order to consider the Chairman's mark that I proposed as a complete substitute for H.R. 3090.

Senator Grassley and I will give opening statements, and then the mike will be open for other Senators to give their statements.

I would like Senators to, if at all possible, confine their remarks to about five minutes each. There will be other opportunities, clearly, to speak when Senators offer amendments or when responding to an offered amendment. But, if we could keep it to about five minutes, that will help us get to our business.

This is a sobering time. Our Nation is at war. It is at war on three fronts: overseas, terrorism, and the economy here at home. The third front, is the economy.

The September 11th attacks took a bad economic situation and made it significantly worse. Unemployment is rising, corporate profits falling, businesses are cutting back on investments in new plants and equipment.

We had virtually no economic growth in the second quarter, and negative growth in the third quarter.

According to the National Association of Purchasing Managers, "the current declines in production and new orders are among the largest in the history of reporting these statistics, that is, since 1931."

Last Friday, the news was especially bad. We learned that 415,000 Americans lost their jobs in October. That is the highest number in more than 20 years. Almost every sector lost jobs. Manufacturing lost 142,000, services 111,000, the retail trade 81,000. Construction, which had been a pillar of strength, lost 30,000.

Like all Americans, we are struggling to respond, to pull together, to tap into American resilience, to make a contribution. That is why we are here today.

Others have responsibility to fight the war. We all have a responsibility to support them and to fight terrorism at home. We in this committee also have a responsibility to get the economy back on track.

It is partly a matter of restoring public confidence, generally. It is partly reducing interest rates, which I think the Federal Reserve is handling very well. But it is also coming together to write what we have come to call an economic stimulus bill.

What does that mean? There is, clearly, no magic recipe, no silver bullet that will send us roaring back to double-digit growth. But there are sensible, responsible steps that I commend.

Not too long ago, I called Senator Grassley, Secretary O'Neal, and members of the House tax writing committees together to begin to work together in the public interest to get this job done. Those talks proceeded quite well.

I also asked the Budget Committees of both Houses to work together. They came up with a bipartisan consensus approach to what our goals should be in writing an economic stimulus bill.

Senator Domenici, Senator Conrad, Congressman Dussell, and Congressman Sprat, all four, agreed on the basic principles that would write this bill. They came together and they helped get this done.

Let me read what they said. "A substantial portion of the fiscal impact on the economy should be felt within six months. All economic stimulus proposals should sunset within one year to the extent practicable."

That is the Senate Budget Committee leadership and the House Budget Committee leadership. Economic stimulus should be broad-based rather than industry-specific, and off-year offsets should be made up over time for the cost of near-term economic stimulus.

We are now trying, therefore, to get money into the hands of people who will spend it, consumers who will spend it on goods and services, businesses that will spend it on capital equipment.

The Chairman's mark is designed to accomplish these goals, with six main elements. First, we provide a tax rebate to taxpayers who did not get a full rebate this summer. That is 45 million taxpayers who have relatively modest incomes and are likely to spend the money right away.

Second, we temporarily speed up depreciation deductions to encourage businesses to invest in new plant and equipment.

Third, we provide assistance to the hundreds of thousands of Americans who have lost their jobs. How? We strengthen unemployment benefits and help families keep health insurance. To put it bluntly, you can be darn sure that these dollars will be spent.

Fourth, provide help to States. The economic crisis is creating a budget crisis. States are trying to balance their budgets while revenue falls. Our depreciation provisions will indirectly exacerbate the problem by reducing the revenue of States that tie their tax collections to the federal income tax. Therefore, we will lend States a hand by temporarily increasing federal matching payments under Medicaid.

Fifth, provide help to rural States. We temporarily extend disaster assistance and we strengthen rural economic development programs.

I know that some members are concerned about these rural provisions, so let me explain. When our national economy declines, rural areas are often among the areas that are hit the hardest and recover the slowest. That comes on top of a rural economy that, in many areas, never experienced an economic boom.

Farm income in 1999 and 2000 was at a 10-year low. We had hoped it would improve modestly in 2001. At times like these, agriculture disaster assistance and rural economic development assistance are a lifeline and will put money into the national economy. These are not new programs, they are mere extensions of current law.

Now, I fully understand that these provisions are not within the jurisdiction of this committee. But, as we all know, there is not much time left. We are trying to move quickly to help our people. The chairman of the Agriculture Committee supports including these provisions in our bill.

Finally, we temporarily extend various tax and other incentives for one year. These incentives will increase spending by businesses and households. That is the mark.

I am proud of this bill. It will provide an effective stimulus for economic recovery and will provide some basic help to people who have lost their jobs and risk losing their health insurance. It is balanced. It is compassionate. It is what business leaders and economists tell us they want. It will work. It hits the mark.

I understand that other people have different views. I respect that. This bill can clearly be improved. If we are going to get something done, we need to work together. Nobody feels this more strongly than I.

Right after the September 11 attacks, I began discussions on a bipartisan economic recovery package, working with Senator Grassley, who has been just aces, I might add, on this. I could not ask for a better partner.

I called everyone together, Secretary O'Neal, Chairman Thomas, Congressman Rangel, as I mentioned, the leaders of the Budget Committees of both Houses. Cooperation filled the air. There is a strong sense of cooperation among all involved. We are making progress.

But, for whatever reason, the House Republicans withdrew from our discussions and wrote a partisan bill. That is their right. I respect that. But I still kept trying. I met further with Senator Grassley and with Secretary O'Neal several times. But we are not there yet.

But I am patient. I pledge to listen carefully to all arguments. In fact, I hope that today's mark will help us understand each other's point of view a bit better and that it will help pave the way to a solid, balanced, bipartisan bill that we could all be proud of.

If we can pass this, if not today, as Senator Snowe said yesterday, certainly very quickly at a date that is very soon. She is right, we can get this done, but we will have to have the active participation and the leadership of the administration. I very much hope that that is forthcoming.

We are a resilient country. We are a country of can-do people and can-do attitudes, solving problems, getting things done. I would just urge us all to act quickly in the public interest, tapped into that resilience and that can-do attitude that is so strong among the American people.

We are so lucky to be Americans. This could not be done as quickly in other countries where the people are just so willing to work together, and I urge all of us just to remember that as we work together to get this done very quickly. Thank you.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA

Senator Grassley. I would like to state this for the environment for our remarks today. That is, it may sound a little sentimental in the sense of most of my legislative victories over the years I have bene in the Senate have been bipartisan. The tax bill of last spring was very much bipartisan.

Senator Baucus was a professional in his approach as we worked that out. I consider myself as a legislative negotiator, doing it in a professional manner. Hence, I want you to consider that as I express some strong feelings about that same bipartisan approach not being used, although I do concur with the Chairman when he said that he set out to do that. Frankly, I think things intervened that were beyond his control that brought us to the point where we are.

Mr. Chairman, you and I shared a goal at the start of this process. We both wanted a bipartisan economic stimulus package that also addressed the unemployment benefits and health care needs of dislocated workers. I still have that goal and the people on my side of this committee share that goal.

I also feel it is important that the Finance

Committee act on this issue. On every legislative matter that comes within the jurisdiction of this committee, you can be sure that I will always uphold our jurisdiction. Taking action on this issue is not only our duty as representatives of this committee, but our duty to the many Americans who are really hurting.

Unfortunately, however, it is obvious we are not going to operate in our committee's bipartisan tradition. Despite all the window dressing, today's committee product is designed to be partisan. The Chairman's mark, which embodies the Democratic caucus position on this position, will pass because Democrats have decided to deal only with themselves.

So everyone out there, I want everybody to hear this. Let me say that the result has been worked out in advance. You need not stick around: the fix is in.

Mr. Chairman, I did not file any amendments, including even a Republican alternative. The Republican caucus, under my leadership, will respond on the Senate floor.

I might add that our door is open, and I hope that there are people that want to come through that door, Democrats, Centrists, and Independents, to come up with an alternative. The point in proceeding with an alternative today is not to do it, because the deck is stacked against us.

Mr. Chairman, I am frustrated and disappointed right now. There is a lot of common ground, but little will on your caucus' part to meet our side half way, or even part of the way. That unwillingness does not make a lot of sense in a Senate that is divided 51/49, or a committee that is divided 11/10.

Now, there is common ground. I want to show you where it is. Let us start with economic stimulus. Basically, the President and Chairman Greenspan gave a Greenspanned green light to the stimulus exercise. Chairman Greenspan instructed us to take a hard look at proposals that were temporary, immediate, efficient.

Greenspan said we needed to pay particular attention to the decline in the manufacturing investment. There is a chart there that shows what Chairman Greenspan was talking about.

Democrats and Republicans agreed to pursue accelerated depreciation as a stimulative measure. Both caucuses' plans have this proposal in them, though the Democrats are at a very ineffective 10 percent and the Republicans are at 30 percent.

Both caucuses pursued proposals that, while not as stimulative as accelerated depreciation, would still provide some much-needed relief in struggling businesses.

Democrats propose liberalizing the net operating loss carry-back rules. Republican propose repealing the corporate AMT. Here again, there was room to work a bipartisan agreement. Republicans put on the table an acceleration of the income tax rates put in place by the bipartisan tax relief bill passed earlier this year.

It is my understanding that the Democratic caucus objects to that proposal because, even though this proposal is stimulative, it reopened a statute that a majority of Democrats did not support.

I recognize that acceleration is not viewed as common ground. But I would ask the question, how can Democrats reopen the statute of last spring by putting the rebates for payroll or non-payroll taxes on the table? It appears to me to be a bit inconsistent.

To those of us on this side, it appears that the Democrats have taken the positive gestures by the President on the rebates, but have not been flexible in return. How come Republicans are expected to be flexible and Democrats can be inflexible?

Needless to say, by default, both sides have common ground on the next round of rebate checks. This proposal stimulates consumer demand. Secretary Rubin was very keen on some modest levels of consumer demand stimulus.

So on the investment side, on the consumer demand side, both Democrats and Republicans have proposals with similar features, with the Republicans placing more emphasis on investment. But Democrats have made marginal rate cut acceleration some sort of a deal-breaker. We Republicans want to aid dislocated workers and provide assistance with coverage of health insurance.

First off, I think I need to clear up some misunderstandings of our position on this. Some, incorrectly, have said Republican proposals do nothing to help cover the cost of health insurance for dislocated workers. Well, this is baloney.

The President supported health care assistance by proposing funding for health care benefits to laid off workers. Both the House bill and the Senate Republican caucus' position embraced this idea.

But in negotiations, I wanted to go beyond that. I offered to more than triple the amount of money. I also proposed expanding--expanding--coverage of health benefits to dislocated workers who do not qualify for COBRA, such as small business workers.

I then offered the other side complete flexibility to write the criteria under which the money would be granted. I hope Senators Gramm and Nickles do not know that I offered that. [Laughter]. But I offered complete flexibility to write criteria under which the money would be granted so they could be confident in this program, so the other side could be confident in the direction that we wanted to go with more money.

How much more flexible can you be than I have just suggested? But the Democratic leadership said no and rejected this offer.

So we have common ground on the goals of helping dislocated workers with health care benefits. Now are there differences in how we want to provide this assistance? Well, the answer is yes. We want to do more than provide unemployment checks.

We want incentives to get workers back their paychecks. That is what workers want. They do not want unemployment compensation, even though that is there when they need it. They want jobs. The whole point of this bill is to get people benefits now, including an economic environment for jobs.

Yet, the Democrats, in their usual big government goals, want to create a new bureaucracy that would take many months to get up and running. I think their proposal would not be able to get benefits to workers until way past the needs of the recession.

That is because federal law requires that, when a new federal program is established, regulations must be promulgated and the public be given notice and an opportunity to comment.

Clearly, these laws affecting new programs are in place for good reason. But we can avoid this hurdle by using existing programs, especially ones that are already tailor-made--tailor-made--for national emergencies. That is why the President took the approach he did through the National Emergency Grant Program.

Do Democrats want to enhance people's well-being or enhance bureaucracy? Our goal was to use the existing National Emergency Grant Program, one that the Federal Government and States have used for years, to ensure benefits so that the benefits can get to dislocated workers in as fast a way as possible.

No new infrastructure would be required by the Federal Government and States could quickly, very quickly, access much-needed funds. The bottom line is, hardworking Americans who have lost their jobs as a result of the tragedy cannot wait 6, 9, 12 months for a new health care insurance. They need help right now. Right now. We propose to do just that. But I see our Democrat colleagues not interested in any bipartisan compromises, even when they represent common sense.

The second problem with the Democrat health package, is that it places undue burdens on States, which are already struggling to respond to the adverse impacts of

September 11. Requiring a new federal infrastructure and correspondingly new State infrastructures in order to access emergency funds seems to be downright unreasonable. Very unreasonable.

We should be working our hardest to get money to the States immediately. We should not penalize them by demanding that they, too, the States, establish expensive new bureaucracies to get money out the door.

For example, the Democrats' proposal would require many States to enact legislation in order to set up and fund new State infrastructures to certify and deliver COBRA benefits. This is an unfunded mandate.

In addition, the Democrats' proposal requires States to use their own money. This means only those States which happen to have extra money in their Medicaid budgets could help workers that are not COBRA eligible. I am not aware of any State claiming that it has extra Medicaid money burning holes in its pockets.

I think this is just plain wrong. I proposed to provide 100 percent federal funding through the National Emergency Grant Program to allow States to cover non-COBRA eligibles.

Once again, I ask my Democrat colleagues, why are you insisting on doing something the hard way, especially when there is a much more efficient way?

Now let me make a few points on extending unemployment benefits to dislocated workers. Again, both sides agree that providing 13 weeks of additional benefits to workers in need is a reasonable thing to do.

The Democrats, however, want to take our finite resources and spread them thinly across every State so that the needy will not get enough help.

I offered to provide unemployment benefits in two ways. The first, was to allow 13 weeks of benefits to be expended to those States which experience a significant increase in unemployment.

What qualifies as a significant increase? I was completely flexible on that point. In fact, I was more than willing to bring the threshold well below what the President had proposed.

In addition, I believe that extended unemployment benefits should be made available to particular industries or communities adversely affected on September 11. This should be the case, even if the States, as a whole, do not experience a major increase in unemployment.

So I hope that I have made it apparent that, on our side, we care about dislocated workers and we care about getting them unemployment and health benefits. The differences are grounded in how to do it, not whether to do it.

I still believe that we are not that far apart and our differences can be bridged. If we are willing to take the partisan blinders off and focus on getting help to workers immediately--and I mean immediately--instead of winning ideological points, we can come to agreement on proposal.

So here we are, Mr. Chairman. I am left asking myself why we are stuck in this partisan ditch. We have common ground on the investment side, consumer spending side, unemployment benefits, health coverage for dislocated workers.

Why could we not work out an agreement? I would suggest that there are three reasons. The first reason, is that the Democrats do not want two negotiations with Republicans.

They do not want to negotiate with Senate Republicans, first, and then have to negotiate with the White House and House Republicans later in conference. In terms of the rules and characteristics of the Senate, however, this is an unrealistic position. It is absolutely unrealistic. I have to chuckle when I hear this type of objection coming from Senate Democrat leadership.

When I was negotiating the bipartisan tax cut in the

Finance Committee last spring, I ran into the same objection from many of my Senate Republican caucus members. They said to me, Grassley, do not negotiate with Baucus. If you do, you will have to negotiate further to the left on the Senate floor. One negotiation is better than two.

If I had followed that "one negotiation" directive, we would have had chaos on the Senate floor. As it turned out, the bipartisan Finance Committee agreement held on the Senate floor, and largely stayed intact in conference.

Then there is a second reason why I think that they could not negotiate. It seems that many in the Democrat caucus want some kind of payback against bipartisan tax relief legislation. In their view, the bipartisan deal was wrong.

With their caucus now running the Senate, they do not want to see it repeated in any way. In their view, a bipartisan Finance Committee deal would be a bad deal, unless it contained all four corners of the Democrat caucus position.

As I said, I showed movement on several issues, but could not get movement on the other side. Everyone knows that, unless both sides move, you cannot get a deal.

So here we are, basically, with the Senate Democratic caucus position as a Finance Committee mark-up document. There is no gesture to our side. The document is "our way or the highway."

I only ask, is this what the American people want? I did not think so at the time of the tax cut, and I do not think so now, even in a more important time of a war on terrorism.

Finally, the third reason that we cannot get a deal. Senate Democrats say that the House Republican partisan process necessitated a partisan response. We are kind of engaged in a game of legislative ping-pong. That frustration, while I would say it is understandable, does not justify shutting out Senate Republicans.

The House passed a partisan tax bill, but that did not stop the Senate from passing a bipartisan package. The Senate is not, and should not, be rendered irrelevant because of partisan politics in the other body.

Mr. Chairman, the American people expect us to work together. That is why I have been trying to do this over the past few months.

I have complimented you for some of the meetings you have called to get in this direction. If they had proceeded, we would be sitting here with a bipartisan agreement today. We Senate Republicans are flexible and willing to move toward Senate Democrats. But this place is a two-way street and it seems to me we have to have movement on both sides.

So, to sum up, Mr. Chairman, we want to get a bipartisan stimulus package. Bipartisan does not mean adopting the Senate Democratic caucus position.

You have the votes lined up. We on this side have been left out. This is unfortunate for this great committee, and the Senate as a whole. I can only say that I hope, and I am going to make it happen, that this process changes on the Senate floor and that reasonable heads prevail.

I thank you, Mr. Chairman.

The Chairman. Thank you very much, Senator. I agree. I hope that when we get on the floor, we can get this put together. That is where we have to be rather than here, where we are now.

Senator Breaux? I am calling Senators according to the committee tradition of order of appearance.

OPENING STATEMENT OF HON. JOHN BREAUX, A U.S. SENATOR FROM LOUISIANA

Senator Breaux. Thank you very much, Mr. Chairman, and congratulations to you and to Senator Grassley for a great deal of very hard work that was put in and produced the two products that are before the committee.

Also, congratulations to the staff. I am sure that they have spent a lot of sleepless nights in the last couple of days putting together all of the information that constitutes the two products that are before the Senate Finance Committee.

You know the old saying that there are two things, that if you like the end product, you should never watch it being made, are sausages and laws. Well, this is the process of making laws and it is not very easy. Many times, it is not very pretty. I would imagine that, in this case, with this bill, that will be what we have to deal with for the next several hours.

I would kind of say that we are entering into the kabuki phase of writing legislation, where we both sort of dance around each other. We are going to say terrible things about the Republican bill, and the Republicans will, I would imagine, say terrible things about the Democratic bill.

In truth, there is a lot in common. I think that everybody can agree that there are two things we have to do to stimulate the economy. Number one, we have to help businesses who are going out of business to be able to be financially strong enough to hire workers.

Second, however, we have to also pay attention to workers who do not have jobs. If they do not have jobs, they cannot buy anything from any business that produces widgets, or whatever, because they do not have enough money to do so.

So, obviously, any final product has to be a combination of helping businesses stay in business and prosper and helping workers succeed to have enough financial wherewithal to be able to buy the products of business. It is not rocket science, what we have to do. We can both agree on where we should go. It is a question of how we get there.

I would think that there is a great deal on the principles in both bills that we find in common, both with some of the things the House did, as well as what our Republican and Democratic colleagues have offered on both sides.

As an example, both sides have stimulus checks going to people who did not benefit from the last tax cut. That is in the House bill, it is in the Grassley mark, and it is in the Baucus mark.

All of the bills also deal with accelerated depreciation, saying, yes, we have to help businesses that need help. We all have agreed that accelerated depreciation is a good idea.

We have also agreed that the so-called net operating loss carry-back should be available for businesses to help them prosper, as well as helping small businesses with the expensing through Section 179. We all agree on that.

I think that it is also important to note that both sides have said, yes, we ought to address people that do not have jobs. All of the marks say that we ought to extend unemployment compensation for a minimum of 13 weeks. That is in common with all of the positions.

We also have said we ought to help people who do not have health insurance. There are two different ways to do it. I would suggest there is a third way that has merit that needs to be considered.

The truth is, I would suggest that it is important that what we do today is to produce a bill. We have to go to the floor with a document that is a reasonable and balanced document.

It does not have to be the final product because I think that all of us can agree that the final document that hopefully will get signed is going to have to be a cooperative, collaborative effort between Republicans and Democrats.

Neither side can do just what we want. Democrats do not control the House, we do not control the White House, and we do not have 60 votes in the Senate. But our Republican colleagues also have to understand that they do not control the Senate and they cannot have it written just like they would like to have it written. But neither can we.

Therefore, it is obvious that the answer to this is to produce a product and then begin serious negotiations next week when this document hits the floor to produce something that can pass the Senate, not just with 51 votes or 60 votes, but maybe with 70 votes, or even more than that, and one that we can have signed into law.

We fail ourselves and our constituents miserably if we only produce a product that we can accuse the other side of failing to participate in. The American people do not want us to fight over who is wrong and who is right and produce nothing.

They would rather have us work together, get something that works. We can always fight over who did it, but at least we would be arguing about success and not fighting over failure. I think we can do that, and I remain optimistic.

Thank you.

The Chairman. Thank you, Senator.

Senator Hatch?

OPENING STATEMENT OF HON. ORRIN G. HATCH, A. U.S. SENATOR FROM UTAH

Senator Hatch. Thank you, Mr. Chairman.

I must say that I am saddened to see this committee so divided today. I have been a member of the Finance Committee now for better than 10 years, and I can recall only one or two times when the committee has before it such a bitterly divisive Chairman's mark as the one we are considering today.

Frankly, this puzzles me because I know you are sincere when you say you want a bipartisan product. I am aware of the many hours that you spent with Senator Grassley trying to find a compromise, but I just cannot understand how we have so miserably failed to find some middle ground here.

Earlier this year before the Chairman and Ranking Republican Member of this committee switched places, we faced another difficult challenge: how to find a compromise on the largest tax cut in a generation.

With the bipartisan cooperation for which this committee is known, we were able to forge a package that was supported by a solid majority. More importantly, that compromise survived with a strong vote on the floor of the Senate and that tax cut became law.

Enactment of a bill that will effectively stimulate the economy, I hope, is the goal for all of us here today, and certainly when we get to the floor. Unfortunately, Mr. Chairman, the path you have set us on with this mark does not lead to that destination.

This bill will require 60 votes on the floor of the Senate in order to pass, and I just do not see how we can build that result on this type of shaky foundation.

Now, I understand that the Democrats and Republicans have different views as to what will work to stimulate the economy. I also know that my side cannot entirely get its own way.

What is so troublesome to me, though, is why, at least, some of your mark cannot represent bold economic stimulus as defined by us on this side. Let me just mention two examples of where this mark falls way short, Mr. Chairman. There are many, but I will just mention two.

The first deals with bonus depreciation. This is a provision you have in your mark, but at only 10 percent it is so weak that it is almost meaningless. Bonus depreciation is one provision almost everyone--Democrats, Republicans, Secretary Rubin, Chairman Greenspan, the President--agree should be part of the package. It makes sense to include it, because stimulating the economy is about changing behavior.

Bonus depreciation lowers the cost of an asset. When the incentive is a strong one, behavior is changed. A purchase is made that otherwise would not be and the economy is stimulated. But what happens if the incentive is weak, such as a 10 percent bonus depreciation deduction? Obviously, a tepid incentive will yield a tepid response.

But do not simply take my word for it, Mr. Chairman. A recent study by the National Association of Manufacturers shows significant advantages of a 30 percent bonus depreciation provision over a 10 percent plan.

The 30 percent plan would yield $74 billion more in GDP by the end of 2004 than would the 10 percent plan. This translates into faster GDP growth, which translates into hundreds of thousands more jobs.

This is not the time, in my opinion, for timidity. We need a stimulus provision that roars with the leadership of a lion, not a whimper of a kitten.

Personally, I favor a stronger depreciation measure than the one that was passed by the House. I introduced a 50 percent bonus depreciation bill and I failed an amendment reflecting that level. I hope, ultimately, that is what it will be, because it will probably do more than anything except accelerated rate reductions.

Bonus depreciation is probably the best single stimulus idea around, in my opinion, especially because we can all agree on it. So why would we include only a lightweight version of what should be the centerpiece of this bill, especially when we can agree?

The second example, Mr. Chairman, is the fact that the mark does not include the repeal of the corporate alternative minimum tax. We have thousands of distressed employers in America that are being mangled by the AMT, which is contributing to the number of layoffs we are seeing.

But when it comes to unemployment, this mark is trying to temporarily relieve the symptom, but it is not trying to find a cure. The symptom is unemployed workers, and they need and deserve our help. But do we better help them by merely easing their pain with extended unemployment benefits or by helping the employers create good jobs?

I believe most unemployed workers would rather have a paycheck than an unemployment check any day. But repealing the Alternative Minimum Tax we instantly strengthen employers, especially those in manufacturing and mining, where about half of the companies were paying AMT in 1998, even before the economy started slowing.

Now the AMT bite will be even more painful this next year.

Now, one reason I am baffled by the omission of the AMT repeal, Mr. Chairman, is that your mark does include another provision to assist distressed employers, as Senator Breaux has said, the net operating loss carryback provision, which I support and I think all of us will.

But why is it all right to help employees distressed by losses, but leave behind employers buffeted by the Alternative Minimum Tax? I do not see it.

My time is up. I thank you, Mr. Chairman. I will put the rest of my statement in the record.

The Chairman. Thank you very much, Senator. I appreciate that.

[The prepared statement of Senator Hatch appears in the appendix.]

The Chairman. Senator Conrad?

OPENING STATEMENT OF HON. KENT CONRAD, A U.S. SENATOR FROM NORTH DAKOTA

Senator Conrad. Thank you, Mr. Chairman. Thank you very much for your exceptionally hard work on this package.

As was stated by the Chairman, those of us who have special responsibility for the budget process early on got together on a bipartisan basis. The Chairman of the House Budget Committee, a Republican, and his Ranking Member, a Democrat, on our side, Senator Domenici, the Republican Ranking Member, and myself, agreed to a set of principles to apply to any stimulus package.

Those principles, fundamentally, were to provide lift to the economy now because it is weak, it needs help, but at the same time to couple that with long-term fiscal discipline so that we did not put upward pressure on interest rates.

In those principles, we agreed that most of the money should get out within six months. In other words, that it have rapid impact.

We agreed that it should be temporary. The proposals should sunset within one year. The reason for that, was so that we did not abandon fiscal discipline at a time the economy is anticipated to be recovering.

Also, because we looked at every single attempt by Congress to use stimulus to give boost to the economy. What we found, was every single time that Congress has tried to do it, it has come too late. Every single time. So, I think that principle is absolutely critical to any stimulus package.

Third, we said it should be approximately $60 billion in size. Fourth, that the money should be targeted. Stimulus dollars should go to those most likely to spend them and those most vulnerable in an economic downturn.

Finally, in terms of long-term effect, the package should not worsen the long-term fiscal condition of the country, and thereby put upward pressure on interest rates.

Mr. Chairman, in looking at your package, it passes every one of those tests. The proposals have a substantial portion of the impact within six months. You sunset the proposals within a year. You have held to the approximate size that was agreed to on a bipartisan basis.

You have targeted those stimulus dollars to those most likely to spend them and, therefore, most likely to actually stimulate the economy, and you have minimal effect in the surplus after this next fiscal year, so you do not put upward pressure on long-term interest rates.

In looking at the alternative package, we find that, fundamentally, it fails all of those tests. It fails each and every one of the bipartisan tests that were applied for a stimulus package.

Eighty-two percent of the tax cuts proposed by the other side are permanent in nature. Nearly half of the 10-year costs occur after the first year, so it is not sunsetting. It will fall prey to exactly the problems we have had in the past of coming too late.

It is much higher in cost than what was agreed to on a bipartisan basis, and much higher than what the President called for. The President called for $60 to $75 billion. The package, on the other side, costs $175 billion over 10 years, and that does not count the interest costs.

With respect to targeting, the proposal on the other side has 44 percent of the benefit going to the wealthiest 1 percent, the very people least likely to spend the money, the very fact that has been so wrong with previous stimulus packages because that will not stimulate the economy. The money needs to go to those who will spend it. Only 18 percent of the benefit goes to the bottom 60 percent of taxpayers.

Finally, the package on the other side reduces the surplus, which is fast evaporating by $200 billion after

2002. It digs the hole deeper. In effect, what is being done is to take people's payroll taxes and use them to give an income tax cut to the wealthiest one percent in this country. That not only flunks the stimulus test, that flunks the fairness test as well.

Mr. Chairman, I do appreciate what you have tried to do. We do need a bipartisan approach. The budgeteers on both sides were able to do that in setting forth these principles. I hope they are applied to any stimulus package, and any elements of a stimulus package, before we have concluded our work.

Mr. Chairman, again, my thanks to you for an exceptional effort, and I think an outstanding product.

The Chairman. Thank you very much, Senator Conrad.

Senator Gramm?

OPENING STATEMENT OF HON. PHIL GRAMM, A U.S. SENATOR FROM TEXAS

Senator Gramm. Mr. Chairman, we ultimately are what we do. Under Senator Grassley, with the Republican Majority on this committee, we came forward with a bipartisan tax package. We cut everybody's rate. We eliminated the marriage penalty, and we killed the death tax. We did it together. I think it represents a set of principles that I am very happy to be identified with.

As I look at what has happened to this committee with the change in leadership in the passage of six months, I think there could not be a more stark difference between what we did six months ago and what we are doing today in the name of stimulus.

Under the Democrat bill before us, we give a tax credit for turning chicken manure into energy and we call that stimulus. We give tax subsidies for distilling rum in Puerto Rico and the Virgin Islands and we call that stimulus. We have new subsidies for tobacco producers and we call that stimulus.

We have tax-exempt financing for private activities on Indian reservations and by Indian tribes and we call that stimulus. We give rebates of income tax revenues to people who have paid no income taxes and we call that stimulus.

Yet, despite all this squandering of the taxpayers' money, there is not one penny in this bill that provides any tax incentive to any American who pays income taxes. If you have a job, you are working, and you pay income taxes, there is not a single provision in this bill that in any way benefits you or provides you with incentives to work, to save, and to invest.

So 94.6 percent of people in America, who thankfully have jobs and who are in a position to spend their money or invest their money to create other jobs, are totally and completely excluded from this package. We subsidize drinking and smoking, but we do not subsidize investment and we do not subsidize working. I just do not think that makes any sense.

Now, everybody has said it, and everybody's feelings are a little hurt, but let me just say it as clearly as I can. In all of the years that I have been in the Senate and the House, in all of the years I have watched this committee, the product we are producing today is rank partisanship in the clearest form that I have ever seen it since I have served here.

To save my life, I cannot understand how this produces the end result that we all want and that we all, I believe, think will be required in order to pass a bill. The President asked us to join him in helping to grow the economy. But what we have before us today is a bill that basically helps grow the government.

Now, if you take the $20 billion that we have all heard Senator Byrd will add to this bill, we are talking about spending $85 billion. This is money that came from working Americans. It did not come from heaven. So we took it away from working Americans. What are we going to do with it?

Now, the Chairman tells us, $19.5 billion is going for tax incentives to businesses. But what he is not telling us, is over the ensuing nine years the Internal Revenue Service is going to come around and take back 87.6 cents out of every dollar of tax incentive we are providing, so that in the end, when you get down to the bottom line, only $2.4 billion in this whole "incentive package" is going to encourage people to invest.

You have got 3 cents of every dollar for incentives, 8 cents for New York, and 85 cents for more government. You cannot move a $10 trillion economy with $2.4 billion of tax incentives. In the end, I think this bill is pitiful. I think it is insulting. I am delighted I do not have to vote for it.

But I would say this. I came in here today believing that it could not be worse, but I was wrong. Now, not only do we have all the provisions that I talked about, but we are in the sugar beet business and we are providing tax credits for bonds for Amtrak. So in the end, this is a collage of political give-aways. It does not add up to stimulus. We would be much, much better off not to pass any bill than to pass this bill. This is an economic depressant bill.

I think it is very important that it not be passed. I am confident not one Republican will vote for this bill in committee, not one Republican will vote for it on the floor, and it will not pass.

So, we are going to have to come up with a way of coming together and deciding that we need to put together a bipartisan package, and I hope we can do it sooner rather than later.

The Chairman. I would like, now, to turn to Majority Leader Senator Daschle. As we all know, he has got a very tight schedule. He came here recently and I know we all want to accommodate him.

Senator Daschle, we would like to hear from you.

OPENING STATEMENT OF HON. TOM DASCHLE, A U.S. SENATOR FROM SOUTH DAKOTA

Senator Daschle. Mr. Chairman, thank you very much for your recognition. I appreciate very much the opportunity to go out of order. I thank my colleagues for that as well.

Let me just start where my colleague from Texas left off, and say that no one on this committee has worked harder at bipartisanship than our current Chairman. No one reported with greater regularity back to me and to many of our colleagues about his inability to get the kind of response, the kind of willingness that it takes to be bipartisan than our Chairman.

I do not know of anybody who has tried harder to do that, and I am sorry that our colleagues are disappointed. I share their disappointment. But there comes a time when we have got to get the job done, when we have got to move forward. That is exactly what the Chairman is doing today.

If there is a desire for bipartisanship, there will be plenty of opportunities over the course of the next several days. My hope is that we can complete our work today, move to the floor tomorrow, continue to work on this bill throughout next week and be done with it in the

Senate before we leave here. The sooner we leave, the sooner we are able to go to conference and the sooner we can meet the President's goal of trying to finish this bill before the end of the month. That is a doable schedule. We ought to be able to do it. But it will take bipartisanship and it will take cooperation on both sides.

So I appreciate very much the Chairman's leadership and his effort to do that. I hope that we all put our money where our mouth is, literally and figuratively, when it comes to the bipartisanship required to get this job done.

The Senator from Texas also noted a number of specific provisions. What he did not say for the record, of course, is that virtually all of those that he mentioned are tax extenders. If he does not like them, he should have voted against them last year. I think he voted for every one of them last year. He can vote against them this year. He can offer an amendment to take them out.

These are tax extenders that will expire and he is more than welcome to offer amendments to delete them, most of them, if not all of them, sponsored and co-sponsored by our Republican colleagues. So, there is plenty of opportunity to deal with these issues. I know he knows that. I look forward to working with him on those extenders as well.

At a time when unemployment and terrorism are the biggest problems facing this country, I think that this is the right plan at the right time. In the month following the terrorist attacks on our Nation, 415,000 people lost their jobs. It was the biggest one-month increase in joblessness in America in 21 years. All told, 7.7 million Americans who want to work are without work today.

An analysis warns us that between 1 and 2 million more Americans could lose their jobs in the coming year. This dramatic rise in unemployment would represent a crisis even if the Federal Government were still running record surpluses and our Nation were at peace.

But we are not at peace. We are at war, at home and abroad, with a vicious, determined enemy that has declared all Americans targets. A surplus which stood at $2.7 trillion just five months ago is now gone.

In the weeks following the September 11th attacks, Democrats and Republicans asked the experts, including Chairman Greenspan, former Treasury Secretary Bob Rubin, what are the most effective steps we can take to salvage our prosperity? They told us. They told us without equivocation: put money into the hands of people who will spend it quickly, low- and moderate-income workers.

They told us, help laid off workers with unemployment benefits and health coverage. They told us, cut taxes for business, but limit the tax cuts to those that will provide--and here is the important word--immediate stimulus. Make sure your plan is affordable and temporary. Our plan, Mr. Chairman and members of the committee, does exactly that. In fact, it does all of those things.

The experts also told us, if we are serious about lifting up America's economy, we must strengthen America's homeland security so people feel safe about getting on an airplane or going about their business.

Our plan helps to protect Americans from attacks, like the recent anthrax attacks that have so shaken our country and our own offices, as well as other biological, chemical, and nuclear threat. It strengthens America's transportation security and helps protect our food and water supply.

Our Republican colleagues in Congress and this administration, as they have noted, are proposing a very different approach. They call it an economic stimulus plan. In fact, it is another collection of tax breaks that overwhelmingly benefit the wealthiest Americans at the expense of everyone else.

It contains next to nothing to help laid-off workers and their families and nothing at all for homeland security. The centerpiece of their proposal is a plan to accelerate by four years the rate cuts in the $2 trillion tax cut enacted earlier this year.

The Republican version of the economic stimulus plan would speed up the rate cuts that cost $121 billion in this plan. That is 69 percent of the total costs of the plan.

What do Americans get for their $121 billion? Most get nothing. The top one percent of taxpayers, people making an average of $1.1 million, get an additional $16,000 a year tax cut in the next 12 months, plus a similar amount in each of the next three years. We need a plan, Mr. Chairman, that will help the economy now, not years from now.

I know I am out of time. I just want to, again, acknowledge the Chairman's work in bringing us to this point. I do hope, as many of my colleagues have advocated, that we can work together.

The plan that the Senate Democrats have crafted under your leadership is the only plan that meets the requirements the economists told us were critical if we are serious about economic stimulus. I commend you and the other members of our caucus for producing it, and I hope we can pass it and move it to the President as quickly as possible.

The Chairman. Thank you very much, Senator.

Senator Bingaman?

OPENING STATEMENT OF HON. JEFF BINGAMAN, A U.S. SENATOR FROM NEW MEXICO

Senator Bingaman. Mr. Chairman, thank you very much for your hard work. I join with Senator Daschle and many of the others who have complimented you on your extreme effort to get something of a bipartisan nature developed here.

I will just make four points. First, it is important we pass a stimulus package soon. I do believe this will help to cut short this recession we all now recognize we are in.

Second, it is important that we increase consumption. The big failure, I believe, economically is that we do not have people out buying. We need to give them funds to encourage that, provide tax relief to encourage that. We need to do it on a temporary basis. I believe the tax cut passed earlier this year, being a 10-year tax cut, was a mistake.

I think we did not know enough about the full 10 years to be doing that. I believe it is very important that whatever we pass here in the nature of a stimulus package be temporary.

The final point, is one that several have already made. That is, the tax provisions that are in the bill need to be aimed at helping those who will actually spend the funds that they receive through tax cuts. That is exactly what your Chairman's mark tries to do, and I compliment you on it and intend to support it.

The Chairman. Thank you, Senator.

Senator Thompson?

Just for the information of the members, I will give the order. After Senator Thompson is Senator Kerry, Senator Thomas, Senator Murkowski, Senator Nickles, Senator Kyl, Senator Lincoln, Senator Snowe, Senator Torricelli, Senator Rockefeller, and Senator Jeffords.

OPENING STATEMENT OF HON. FRED THOMPSON, A U.S. SENATOR FROM TENNESSEE

Senator Thompson. Thank you, Mr. Chairman.

Mr. Chairman, several people have expressed disappointment today. I guess my main disappointment is the fact that, after all this time spent on getting on the Finance Committee, I find that the House of Representatives has rendered it irrelevant and nothing more than a mere pass-through with regard to the most important economic issue facing us, a pass-through on the way to a place where we can get serious, supposedly. That is my understanding of where we are today.

I was very interested in hearing these talks of war, of national crisis, of serious matters facing our country in the same breath with sugar beet disaster programs, citrus canker payments, checks going to folks in Guam and American Samoa who filed no U.S. income tax returns, a COBRA extension that cannot possibly kick in and be implemented before the expiration date.

Does anybody really think that the folks who are going to be voting for this will not vote to extend it past one year? The name of the game is to create, of course, additional entitlement programs for that, and these agriculture programs, of course, which have mandatory spending, and all.

I find it somewhat in Congress that we talk about matters that are serious on the one hand, and this mark on the other, which is a grab bag of partisan spending proposals.

It must be very disconcerting to the American people that, facing what we are facing, a war on two fronts, an economy that is in trouble, unemployment up, consumer confidence down, and with a demonstration that we can work together and we have done so well with an anti-terrorism package, with an airport security package which we will shortly pass, the strengthening of our immigration laws, and all those things, we have stood on the Capitol steps together, literally, and worked together to get those things done.

But when it comes to dividing up the pie of who gets what in American society and how income transfers and redistributions are going to come about, we are like the close-knit family after the old man dies and leaving a lot of money. Now we are getting serious.

It is very unfortunate. I think part of it has to do with a misunderstanding of what stimulus is all about. I saw where someone said the other day he was tired of using the term "stimulus." I do not blame him, because there is not any in this package.

But if we want to get back to that concept, which is what we are supposed to be about, this is supposed to be an emergency. This is supposed to have to do with things that will help the economy, not my guys, not your guys, but to help the economy and to help everyone.

There may still be people around who think that the government spending quick, large sums of money on whatever kind of project will jump-start the economy. But, unfortunately, most of them seem to be in the U.S. Congress.

I do not think many economists think that any more. I think they have seen it historically. They have seen what the Japanese have tried to do in that regard. They have seen what one-shot attempts at reviving the economy have done. They understand that no new wealth is created by this.

We are looking forward to a $20 billion package, I understand, when we go to the floor. I can hardly wait to see what stimulus that is going to provide, where it is going to provide it, and who it is going to provide it to.

It will be an exchange of wealth, not a creation of wealth. Taxpayers' dollars going into the hands of contractors does very, very little for the economy. To the extent that it affects it all, it always affect it long after the fact, months and years after the fact, where really it winds up producing a counter effect in times when we are concerned about inflation.

You say, well, let us just put it into the hands of the consumers. If I had a penny for every time I have heard that, just to put it in the hands of consumers, we condescendingly tell them, we know you will run out and buy something with it immediately because our past history indicates that, well, does it? No, it does not.

Is there any evidence, number one, that sending out checks, they are going to be spent? No. The evidence is to the contrary, from the last checks.

Is there any evidence that that kind of activity will really stimulate the economy? The evidence is to the contrary, as far as I can see. There is no evidence supporting that unless it is accompanied by policies that are tax cuts that induce work, investment, innovation, increase national productivity, and create jobs. That is what it is about. Spending a dollar, in and of itself, is a minimal late-breaking effect.

Without getting into the details--I do not have time, obviously--I think for all of those watching, I think if you would just turn to the agriculture section of this script, this year the budget provided for an additional $7.5 billion in fiscal year 2002 for agriculture. We did that through the normal appropriations process.

This economic stimulus package provides an additional $6 billion just for five programs. That ought to be considered outrageous even in ordinary times, and I think doubly so in this time of national crisis.

The Chairman. Thank you, Senator.

Senator Kerry?

OPENING STATEMENT OF HON. JOHN F. KERRY, A U.S. SENATOR FROM MASSACHUSETTS

Senator Kerry. Mr. Chairman, thank you.

I would like just to focus my colleagues, I hope in a moment of fairness, on sort of why we get here. I think Senator Thompson referred to it momentarily, but a certain amount of finger-pointing was directed in the way the Chairman for this particular mark-up being "partisan."

Well, the record really needs to reflect properly that Senator Baucus did convene that meeting on September 27th with the Treasury Secretary herself, Ranking Member Senator Grassley, and the Chairman and Ranking Member of the House. The effort was made, outreach, let us be bipartisan. There was a genuine effort to proceed. There was an agreement that everybody would work together.

Then the next week on October 1, again the Chairman sat down with the Budget Committee Chairman and the Ranking Members to try to develop the numbers so we could all operate. That was the understanding on which we proceeded.

Then suddenly on October 5th, President Bush announced the partisan principles, the AMT, the repeal, the acceleration of the top rates. For another week, the bipartisan effort tried to continue. In fact, there was an agreement. They even started to work out the spending options.

Then, spontaneous combustion. Not the decision of our Chairman, not the decision of the members of this caucus on this committee, but on October 11th, Chairman Thomas reported that he was breaking off from the group and conducting a partisan mark-up in the House. It was his decision.

It was a Republican decision. A Republican President and Republican leader in the House might have intervened to say, no, that is not what we are going to do. We are doing this in a bipartisan way.

They presented us with $25 billion of corporate give-away and not one dime to go to working people out of work for health insurance, not one extension of unemployment benefits, nothing. So, nobody ought to question why we are here today where we are.

Then I hear Senator Gramm suggest that this bill is an economic depressant bill, and pitiful. Well, those were the same words he used for the 1993 Deficit Reduction Act, which then gave this country the greatest economy we have had in the last few years. So, maybe that is a recommendation to vote for the bill.

But the fact is this. The plan that President offers, which they try to suggest is a stimulus, Senator Gramm a moment ago said there is not one dime here that goes to somebody who does not pay taxes.

Senator Gramm. Not one dime to anybody who pays income taxes.

Senator Kerry. Income taxes. Wonderful. But he also did not tell you that there is not one break for anybody who pays income taxes who does not earn $66,000 or above. That is the break line in this bill, the accelerated schedule that they put which takes $121 billion over the next 10 years.

Where is the stimulus tomorrow in giving a tax break nine years from now to people who earn more than $66,000? That is the cut line in their tax bill. Our bill, on the other hand, tries to reflect the fact that, on September 11th, thousands of our fellow Americans were thrown out of work. The economy was going down before September 11th and a lot of people were losing their jobs even before that. That has been accelerated now.

In President Bush's plan, which Senator Grassley only references, there is not a dime in the proposal of the Republicans. In this specific proposal before the committee, it references the Bush plan with respect to unemployment and extended health benefits.

But even the Bush plan only gives unemployment and health benefits to those people who lost their jobs after September 11th, only in the States of Virginia, New York, and in New Jersey, and only for States where there is a 30 percent increase in unemployment during the subsequent weeks.

Now, if that is true, then a State that has a 5 percent unemployment rate has to go up to 6.5 percent to qualify for unemployment extension, while a State with 2 percent only has to reach 2.6 percent.

So, in effect, you are taking the States with the highest unemployment, with the largest pay-out, and you are not giving them any money and you are suggesting that it is better to give it to the smaller State that has a lesser level of unemployment. It is completely lopsided and without regard to what has happened on September 11th.

Now, Mr. Chairman, we are at war. A lot of people in this country have focused on what happened on September 11th to firemen, to police officers, to people at the bottom end of our economy. We have flight attendants who flew people home from places where their planes were locked down when the whole skies were shut down.

Then they got back in a plane, terrified to get back in a plane, to return passengers to their destinations to go home and get a pink slip, 140,000 of them in a matter of days. Nothing in their bill is prepared to help those folks pay their health insurance, be able to have increased unemployment. They simply cut them off.

Now, that is the greatest stimulus in this country, is to put money in the hands of people who will go out and spend it, because people who live paycheck to paycheck are the people who are going to spend that money, because they have to. We need to take note of that in our approach.

The Chairman. Thank you very much, Senator.

I note that we are graced by the presence of Senator Lott. Senator, we are glad you are here. Why do you not proceed?

OPENING STATEMENT OF HON. TRENT LOTT, A U.S. SENATOR FROM MISSISSIPPI

Senator Lott. Well, thank you, Mr. Chairman.

Let me say to my colleagues that have been here before me, I appreciate the fact that they let me go out of turn. Senator Daschle was here and has gone back. He and I are supposed to meet with the ambassador from Great Britain and some members of the House of Commons, and we do not want to miss that opportunity.

Mr. Chairman, thank you, though, for recognizing me. I must say, I am very disappointed in what we are doing here. Earlier this year you and Senator Grassley worked together very closely in a bipartisan way. There are those that did not like the product, but it was bipartisan. It was done in the way we should act around here. It passed with an overwhelming vote out of this committee and it passed. The final product was 60 votes, I believe it was, in the U.S. Senate. I had hoped and thought that is what we would do here now. But, no, that is not what we see. This is a totally partisan product.

I do not understand why it is going to be rammed through the committee this way with the expectation that that would happen on the floor of the Senate, too. I am here to tell you, that will not happen. First of all, I am not sure you have got the votes, even 50 or 51 votes, for this product, and you certainly do not have 60.

Now, what we are going to do, you can ram it through here if you want to, and I presume in some way or other you managed to do that. But when it gets to the floor, we are going to have a bipartisan product. We are going to have a product that stimulates the economy, not one that just reverts back to old spending programs, tried and true, that we tried over and over again.

I thought this was going to be a stimulus package instead of a pork package. Well, it has become pork. By the way, I admit it, I like pork. I have never seen a bridge or a highway project I did not like. I like agriculture and I like a lot of agricultural programs.

But in a stimulus package that is supposed to create job security, we are talking about spending money on apples and apricots, bell peppers and bison meat, blueberries, eggplants, lemons, pumpkins, and watermelons?

I guess that is stimulative. You would get energy from eating all of that. [Laughter]. But I do not see how spending tax dollars on watermelons and bison meat will help the economy grow. That is what we need.

We need something that will help us now, instantly, that will help create jobs, that will cause small businesses and larger businesses to buy equipment and hire people and turn over the economy, not something that would happen in three months, six months, a year, or two years.

The focus I thought that we agreed to with the President was, we would only do those things that would have a positive impact on the economy and growth immediately, something that would not have a negative long-term impact.

By the way, we are headed right now, if we do not watch it, to having $100 to $150 billion deficit in the next fiscal year. After all of the work, all the good work, and all the cooperation, all the hell we have gone through to try to have a balanced budget and a surplus, with a flick of the wrist we are going to use the cover of September 11th as an event to start back on just a spending binge.

Also, I thought that the President asked for, and the leaders agreed to, and Alan Greenspan asked for, and Bob Rubin said, that we should do those things that would only have a stimulative effect. This bill does not do that.

We have tax breaks that are being advocated for cement mixers and citrus growers, tour operators, and stock options, tax breaks for TV producers and off-

Broadway theaters. My goodness, I do not know where al this came from or where it will lead to.

We all know where we are going to wind up. Why do we not just get there? The American people have been giving the Congress the highest ratings in history by 20 points. Why?

Senator Gramm. They are confused. [Laughter].

Senator Lott. I am on a roll here, Phil. [Laughter].

Senator Gramm. Please forgive me.

Senator Lott. Well, they thought, because they saw us working together. They thought they saw us, in the other instances, doing things in a non-partisan way. Now, here we are, back to our old ways of doing things. Well, now, some people would say, the House made their political statement, let us make our political statement. We are running out of time.

How are we going to get together on this? We know full well, in the end, we are going to do what needs to be done on unemployment compensation, one. We know we are going to do what needs to be done on protection of health care for those that lost their jobs.

We are not going to do what you have in your package. You know it, we know it, I know it, everybody knows it. It is not going to happen, because you have got Democrats that are not going to vote for that. We have got Centrists over here that are not going to vote for that. We are going to come up with something that makes more sense.

We know we are going to do something on rebate checks for low-income people. I am not an advocate of that, but that is a done deal. The President has said, yes, let us do it. We all know it. We are going to do it. That is going to take half of the package.

Then the question is, is the other half going to be just a bunch of spending stuff or are we going to provide some tax incentives that will stimulate the economy? We are going to do that, in the end. We all know it. Why do we not do it now? Why do we not do it without bloodying each other up on the floor of the Senate and looking bad? Why do we not go ahead, just cut to the bottom line and get this job done?

I am sorry we have chosen partisanship. I am sorry we have chosen this route. I am not quite sure who is to blame. But what is important, is who is going to solve the problem?

I suggest that we let Senator Grassley and Senator Baucus stop this now, go off, do what you know we are going to do, and let us be done with it. Let us help the economy. Let us not drive the deficit through the ceiling. Then let us go home and tell the American people we did the right thing.

Good luck, Mr. Chairman.

The Chairman. Thank you.

Senator Lott. Thank you, Mr. Chairman.

The Chairman. I appreciate your remarks.

Next, Senator Thomas?

OPENING STATEMENT OF HON. CRAIG THOMAS, A U.S. SENATOR FROM WYOMING

Senator Thomas. Thank you, Mr. Chairman.

I do not know quite what to say. People are so undecided and do not have strong views here, I noticed.

I am new, however, to this committee. This is kind of a new experience for me. Frankly, I am a little stunned by it. I have been in the Senate now for almost seven years and I have not seen a performance quite like this, I do not believe.

We started out, of course, particularly since the 11th of September, being pretty much together on most everything. This is part of that same emergency that we dealt with before. Yet, I guess I am stunned by the way this has developed.

I know we have different views, of course. We have different philosophies, a lot of us, and we would approach things a little bit differently. But to come forward with a bill that is totally put together on the other side of the aisle is a surprise to me.

The President did outline a bill which I think had a good amount of substance, and I thought really dealt with the issue. So, I made up my own personal mind that I wanted something in this package that would encourage the creation of jobs. I do think job creation is what we ought to do rather than just payments to people.

I think we have to help those people who are now unemployed. That is part of it. But not to make it a Christmas tree. I came across this thing that came out today, with all of these agricultural things. We had an agricultural mark-up today, Mr. Chairman. You were there. We are dealing with these in another area, and here they are, all of them.

So I do not think--and I am just going to be very brief--this bill meets those criteria that most of us had in terms of being able to have an impact quickly. We have talked to economists who know how to do that. This bill does not do that.

We needed to help some people. This helps a few, but does not help them, in a way. It is a Christmas tree. These are the things that we, I think, intended not to have happen.

So, I think we need a bill. I think we have an obligation to come with a bill. I think we have an opportunity to put something together that has more substance, that has some common ground, and I certainly look forward to that happening.

The Chairman. Thank you, Senator.

Senator Murkowski?

Senator Murkowski. Thank you very much, Mr. Chairman.

Sometimes we have a tendency to talk beyond each other, and I think that is what is happening now. I think it is unfortunate, but nevertheless it is a reality and we are going to have to pick up from where we left off.

In the years that I have served on this committee, I have never seen the process so bleak. I have never seen it break down quite to the point that it has on such an urgently needed bill.

I cannot really imagine a worst time for partisanship to be this extreme than when the country is really fighting a war, a war on terrorism abroad, a war at home where the economy is in serious trouble. After all, stimulus means just that.

Here is a headline in the paper today, the *Washington Post*. It is very clear. It says, "Impasse on Stimulus Could Deepen Downturn."

Mr. Chairman, impasse is exactly where we are today. I wonder if any of us really want to inflict more harm on the economy. Have the American people not suffered enough since that September 11th disaster?

Of course, Mr. Chairman, you have the votes. We have discussed that. You can report this bill out. But you know that you do not have the votes to get the bill off the floor of the Senate.

There has to be a compromise, a compromise between the administration, the Republicans, the Democrats. I think it would be far better if we could achieve a bipartisan compromise here in the committee instead of facing what is going to be a guaranteed gridlock on the floor of the Senate.

One thing is clear, at least from the standpoint of this Senator. I would rather have no bill than the bill we have before us. I hate to say that, but that is just a harsh reality.

For what this bill does, is simply create new entitlement spending and rewards special interests, while doing nothing--nothing--to stimulate the economy.

Mr. Chairman, we have got business investment in a freefall in this country. It has plunged at an 11.9 percent annual rate in the third quarter, after having fallen 14.6 percent in the second quarter. That is a free fall.

When Alan Greenspan and former Secretary Rubin came before this committee, both agreed that bonus depreciation would be the very best way to jump-start the business investment.

Yet today when we look at the 10-year costs of the mark-up document before us today, we spend more than twice that much to bail out--and it has already been said--the bison ranchers, the strawberry growers, and other farm interests that we provide for bonus depreciation.

Let us look at that difference, Mr. Chairman. It is $6 billion vis-a-vis $2.1 billion. Now, that is where it is. Does anyone think that businesses are going to change their investment patterns because they can write off a mere 10 percent of the costs of new equipment in the first year?

The Republicans have a 30 percent bonus depreciation proposal that is going to last three years. Surely this is a far more generous plan, would give many companies the needed incentive to reexamine their investment plans, increase inventory, and provide more employment.

Mr. Chairman, the other things that both Mr. Greenspan and Mr. Rubin agreed on, is that anything we do should be temporary, because whatever stimulus we provide could be taken away by higher interest rates if the bond market thinks that, over the long term, deficits are likely. Clearly, deficits are. We do not know what the costs of this war is going to be. Unfortunately, that is exactly where we are heading if we adopt the new COBRA entitlement contained in the bill.

Now, I know in the Chairman's mark the suggestion is that this new entitlement will expire at the end of 2002. But I have been around here long enough to know that, once we create an entitlement, it will become a new extender added to the already-too-long list of extenders.

Just look at the package before us today. There are 13 so-called temporary provisions that are being extended, including the subsidy for, as we have already said, the chicken manure business. Now, mark my words, if this is adopted into law, it will be a permanent $14 billion a year entitlement.

Let us look at what the President has said. He said October 4, "There are two other aspects to a good, strong economic stimulus package, one of which is trade promotion authority and the other is an energy bill." He further states, "The less dependent we are on foreign sources of crude oil, the more secure we are at home."

Well, Mr. Chairman, let me tell you, we talk about stimulus, and we have talked about all kinds of stimulus here. There is one stimulus that is going to be proposed in this bill that is a real stimulus, and that is included in the energy bill, where we are talking about, in the opening of Anwar alone, creating 200,000 jobs in this country in virtually all of the States, generating almost $3 billion in revenue from lease sales.

The stimulus is, Mr. Chairman, it is not going to cost the taxpayer one red cent. Now, that is where you can find true stimulus.

Finally, I am very disappointed that my staff was told that the extension of the trade promotion authority would be ruled as non-germane, even though the Chairman's mark contains three trade-related items, GSP, trade adjustment assistance, and the trade initiative. If anything can give the economy a shot in the arm, it would be new trade negotiating authority.

As the Chairman stated on May 25th, "In a market-based economy, the rule of law and the reduction and elimination of barriers to foreign trade all lead to greater growth for us and for our trade partners, and for the global economy. Today, even more, the President needs that authority to help bring this economy back on track."

As a consequence, Mr. Chairman, I believe it would be better to do nothing than to adopt your mark. I would suggest, instead, we cancel this mark-up, and then you sit down with Senator Grassley and the administration to see if we can develop a real worthwhile bipartisan package.

The Chairman. Thank you, Senator.

Senator Nickles?

OPENING STATEMENT OF HON. DON NICKLES, A U.S. SENATOR FROM OKLAHOMA

Senator Nickles. Mr. Chairman, thank you very much.

I want to compliment you and compliment Senator Grassley for the outstanding work you did in marking up a bill earlier this year. I complimented you then, I will compliment you now, for that work that was done several months ago.

I am shocked and disappointed at this product that goes under the name of stimulus. This bill, as Senator Murkowski just said, would do more harm than good. I absolutely believe that.

Somebody has to pay for it, so it is coming out of working people. People who are paying taxes will eventually pay for this, and they get nothing. They get absolutely nothing to help stimulate the economy, to create incentives for jobs. Nothing.

Somebody said, wait a minute. What about that 10 percent? You all have 30 percent. We had 30 percent for three years. I used to be in business. If you give a 10 percent accelerated depreciation for 12 months, most acquisitions that you have are longer term than that. So you might do something that maybe would have occurred in 2003, you might move it up to 2002. That is hardly what

I would call stimulus.

But for your employees, for the people who are working, for the people who own the businesses who are making decisions to employ people, this thing does nothing. The net benefit on the 10 percent bonus is $2 billion, $2.4 billion over the entire time, if you include the five-year net operating loss carry-back and the Section 179. If you add all that together for the 10-year period, it is $2.4 billion. That is about 5 percent of the total package on a 10-year basis. That is pathetic. That is absolutely pathetic if you want to go under the guise of saying, we want to stimulate the economy.

Now, I heard Senator Daschle pull out the class warfare rhetoric and that disappoints me. But, again, it makes me remember that we had to go through that when we passed the first tax bill. Again, Senator Grassley and Senator Baucus worked together.

We had the same composition in the Senate, 100 members. There is no reason why we cannot have a bipartisan package now. We had one then. We basically held together. We had a good vote in the Finance Committee, we had a good vote on the floor of the Senate. The basis of that bill became law.

The basis of the mark-up the Chairman has now will

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missing

this committee. The Senate can do better. We certainly should do better.

Also, I want to correct one statement that was made by Senator Kerry. He said, this only benefits people making $70,000. The main tax cut, the biggest bulk of the tax cut that was in the House bill, was moving the tax rate from 27 percent to 25 percent, effective January 1 of next year. That applies on taxable income for individuals, I believe, around $28,000, and about $45,000 for couples.

So under the bill that we were going to be pushing, that we will be pushing, we want to give tax cuts, effective January 1, to individuals that make $28,000, or couples that make $45,000. We want them to have more of their own money to spend, and we think that will help stimulate the economy. They are given more incentive to work.

We want to allow people that own businesses to really be able to recapture some of their investment more quickly, not 10 percent for one year, but 30 percent over three years. That will help the economy.

This, Mr. Chairman, with all due respect, is not a stimulus package. It is a drain on the economy, a drain on taxpayers, and we will not let it become law.

The Chairman. All right. Message heard.

Senator Gramm. Why do we not just adjourn, Mr. Chairman?

The Chairman. Message heard.

Senator Kyl?

OPENING STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM ARIZONA

Senator Kyl. Mr. Chairman, the President asked us, in all seriousness, to send him a stimulus package. What the Republican Minority has done is exactly that. We did not send him something that was partisan. The President, I would note, specifically withheld proposing several things which I am quite sure he supports, but which he thought might be construed as partisan because he knew that some Democrats do not support them.

Things like making the death tax cut permanent, something that we voted for, we passed, the repeal of the death tax. We ought to have the courage to make it permanent. Things like reducing capital gains.

But the President did not include those things in his package because he did not want to create any suggestion at all that he was proposing anything partisan. He wanted to maintain bipartisanship in this time of war. Therefore, he proposed a much more limited measure. That is precisely the measure that we have offered here today.

By contrast, the bill that has been proposed by the Democrat Majority obviously made no such effort at bipartisanship. Indeed, it appears to be a collage of Democrat wish lists, from livestock assistance, to new entitlements, all the things you have heard about here today, but very little, if anything, that will actually stimulate the economy.

Given the amount of money that would be spent under the Democrat bill, as several have said, we would be better off passing no bill than their politically-calibrated compendium of special interest provisions.

Criticism of the Republican bill is a direct criticism of the President, because it is his bare-bones proposal that we introduced. So to my Democratic friends I say, do not take refuge in calling Republicans partisan. If you object to our bill, then criticize the President directly. Have the courage to do that, because it is his proposal. The truth is, he is right and you are wrong.

As the chart shown earlier demonstrated, the problem is investment, not spreading around other people's money to favored groups. That is why the President's proposals are designed to stimulate investment.

Now, some of my Democrat friends say, well, rich people do not spend. Only poor people spend money. Think about that for a moment. That is absurd. It is voodoo economics. AMT relief for a business, for example, provides money for reinvestment. Neither rich people, nor corporations, hide their money in a mattress.

They invest it. What does that do? It creates jobs.

What do we need to do today? Create jobs. What happens when we do that? People have more money to spend. I would rather have people have a job than an unemployment check. I would rather people spend their paycheck than their unemployment check.

I read an article in this morning's paper, I believe, in which a key Democrat political operative said, in effect, we will stand with the President on matters relating to the war, but on the domestic front we will use issues to our political advantage. Unfortunately, writing our economy is critical to the war effort and we shouldn't be playing politics with it.

So let us stop the political games. Time is short. As Senator Lott said, if you are really committed to passing a bill--and perhaps some of my colleagues are not--then we have got to start compromising sometime. I would suggest we start now. The American people support the President. We should, too.

Thank you, Mr. Chairman.

The Chairman. Thank you, Senator.

[The prepared statement of Senator Kyl appears in the appendix.]

The Chairman. Senator Lincoln?

OPENING STATEMENT OF HON. BLANCHE L. LINCOLN, A U.S. SENATOR FROM ARKANSAS

Senator Lincoln. Thank you, Mr. Chairman. I will be brief.

I want to thank you for your willingness to navigate the difficult terrain that you have had to navigate over the past several weeks in working with all of the members.

I am not going to talk about partisanship. I think all of us are here. We all have a say, and we are saying it. We will be able to vet concerns here, and we will vet concerns on the floor. I appreciate your leadership in bringing this package to the committee and allowing the committee to have its jurisdiction.

I also appreciate the package that you put together which reflects the principles of which we have all spoken in terms of immediacy and short-term, looking at what it is we have to do in stimulating the economy of this great Nation. I have a great deal of confidence in the resilience of the American economy. We have been through hard times before, and hard times are inevitable in the future.

I believe in capitalism and the value of work, and the value of good product. That is what is at the core of American capitalism, and the core is solid. While I believe the economy will rebound with strength, I support helping businesses smooth out the ride through this very difficult period that we are in.

But I cannot, in good conscience, support these businesses alone. The historic difficulty with our great economic system is the effects that unavoidable downturns have on the American family. The people who will be most affected by this downturn are the workers.

That is why I am proud to support the Chairman's mark. It does right by the men and women who do the living and working in this country, the people who we represent in this very body, the workers and the families who are struggling through this bad time.

The 700,000 men and women who have lost their jobs, well over half of them since the horrific events of 9/11, I think the Chairman has put together a good and balanced package of business incentives, unemployment insurance, health care provisions, and help for the States that are falling on dire straits.

I look forward to working with you, Mr. Chairman, both here in the committee and as we move to the floor, in making sure that we get a good, solid package on behalf of the American people.

I thank you again for your leadership. I note that my light is still green. Thank you.

The Chairman. I thank you for your followership.

Senator Torricelli?

OPENING STATEMENT OF HON. ROBERT G. TORRICELLI, A U.S. SENATOR FROM NEW JERSEY

Senator Torricelli. Thank you, Mr. Chairman.

Mr. Chairman, all of us have been relieved that, in the anthrax scare, it has proven not to be contagious. I think all of us are aware that, with the economic contagion that began on September the 11th, we have not been so fortunate.

There is an economic infection in this country. It may have begun with the airlines, but it went quickly to hotel and restaurant workers, to retail establishments, and is now affecting every business and every State in the Nation.

In responding to this crisis, we would all prefer that there be a bipartisan answer. But there must be an answer. The Chairman of this committee first informed the Democrat members that we were going to meet in caucus and we were going to fashion a response, only to be met with the news that the House Ways and Means Committee, the Republican Majority, had their own answer. We were startled even further to discover that the Minority in this institution then announced their answer.

I would still prefer that there be a bipartisan bill. We should be bipartisan when possible, but partisan if necessary, because no bill is not an answer. An enormous amount of time has passed since September the 11th, when measured by the loss of jobs, and health insurance, and the fiscal strength of our States.

This legislation may not be perfect, but it does have the major components of what we have a responsibility to do. First, our first responsibility is to those who have already lost their employment and for whom the calendar is now running on their unemployment benefits.

People who are economically concerned may spend less money. People who have lost their jobs spend none. That economic contagion is certain to spread. This bill deals with it.

Second, those who have lost their jobs also lose their health insurance. It is not fair to the children of those who have lost their jobs that they are now victims of this terrorist strike. This bill deals with that.

Third, the economic contagion may have affected the balance of the budget of the U.S. Government, but that is nothing compared with what it has done to the State governments, where today's deficits are going to lead to a massive loss of public employment next year, a decline in State spending, which will also contribute to this downward economic spiral. This bill, by increasing federal contributions for health care premiums to States, deals with that reality.

Fourth, my Republican colleagues may be right that there is a crisis in business investment, but there is also a crisis of consumption and every retail establishment in the Nation will attest to it.

This legislation, by using the very formula this committee used last year of a rebate to taxpayers--in this instance, moderate- and low-income taxpayers--by getting resources into their hands, deals with that reality, the people most likely to spend money in retail establishments for consumption immediately.

Finally, if I could say a word regionally. It is a change of fortunes that a Senator from New Jersey has had to bring to the committee the economic distress of my neighbors in New York, but it is a reality.

What happened on September 11th, for some Americans, is starting to recede into their memories. The crisis in New York is still real and it is growing. Thirty percent of the people who lived in Battery Park and lower Manhattan have simply abandoned their homes.

Fifteen million square feet of office space in the World Trade Center may have been destroyed, but 30 million square feet of office space has been abandoned. The economic distress of New York is being multiplied.

This legislation deals with that reality with a residential credit and an employment credit to stabilize the loss.

Finally, Mr. Chairman, I make no apologizes that, in addition to the tax credits, in addition to what we are doing for consumption, we are also aiding direct employment.

There is nothing inefficient--indeed, there is assured employment--if, under the provisions of this legislation and its companion in direct appropriations we are providing funds directly to the building of railroads and roads.

One hundred cents on the dollar of that employment going to projects for which there are blueprints, there may be approvals so construction can begin in the next year, assures that this rising tide of unemployment will be quelled.

There is nothing new about that formula. From the WPA in 1933 to the last four decades of American economic response, there is not a State in this Union where, when we dealt with this rising unemployment, we did not assure direct federal spending.

I close on that note, because I am very grateful to the Chairman that there is money in this legislation for bonding, to begin at long last the construction of high-speed rail systems around the Nation.

When airlines were grounded, people went to railroads. Railroad ridership in my region of the country has increased by as much as 65 percent. It was our only link with the Nation. There is not one State represented around this table that did not find a 10, 20, 30 percent increase in ridership.

If we can now provide a duality of a transportation system, regionally providing high-speed rail with the employment that goes with it, it is the best investment that we will make. We were going to do it for years. It is now in this legislation. It is a good addition, and I am very grateful to the Chairman for providing for it.

Mr. Chairman, if we can make this a bipartisan bill by the time we move to the floor, or on the floor, we will have done a good thing. But if you cannot find a partner, then we have to meet our responsibilities. Make it bipartisan if you can, but go it alone if we must.

The Chairman. Thank you, Senator.

Senator Snowe, I inadvertently overlooked you the last time around, and I apologize.

OPENING STATEMENT OF HON. OLYMPIA J. SNOWE, A U.S. SENATOR FROM MAINE

Senator Snowe. Thank you. Thank you, Mr. Chairman.

I, too, want to express my profound disappointment about the way in which we are proceeding here today with respect to this mark-up on a very significant issue facing America today.

I am also deeply disappointed because, if there is ever a time that Congress should be united, it is here and now. This is the circumstance today in this committee that could have been, and should have been, avoided.

It sort of reminds me of what Mark Twain once said: "Always do right. Some people would be gratified, and you'll astonish the rest."

Unfortunately, we have done neither today. But I am astonished by the fact that we reached this point in time. This is not any ordinary time. It is not an ordinary circumstance.

I think about this institution, I think about this committee. I think about other Congresses in historical circumstances and how they responded, how they rose to great heights. We are certainly not soaring to legislative heights here today. This is not my definition of *Profiles in Courage*.

I think about how Congress responded to Franklin Delano Roosevelt during the New Deal in the first 100 days, initiative after initiative. I think about how Vandenberg tried to cobble together, and did, the Marshall Plan to rebuild Europe, shuttling back and forth feverishly to get bipartisan support. That is what I think about.

I cannot understand why September 11th did not motivate us to work together to do what is right in the best interests of this country. The President is fighting a war on two fronts, both at home and abroad, on terrorism. We ought to do our part in helping the economy.

We started off right. I did not think there was a statute of limitations on bipartisanship. Maybe bipartisanship became too much of a good thing over the last two months. But the economy has not improved. The fact is, it was a fragile economy going into September 11th. As we all well know, September 11th dealt a very serious blow to a faltering economy.

Just look at the facts. We have heard them all here today: almost negative growth in the economy, the most significant decline in the quarter since the 1990-1991 recession, consumer confidence is the lowest since 1994, the biggest drop since 1987.

A million jobs were lost up until last July. We lost 415,000 jobs in October, the biggest decline in 21 years. I happened to have been talking to a CEO today of a major company in America. He said industrial manufacturing is suffering.

He said, do you know what surprised me? Everybody in Washington expressed surprise about the number of jobs lost in October. He said, that is just the beginning. He said, all of my counterparts are looking to downsize their budgets until they have certainty in this economy.

You look at the analysts today, as Senator Murkowski raised. The analysts read these articles very carefully. What do they say? "The Federal Reserve has done its part with monetary policy, but if Congress does not come through with a sizeable fiscal stimulus package, that will be a definite negative for the market." The *New York Times*.

The Federal Reserve has acted 3 times since September 11th, and 10 times in this last year. So what do we need to know? What do we need to know? That we are dithering while America suffers? We could have had bipartisanship here, Mr. Chairman. I have to say that.

I told my leaders on my side I would vote against a Republican plan, I would vote against a Democratic plan, because I do not think that is the way we ought to proceed in America. I do not think this is the way we ought to proceed here. I really do not.

What is it that we do not get? We hear about the House of Representatives. Well, I will have you know, first of all, I served 16 years, as many of you did serve in the House of Representatives. It never occurred to me that the Senate cared two hoots about what the House did.

But since that has become a major issue here, let me clarify some points. On that tax bill last year, they did the same thing. They moved ahead on a tax bill last spring. That did not deter Senator Grassley, who was then Chairman, and Senator Baucus from moving ahead in a bipartisan fashion. No, it did not.

The fact is, ultimately that bill produced 62 votes in the U.S. Senate and turned around that conference in three days. Going into a conference divided gives us strength, as we did in the Aviation Security bill, 100 to nothing. It puts us in a powerful position.

What does it do to go into a conference so divided on this very issue? No one has explained that. Now I hear we cannot compromise twice. I never knew that there were limitations on compromise. I never counted up the times I ever compromised to do what is right.

Does that meant hat we are rendered irrelevant here in this institution, that we leapfrog over the committee, we leapfrog over the Senate and go right to conference with the most hardened, polarized position there is? I hope not. I hope not, because America has had enough bad news.

So now we say, well, we did not have any bipartisanship here. Well, Senator Baucus and I worked in the Centrist Coalition. We know there are possibilities. I realize the Centrist Coalition is not a committee, but many of the members on this committee are part of that coalition. We know that there are infinite possibilities.

We met, Mr. Chairman, with Chairman Greenspan and ex-Secretary Rubin back on September 25 and 27, under your direction. It was the right way to proceed. But what happened in the five or six weeks in that interim? There were not any efforts to pull us all together and to work together. None of it.

I came across Senator Byrd's speech before the Leader's Lecture series that he gave back in 1998. He said, "On the great issues, the Senate has always been blessed with Senators who were able to rise above the party and consider first and foremost the national interests. There are very worthy examples in Senate history."

I want to be one of those worthy examples. My deepest concern is that this is a predictor of how this bill is going to fare on the floor of the Senate. I am not hearing that we are going to try to work this out, and that there is a commitment to work this out on a bipartisan basis. But I am just telling you here and now, there must be, there shall be--and, Mr. Chairman, I would give compromise a chance. Keep the door open.

The fact is, I would follow the suggestion where Senator Lott said, adjourn. Recess so that we can come together to reach an accommodation. These are extraordinary times for Americans. They do not need to hear us divided. They do not need to read these headlines that a stalemate may hurt the economy. Americans are already suffering.

The Chairman. Thank you, Senator.

Next, is Senator Rockefeller.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, A U.S. SENATOR FROM WEST VIRGINIA

Senator Rockefeller. Thank you, Mr. Chairman.

Senator Snowe, I would say to you that you are a worthy Senator, and that was an extraordinary statement of conscience. I do not happen to agree with all of its premises, but your sincerity was powerful and helpful, deeply helpful.

I support the Chairman's mark because I think it does help America in some of the ways that Senator Torricelli talked about. It is stimulative. It has an immediate effect. It is short-term. It is business spending, individual spending. It helps the people who need the assistance and it addresses some very, very serious problems in a majority of our States.

I think it is serious work. I think it is good for the country. I think it is better than any other package that we have either before us, or having the possibility of being before us.

I congratulate, in very sincere terms, the Chairman of the full committee in bringing forth this package, which I fully support.

The Chairman. Thank you, Senator.

I note a vote has started. There are two more

Senators that have not yet spoken. My thought is that it would be appropriate for them to give their remarks. I will then recess and come back after this vote and commence with the mark-up.

Next on my list, is Senator Jeffords.

OPENING STATEMENT OF HON. JAMES M. JEFFORDS, A U.S. SENATOR FROM VERMONT

Senator Jeffords. Thank you, Mr. Chairman.

I want to echo the comments to my good friend from Maine and let her know that I have not lost my own confidence that we are going to get together on a bipartisan bill. I am going to support the Chairman's mark to get us in the position where we can get a bipartisan bill.

Today, I am pleased to support the Economic Recovery and Assistance for American Workers Act of 2001 as an important step leading to the enactment of a bipartisan stimulus bill.

This legislation will help those who have lost their jobs in the aftermath of the terrorist acts of September 11th. It will help them keep health insurance coverage for themselves and their families as they seek new employment.

COBRA provisions, an existing mechanism to allow these laid-off workers the opportunity to keep health insurance while they seek new employment, for all of its strengths, COBRA has some significant deficiencies.

While it allows those who have lost their job to keep their health insurance coverage, it requires them to pay the entire premium at a time when they have no income. The high cost of COBRA is the major reason cited for the fact that only 18 percent of eligible enrollees utilize their coverage option.

Legislation that I introduced, the COBRA Plus Act of 2001, solves this problem. It provides a 50 percent subsidy for the individual's health insurance premium. This subsidy would be a refundable tax credit, which means it is available regardless of one's tax liability.

The credit would be advanced directly on a monthly basis to the individual's employer or health insurance plan by relying on the Tax Code rather than a program expansion. The credit will go directly to individuals, and thereby encourage a sense of personal responsibility in health care.

In my home State of Vermont, as is the case across the country, recent events have put the security of a well-paid job with health insurance coverage at risk. It is important that we here in Congress help to restore the confidence of the fundamental strength of our Nation's economy.

Americans should know that they will still have productive jobs with health insurance coverage for their families, now and into the future.

Mr. Chairman, I am supporting your package, not because I support every provision, but because I think this legislation is a good first step along the road to getting an economic stimulus package enacted.

As this legislation moves forward on the Senate floor, we need to work on a bipartisan basis with the administration to develop an economic stimulus package that reflects the three principles outlined by Secretary O'Neal.

The package must restore consumer confidence, for with the restoration of confidence the American people will again begin buying our Nation's goods and services.

We must also support increased business investment. Business investment is what creates new jobs and is the engine of our economy.

Finally, and I think most importantly, we must help those individual Americans who lost their jobs as a consequence of the terrorist bombings of September 11th.

I am confident as we go forward that we are going to have a bipartisan package, and we will do what we are supposed to do.

The Chairman. Thank you very much, Senator.

Finally, batting clean-up, is Senator Graham, from the great State of Florida.

OPENING STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM FLORIDA

Senator Graham. Thank you, Mr. Chairman. Seeing what time it is on the clock and knowing that we have a vote and I may be the last person between starting the actual mark-up, I will be brief.

I would ask permission to file my statement, and will just make a few excerpts.

The Chairman. Without objection.

[The prepared statement of Senator Graham appears in the appendix.]

Senator Graham. I also have a personal interest. Tomorrow is my birthday. It is not only my birthday, it is my 65th birthday. I hope that we will be through in time that I can be home to celebrate it.

There will not be a lot of people celebrating their 65th birthday tomorrow because there were not a lot of people born in 1936 when I was born. But 10 years from now, there will be a lot of people celebrating their 65th birthday, and 20 years from now, even more.

I believe that, while we are focused on our immediate circumstances, we also need to be sensitive to those Americans who are still 10 and 20 years away from reaching the age of retirement.

Every dollar that we spend on this program potentially has the effect of being a dollar taken away from our capacity to support the contracts that America has written with its people that they will receive benefits at this magic age of 65.

To that end, I believe we have got to be focused on the issue of economic stimulus, but also fiscal discipline. We must be efficient with how we allocate our resources. We must minimize their decadal cost, and we must act in a way that does not put upward pressure on long-term interest rates.

I want to compliment our Chairman, because I believe he has submitted us a set of proposals which will accomplish those three objectives. The rebates, the bonus depreciation, and the assistance to the unemployed all are within those three standards.

As so many of my colleagues have said, I join them in my particular support for the focus on those persons who have lost their jobs as a result of the events of the last two months.

Failure to provide these safety net measures will close down the spending capability of those American families in greatest needs, and the most likely to spend the benefits that we provide, which is what the economy needs.

This is an excellent proposal. There is no question that we need to move forward with these sensible policies, and do so within the context of not exacerbating the long-term fiscal pressures that will be presented to us within the next decade, in terms of particularly the solvency of Social Security and Medicare. These will continue to confront the Nation. We have not repealed the demographic time clock. So, economic stimulus today, but within the context of fiscal discipline for tomorrow.

The Chairman. Thank you, Senator.

The Senate will now recess, subject to the call of the Chair. My expectation is that that will be just after this vote, maybe about 10 minutes.

[Whereupon, at 4:40 p.m. the meeting was recessed.]

AFTER RECESS

[5:05 p.m.]

The Chairman. The meeting will come back to order.

We are now at the stage where, after we have heard from all of our members various characterizations of the bill from all sides, we are now going to hear a description of the bill.

I would like Mr. Sullivan to begin with the tax provisions. Then I will ask Ms. Fowler to describe the health provisions, and Greg Mastel will describe the other provisions.

Is that all right, Senator Grassley?

Senator Grassley. Yes, that is very good. I will have some questions on the tax provisions, and maybe a couple on the health provisions.

The Chairman. Sure.

Senator Grassley. But I do not think we are going to have to have a lot of discussion, particularly if we do not have more members here to do it.

The other thing is, I think that I want to say to you that, on our side, it would be our intention that we would get this bill done tonight. I do not think that necessarily means well into the evening. I do not know exactly the number of amendments, but I think that we would get done fairly early this evening.

The Chairman. Good. I would hope so. All right.

Mr. Sullivan, why do you not proceed?

Mr. Sullivan. Mr. Chairman and members of the committee, I will describe, briefly, the tax components of the Chairman's mark.

There are four major divisions. The first, is a one-time supplemental rebate. This would be provided to all individuals who filed a federal income tax return for the year 2000. Those that filed a return but did not receive a check this summer would get the full $300 for singles, $500 for heads of households, $600 for married couples. Those who filed a return in 2000 who received a partial check this summer would receive a true-up, an amount to get them to the level of $300, $500, $600.

There would also be checks sent to those in the U.S. terroritories, Puerto Rico, American Samoa, and the others as well, if they filed returns. Not federal income tax returns, but the returns with their jurisdictions, which generally mirror code provisions.

The second category, is business tax provisions. There are three within this division. One, many of you alluded to, would be a 10 percent bonus depreciation. This would be for property placed in service between September 11, 2001 and September 10, 2002.

There would be an additional four months provided for assets that had a binding contract as of September 11, 2002, but were not placed in service. They would have to be placed in service by the end of December 31, 2002.

The second provision increased the amount of assets that businesses can fully expense just for the year 2002. Currently, that maximum amount is $25,000. We would increase that to $35,000 for the year 2002.

It also increases the point at which the benefits begin to be phased out. Under current law, that is for companies that have capital expenditures of $200,000 or more. It would go up to $325,000, again, just for the year 2002.

The third provision in the business section relates to net operating losses. It would allow companies to carry back their net operating losses for five years rather than, under current law, two years. They would be able to offset current losses against taxes that they paid for up to five years ago.

The third major area of the tax provisions has to do with a package for New York City and certain distressed areas in the country, and there are five tax provisions in this section.

The first, creates a new category of workers that are eligible for the Work Opportunity Tax Credit, which is a tax credit given to employers who employ specified employees.

The employees of companies that are located in the New York recovery zone on September 11, 2001 would be eligible for this credit. Staff will pass around the maps that show the designated recovery zone in New York City. It will be distributed around to you momentarily.

The maximum credit under this provision is $4,800 per employee. That differs from the other categories of the Work Opportunity Tax Credit, where generally the maximum is $2,400 per employee. Otherwise, the general rules applicable to the Work Opportunity Tax Credit apply.

The second New York City provision provides for $15 billion in private activity bonds to be issued in 2002 for rebuilding the devastated areas of New York City and within the New York recovery zone.

The City of New York would designate the appropriate projects that are designed to be used in this zone, though there would be some flexibility to use up to $7 billion of this $15 billion in other areas of New York City if it could not be used within the recovery zone.

There is an additional provision that relates to this and it would permit banks to purchase these private activity bonds without losing interest deductions, which is the general rule under our current tax law, that financial institutions cannot invest in private activity bonds without a cut-back on their interest deductions.

The third provision that relates to New York City is an accelerated depreciation for assets that were damaged or destroyed as a consequence of the terrorist attacks of September 11.

What companies could do under this provision, is they could elect to deduct their basis in their destroyed property this year--in other words, in 2002--rather than what normally occurs when there is property damage and they receive insurance proceeds, which is, generally, the taxpayer can elect to roll over their basis to subsequently acquired property. So, this would be an acceleration of deducting the basis in the property that was destroyed.

There are two provisions that do apply to New York, but also apply elsewhere throughout the country. The mark contains some special rules liberalizing the limitations on private activity bonds in certain disaster areas, and it ups the maximum for certain home improvement loans from $15,000 to $25,000, and increases certain income limits that normally restrict the ability for use of those bonds. These rules were in effect in 1997 and 1998, and the Chairman's mark would reinstate them for 2002.

The final provision in the business section--again, this applies both to New York, as well as the rest of the country--would permit Indian tribes to issue an additional $10 million in private activity bonds for the year 2002.

The Chairman's mark would expand the kinds of projects that could be financed with these bonds to include residential rental projects, certain qualified mortgage bonds, and expands the kinds of businesses that could benefit from the proceeds. Current law limits those in Indian tribes to manufacturing business, and this would expand it to other business activities.

The fourth major category is the expiring provisions, and the Chairman's mark contains 13 tax provisions that have either expired this year or will expire prior to December 31, 2002.

Each of these provisions is extended through 12/31/02 and there are no changes in the law, except for extending the date of applicability.

That is a summary of the tax provisions.

Senator Grassley. Mr. Chairman?

The Chairman. Yes.

Senator Grassley. The first question would be for Joint Tax, Ms. Paull.

The Joint Committee on Tax's estimates show a rebate to cost $14 billion. In the footnote of the document from your committee, this is treated as an outlay of $14 billion.

However, there have been statements that have this rebate listed as a tax provision, in other words, as tax relief, not as spending. It is hard for me to understand how it cannot be spending, given that we are providing cash to individuals who do not pay income taxes.

So, I would ask you to clarify. What is this matter, is it spending or is it tax relief, as we account for this?

Ms. Paull. Senator Grassley, this is spending. It is completely outlays. That is why there is a footnote to indicate that, even though we tried to put all of the spending and the tax provisions on our table so that you would have a complete picture of the bill.

Senator Grassley. All right. So then from that standpoint, whatever tax stimulus there is in this document, then there would be, really, $14 billion that is less stimulus through investment.

Ms. Paull. That is correct.

Senator Grassley. I support at least the concept--I have not studied--the individual provisions that have been proposed for New York City. Obviously, there is a commitment on the part of Congress and most people in this country to help that disaster, just like any other disaster, albeit this one a war situation.

So I wanted to ask a question of Mr. Sullivan, or anybody who can answer. The Work Opportunity Tax Credit was designed to assist employers who hire poor families who receive government assistance.

Is it not true that, under the Chairman's mark, a business located in southern Manhattan would receive the credit even if the person is paid $1 million a year, or that a law firm that pays an attorney $700,000 will receive the credit under the program that was intended to serve low-income people?

Mr. Sullivan. Senator Grassley, this provision that you are talking about is not income limited and employers would be able to claim the credit on all of their employees, regardless of their income.

Senator Grassley. The Work Opportunity Tax Credit proposal will pay this credit of $4,800 per employee for not only new hires, but also current employees. Is that correct?

Mr. Sullivan. That is correct, Senator.

Senator Grassley. So, obviously, we are giving a tax break to someone who does not hire a single new employee.

Mr. Sullivan. Senator Grassley, the credit could be claimed by employers for their existing employees.

Senator Grassley. All right. The Work Opportunity Tax Credit proposal actually doubles the credit to $4,800 for New York and makes it exempt from the corporate AMT. Is that correct?

Mr. Sullivan. Senator Grassley, that is correct. It is $4,800 and the credit could be claimed under the regular tax and under the Alternative Minimum Tax.

Senator Grassley. All right. The Work Opportunity Tax Credit proposal will provide that businesses will get a tax credit for millionaire executives and that they would get a bigger tax credit, and a better tax treatment than a business that is trying to hire a single mother on welfare in Little Rock, or Jersey City, as an example?

Mr. Sullivan. There will be a differentiation. The credit is higher for New York City for the one-year period that is in existence.

Senator Grassley. If my understanding of the provision is correct, could you explain why a company that has to relocate due to September 11th receives all of this extremely favorable tax treatment as long as it relocates within New York City, but does not get a dime under this provision if it relocates just across the river in New Jersey?

Is the purpose of this to help the employers and employees who face unemployment due to September 11th, or is it to encourage that they stay in New York?

Mr. Sullivan. I think I would defer to Senator Torricelli for this. But I believe that the general purpose of all of these provisions was to retain employees and employment in New York City.

Senator Torricelli. Senator Grassley, would you like me to respond to that?

Senator Grassley. I would like to hear whatever you have to say about it. Remember, I did preface my remarks, we want to get an understanding of this provision. I think we are all of an understanding that New York will get help.

Senator Torricelli. Senator Grassley, immediately after the September 11th attacks, Senator Corazon and I met with the leaders of the Port Authority and our governor, Governor DiFrancesco, and saw the importance of putting our economic competition with New York aside.

There was a flood of industry moving from Manhattan to New Jersey almost immediately. American Express, alone, rented five office buildings in northern New Jersey. Lehman Brothers, Moore. Thousands of people moved their employment to New Jersey.

This has, obviously, some economic benefits for New Jersey, but it was our judgment not to continue to encourage it and not to take advantage of it. It was going to disrupt the natural economic divisions between the State. That is why, to some, it was ironic, but I brought this to Chairman Baucus in the hopes that we needed to stabilize the economic situation in lower Manhattan.

Ironically, it was to the discomfort of New Jersey if the economy of lower Manhattan continued to decline. It is our judgment now that, without these credits, not only individual residents, but these companies will not only leave New York, but because there is not enough space for them in northern New Jersey, will leave the region.

So, although these credits are applying only to lower Manhattan and not to the rest of New York or New Jersey, it is decidedly to our benefit. We simply have to stop the downward spiral economically of these companies closing and leaving the region entirely.

Senator Grassley. All right. My next question would be to Treasury and to Joint Tax, although not precluding anybody else who wants to comment on it.

The cost estimates for the $15 billion in bond authority is approximately $2.5 billion over a 10-year period. Most of the cost comes in the out years, and very little in the first year.

In addition, this does not reflect the true costs to the Treasury of these bonds. Is it not true that these bonds will cost the taxpayers for approximately 30 years, at least, the period of time of the bond issuance?

Ms. Paull. That is correct, Senator Grassley. The estimate that we have before the committee today is roughly $2 billion over 10 years. That $2.5 billion might be an old estimate that we have refined.

If you look at our year-by-year estimates, you see that after a short period where you ramp up, then the costs of this proposal is roughly $260 million a year, and it goes on for the life of the bonds.

We do not estimate beyond a 10-year budget window because we only have a 10-year baseline to estimate on. But you can get an idea of what the out-year costs would be, and the bonds would be outstanding for up to 120 percent of the economic life of the property that is built with the bonds. So, it could be 30 years, or longer even.

Senator Grassley. Would it be fair to say then that the actual cost over that period of time would be $7.5 billion, in other words, three times the 10-year estimate, which would be $2.5 billion?

Ms. Paull. Again, we do not estimate beyond the 10-year window. So, I leave it up to you to decide how you can extrapolate it.

Senator Grassley. Then maybe I could ask Treasury to comment on it.

Mr. Weinberger. Well, basically your analysis and logic is correct. We do not carry numbers that far either. I think where the difference is, you are getting the $2.5 billion and Lindy is getting the $2 billion, is that the third provision, bank carrying cost exception for tax-exempt reconstruction bonds, would also carry out for that same period.

Senator Grassley. It is kind of ironic that we are not concerned now about the costs beyond 10 years, when this is the basis for all of our discussion of the last tax bill, or not even doing more in this tax bill, to make the present tax bill permanent.

The Chairman. I might say, we do not get into post-10-year estimates. We did not in the tax bill, either. Some did, but those were informal estimates. Joint Tax did not, CBO did not. That is a valid comment, but it could be applied to all of the other measures we took, too.

Namely, we did not get into, as I say, the tax bill beyond 10 years but for the informal estimates and the guesses that various people other than Joint Tax might have.

Senator Grassley. I want to raise this question. I do not know whether anybody can answer it. But from the standpoint of whether it is the New York delegation or the administration--well, obviously Mr. Weinberger ought to be able to respond to this.

Does the administration view these bonds as setting aside either the $2.5 billion or the $7.5 billion if you want to consider the entire cost of the bonds from the $20 billion appropriated a few weeks ago to provide assistance to Virginia, Pennsylvania, and New York?

Mr. Weinberger. Well, Senator Grassley, I think in the mark you have a set-aside proposal whereby the cost is going to be offset against the allocation. I assume it is the total cost of the bonds, but I have not seen how the document actually is going to be written because we have not seen the legislative language.

Senator Grassley. Well, I guess I am asking you to speak for the administration on whether or not you figure this is part of the $20 billion or if it is in addition to the $20 billion.

Mr. Weinberger. Well, the administration has agreed to work with New York to come up with $20 billion worth of assistance. If the bonds cost $7.5 billion or $5 billion, that should be part of that $20 billion.

Senator Grassley. I have concern about the provision that is labeled "Bank Carrying Cost Exception for Tax-Exempt Reconstruction Bonds" in the Joint

Committee estimate on the New York City bonds.

This provision costs $698 million for the 10 years and, given the life of the bonds, will be a tax benefit of over $1.5 billion to these industries.

Would you explain for me in some detail what this provision is, if this is a new provision different from how other bonds are treated, and specifically what industries and businesses would benefit from this? Finally, what is this provision in here for? I would also like to have Mr. Sullivan respond to that, and also Lindy.

Mr. Sullivan. Under current law, Senator, there are some examples where banks can purchase bonds, even though the interest on those bonds is tax-exempt. It is generally limited to small issuers in certain circumstances where there are markets where there is not a large market for the bonds.

This committee passed a rule related to school construction bonds in the tax bill this past spring that related to this. But, generally, banks have limitations on their ability to invest in tax-exempt bonds. This provision would permit them to do so.

I would ask Lindy to further explain.

Senator Grassley. Lindy?

Ms. Paull. Well, Senator Grassley, again, if you look at our revenue stream, I think you accurately have represented it. It looks like it is roughly about an $80 million a year cost, so it is up to you to decide how you are going to determine the entire cost for the bonds which could be outstanding for as long as 30 years.

The notion behind this is, as Russ said, that New York is in a very difficult time right now. This would give an incentive for banks to invest in these bonds without having to have their interest expense deduction cut back. That is the effectiveness. It gives a broader market for the investment in these bonds.

Senator Grassley. Nearly half of the $15 billion bond authority may be used outside the area directly affected on September 11. Is it not the case that, thanks to earlier legislation, the volume limits for tax-exempt private activity bonds are scheduled to increase significantly from $62.50 per resident to $75 per resident in the year 2002? What will be the overall total increase in volume limits for the State of New York then under this authority?

Ms. Paull. Well, the State of New York, under present law, would have a private activity volume cap for 2002 of roughly $1.4 billion. This would add on top of that $15 billion.

Senator Grassley. And Mr. Weinberger, do you agree with that?

Mr. Weinberger. Yes. Those were our numbers are well.

Senator Grassley. All right. Mr. Chairman, I think that is all.

The Chairman. Thank you very much, Senator.

I think, frankly, it is important for all of us to remember, New York has been devastated. I mean, any of you who have been to ground zero, it is incredible. It is staggering. You cannot fathom it. This is certainly a modest amount that we can provide for the people in New York who have been so tragically affected by September 11th.

I appreciate your questions, Senator, but I just think it is important for us to keep this all in perspective.

Senator Grassley. Yes. I think I tried to make that very clear.

Here is what I am concerned about. We give tax credits as an incentive to help accomplish certain things and help certain businesses. I think in this instance, we want to help the businesses that need the help.

So, my questions are directed towards, are we getting this money to the people that need it, where it is going to make a big difference? I guess I do not prejudge anything, but that is something that we need to be looking at as we proceed for this to become law.

The Chairman. I think those are good questions. Between now and the floor, I think there are probably opportunities to improve upon all of this in various ways. But I compliment you. They are very good questions.

Any further questions on the tax section? Senator Hatch?

Senator Hatch. Mr. Chairman, I was just wondering how you decided on a 10 percent figure for the bonus depreciation provision. Are there indications from economists that 10 percent will change taxpayer behavior and move a lot of equipment purchases into 2002?

Is there a particular reason why a much larger percentage--I would like it to be 50 percent, the House bill has 30 percent--would not provide a much better incentive?

I mean, if the 10 percent level produces some stimulus, then it seems to me a 50 percent level, or a 30 percent level, would produce much, much more and much, much more quickly than almost anything else we can propose. So, I would like to have an answer, please.

The Chairman. Just a couple of points on that, Senator. That is an excellent question. In fact, I have talked to lots of economists, lots of CEOs, many of whom you know and certainly respect. I appreciate the import and direction of your question.

Two points. One, we have a bit of a dollar constraint that we are working with. The President himself, for example, had a much lower total figure that he was suggesting. That is, very clearly, a significant consideration.

Second, there are many steps between now and passage on the floor, and whatnot. But I hear what you are saying.

Senator Hatch. But you suspect it will be higher, which is what I am going to insist on.

The Chairman. I hear what you are saying.

Senator Hatch. All right. I appreciate it.

Mr. Chairman, it seems to me that almost all of the costs of the bonus depreciation incentive is incurred in the first two to three years, depending on how it is structured, and that most of this cost is reversed in the 10-year budget window.

For example, the House-passed 30 percent bonus depreciation provision cost about $106 billion in the first three years, but all but $18 billion of that is reversed by year 10.

The 10 percent provision in your mark cost $15.6

billion in the first two years, but all but $2.5 billion of that is reversed by year 10. Again, I would like to ask why there is not a stronger bonus depreciation provision and why it would not be appropriate to have one, given that only about 15 percent of the costs of this provision have not been reversed by the tenth year.

The Chairman. I think I have already answered that. Also, to say that the goal here is stimulus up front. One of the difficulties with the House proposal, is it is over a longer period of time. That will tend to delay investment.

Senator Hatch. I want it up front, and I want it early, too.

The Chairman. Yes. I agree with that.

Senator Hatch. I think it will stimulate the economy.

The Chairman. I appreciate that.

Senator Hatch. Let me move to the extenders. Obviously, Mr. Chairman, you support extension of the expiring provisions, as do most of us. Why do we not just take this opportunity to end the charade of the extenders and stop pretending we cannot afford to make them?

It seems to me that we cannot afford not to make them permanent. Every year we extend them and everyone supports most of those provisions. The real cost to the Treasury is the same whether we make them permanent or not, or simply extend them from year to year.

But let us do one thing right in this bill. That is, make all the extensions permanent and add the research credit to the list, which I think a vast majority of us will vote for when I bring it up again. It would stimulate the economy. It would add stability. It would add simplicity to our Tax Code. It would tell people what they could expect.

You talk about rational expectations. It would do us a lot of good if we would make these things permanent. I agree, from a budgeting standpoint, it seems like a revenue loss, but we are going to do it anyway.

Why not just bite the bullet and do that, and give people some sort of stability on these extenders so that they can rationally expect what will happen over the next number of years because we have had the guts to do it?

The Chairman. Senator, as you well know, you and I have co-sponsored permanent extensions of the R&D tax credit. I very strongly agree with the basic premise.

Senator Hatch. Why do we not try and do that?

The Chairman. Well, the slight problem is, it is a big bullet. It is $100 billion.

Senator Hatch. Well, we are facing a lot of bullets here.

The Chairman. So if we swallow that one, or bite that one----

Senator Hatch. Yes. But think of the incentive it would be.

The Chairman. I hear you. Senator, I hear you. All I am saying is, we have got to make choices here and set priorities.

Senator Hatch. Well, let us make that choice and make that a priority. [Laughter].

The Chairman. Are you going to vote for the bill? [Laughter].

Senator Hatch. I will put it this way. I intend to vote for the bill on the floor, not this bill, because it will be a completely different bill by then.

Mr. Chairman, I note that the mark includes a provision to expand the authority for Indian tribes to issue tax-exempt private activity bonds. I certainly, coming from Utah, agree that many tribes live in economically distressed areas and need help. But so do many others.

Why is the help in your mark only targeted to New York City and for Indian tribes? What about other areas in the country that are being devastated by the lack of tourism? Should we do something about that or should we just limit it to what you have limited it to? Any of you can answer that.

Ms. Paull. The provision dealing with Indian tribes, the bonds are available all over the country. They are not limited to New York City. I am sorry. Maybe I misunderstood the question.

The Chairman. Mr. Sullivan, could you outline the criteria, the qualifications of these?

Senator Hatch. What about the other distressed areas? What about the other distressed people out there? What about distressed tourism areas?

Mr. Sullivan. The bonds in the Indian provision would not apply to tourism, generally.

Senator Hatch. They do not apply to stimulus either.

Mr. Sullivan. This provision would apply to any Indian tribe that had, I believe, unemployment above 25 percent.

Senator Hatch. I am not against that. I just think that, if we are going to do that, we ought to do it so it becomes truly a stimulus throughout the country, not just that. I am not against that.

Mr. Chairman, a new addition to your mark today is the tax credit bonds for Amtrak. This costs $4.4 billion over 10 years. I would just like to know how that stimulates the economy. Would anybody care to answer that?

The Chairman. The primary sponsor of that amendment is not here. [Laughter]. He can very eloquently explain why it is a very strong stimulus. [Laughter].

Senator Hatch. I suspect we can wait until then. I have a lot of other questions, but I think those are the main ones.

Just one last thing, overall. I would like to have you, Mr. Weinberger, maybe give us some information on this.

The Chairman. And I might say, before you do, I appreciate all of you sitting there and listening to all of these opening statements for a long time, all of you.

Senator Hatch. I do, too. What a privilege.

The Chairman. I saw your eyes droop just slightly, Mark, but you are rising to the challenge.

Mr. Weinberger. I was just blinking, that is all. [Laughter].

Senator Hatch. Overall, as I view it, the mark is exceptionally weak and lacking in stimulus measures. Of the $60 billion plus this mark spends over 10 years, less than $8 billion is comprised of tax cut stimulus provisions and more than half of that is dedicated to New York City and other distressed areas.

There is little macroeconomic growth potential here, as I see it, as I view it. The tax cut portion is less than 15 percent of the total, and this does not even count the $20 billion plus that the Democrats plan to add in additional spending on the floor.

Now, President Bush called for a large majority of the bill to be made up of tax cuts. Could you give us your best on that?

Mr. Weinberger. I assume this is not a rhetorical question.

Senator Hatch. No, it is not.

Mr. Weinberger. Mr. Chairman, you instigated the bipartisan meetings that we had, so it will not be a surprise to you where the administration would be about the stimulative aspect of this proposal. Basically on the table are two concepts.

There is something we need to do to stimulate the economy to create jobs and growth, and we also need to look at the fact that we have many people who lost jobs as a result of the tragedy on September 11th, the down economy, and the so-called dislocated worker piece.

This package, obviously, in our view is light on the stimulus in that we only have $19 billion in the first year of tax cuts that are broad-based. It does not include two of the principles that the President has laid out, which is the repeal of the AMT and the acceleration of the marginal rates. So, we would say that, on the stimulus side, it does not measure up to what we would hope. It does have a strong spending package in the dislocated worker area, another area that is very important to address, obviously. We have a different view as to how that should be done, both in mechanisms and amounts, and we want to work with you and the Congress on it.

So, with the pointed question you asked Senator Hatch, as far as stimulus, obviously, our view is we would like to see more on the tax cuts as the President called for, and along the lines of the four proposals he laid out. But certainly there are some elements in here of the things that we have all been talking about.

Senator Hatch. Mr. Chairman, let me ask him another question as well, because the President's plan and the House-passed bill both include provisions to speed up the tax rate cuts passed earlier this year, and scheduled to go into effect in 2006, which would put billions of dollars of cash into the pockets of American citizens.

Now, this mark includes no relief from the onerous, what I consider to be anti-growth and anti-jobs, corporate Alternative Minimum Tax. Now, thousands of large employers are in distress. Many are laying off workers.

The AMT, which often grows worse as the economy sinks into a recession, if that is what happens, it only exacerbates the problem. Now, in order to help unemployed workers, it seems to me we should focus on improving employment opportunities, not solely on extending unemployment benefits.

Perhaps repealing the AMT helps employers keep workers employed. Do you agree with that, or do you not? What would you say? Why are we not doing that?

Mr. Weinberger. Well, Senator Hatch, I would only reiterate, obviously, that the AMT is pro-cyclical. It is an economic destabilizer, in that in times when profits go down--and many studies suggest by as little as 5 percent--if a company continues to have the same investment patterns and same expenses, they are going to be kicked into a situation where their taxes would actually go up.

The exact opposite type of tax you would want to have when you are trying to have the economy recover, certainly, even if you look at other things in the Chairman's mark, the AMT, philosophically, is aligned with it.

When you look at the 30 percent on the Republican side, the 10 percent in your plan, Mr. Chairman, depreciation, you basically do that to get people an added incentive to invest.

When people are thrown into the AMT as their profits go down, they actually have worse depreciation schedules and have a greater disincentive to do new investment. Similarly, the five-year NOL carry-back provision which is in the Chairman's mark is meant to give companies who have, basically, losses of cash flow, because they can go back and capture those losses and utilize them currently and get some cash flow.

With the AMT, it is important to remember that it is not a tax increase. The AMT is basically a loan that the companies who are in the AMT give to the Federal Government. They get that money back. When do they get that money back? They get that money back when they become more profitable and their deductions and expenses are not as great a percentage of their overall profits as they are when they get thrown into the AMT.

AMT credit carry-forwards are permanent. Like in the NOL are and in the foreign tax credit area, there are no limitations, so there is a full expectation that the monies that are paid in AMT will eventually be paid back to those companies when they become more profitable.

That is anti-intuitive. I think that everyone agrees, including the Joint Tax Committee in their study earlier this year, that it is a bad tax, but it is certainly pro-cyclical and is an economic destabilizer.

Senator Hatch. Well, it seems to me we ought to do something about it, if we want to do something about economic stimulation. I said in my opening remarks that the mark concentrates most of its resources on treating the symptoms of the economic downturn, not in seeking a cure for the illness of slow economic growth.

Now, benefits for unemployed workers are vital, but the real focus of this bill should be on creating jobs, not just keeping people on unemployment benefits. On this point, the mark fails.

Now, according to a recent study by the Heritage Foundation, the Bush/Grassley plan would produce nearly twice as many jobs in fiscal year 2002 as would the mark. I think the numbers were 211,000 versus 108,000. Over the next five years, on average, the Bush/Grassley plan would produce more than seven times more jobs than would this mark, 283,000, versus just 38,000 per year on this mark.

Now, am I right on that? Do you think I am right on that, or do you think they are right on that? What about jobs? Can you give us a little bit of an understanding? Talk about this mark. Does it really stimulate that many jobs?

Mr. Weinberger. Well, as I said before, I think, Senator Hatch, we believe that it is light on the stimulus. The $19 billion is not nearly enough to affect a $10 trillion economy.

The 10 percent bonus depreciation equates to about a 1 percent investment tax credit, which used to be in the law. The 30 percent that is in the Grassley plan is about a 3 percent investment tax credit. That compares to what was a 10 percent investment tax credit when it actually was in the law.

So, by any stretch, even the 30 percent depreciation is not as robust an incentive for investment as we had in the law in the investment tax credit. But history does show that, when you increase corporate cash flows and reduce the marginal investment costs, that investment does pick up.

So, the more you have, the more you are going to likely have investment occurring. Of course, when you have investment, is the way you lead to productivity and higher wages, and of course that's the only way you are going to have more jobs at a higher wage scale.

Senator Hatch. I am sorry to keep putting you on the spot, but you can answer these questions better than I can. I just enjoy listening to you. [Laughter]. But let me just say this. The Chairman's mark does not provide immediate relief to dislocated workers. Now, instead, a new bureaucracy is created which would take months to get up and running. At least, that is the way I view it.

Now, I want to see how the administration views it. That is because federal law requires regulations to be promulgated once a new federal program is established, as we all know.

Now, the bottom line is, hardworking Americans who have lost their jobs as a result of the tragedy cannot wait.

The Chairman. Senator, this is in the health and UI portion of the bill.

Senator Hatch. Do you want me to hold off until then?

The Chairman. Dr. Fowler has not yet explained the health and UI provisions of the bill.

Senator Hatch. All right. I will ask that later then.

Let me ask one more question, Mr. Weinberger. The mark includes several provisions that are unrelated to the economic stimulus or assisting dislocated workers that are clearly outside the jurisdiction of the Finance Committee.

Under the right circumstances, these provisions may be supported by members on both sides of the aisle. For example, the mark has included a title on emergency agriculture assistance, which has sections on crop disaster assistance, livestock disaster assistance, rural development, loan and grant applications, and commodity purchases.

Now, I have been a member of the Finance Committee for 10 years and I cannot ever remember, ever, considering such a bill in committee. Maybe they have, but I do not remember it. Now, it is outrageous that these provisions, which are not under the jurisdiction of the committee, are included in today's mark.

Now, maybe I should not ask you this question.

The Chairman. That is directed to Mr. Mastel.

Senator Hatch. Should I not ask that question?

The Chairman. You can ask it rhetorically, you can ask it specifically, Senator, whatever.

Senator Hatch. To whom? Mr. Sullivan?

The Chairman. Whatever you wish to do.

Senator Hatch. Who would like to answer that?

The Chairman. Mr. Mastel.

Senator Hatch. Mr. Mastel, why do you not answer that? I just want to ask, what is next? Foreign policy? Are we going to that next?

Mr. Mastel. I could not answer your question, Senator, directly. But I can say that the Agriculture Committee, who has jurisdiction over the provisions you mentioned, has indicated they would prefer us to move forward.

I think Senator Baucus mentioned earlier, we have a letter from Senator Harkin indicating that he urges the Finance Committee to act on these provisions in a disaster relief context.

Senator Hatch. All right.

The Chairman. If I might, on that very point, also point out that these are not new laws, not new programs. They are extensions of current law.

Senator Hatch. It is still not in our jurisdiction.

The Chairman. Well, it is not in the jurisdiction of this committee, that is true. But we do not have much time to act the rest of this year, and these people really need help. The country is large. There is New York, and there is also rural America.

Senator Hatch. Sure. I am not against helping them. I just think we ought to do it the right way.

Now, Mr. Weinberger, one last question, and that is this. Both the President and the mark have agreed that we should make rebate checks. Now, assuming we do that, how are they going to be stimulatory, especially since we still have rebate checks that have not arrived yet for people this last summer?

How are they going to be stimulatory after the fact, after people have spent their money for Christmas? I doubt seriously that any rebate check is going to get out there before Christmas. I doubt seriously that the IRS can handle the load at this time of the year, or going into next April. Can you give us some understanding on that?

Mr. Weinberger. Well, Senator Hatch, obviously the President, in the last bill, had the checks go out as an advance credit, basically an advance funding of the 10 percent tax rate. Our belief is that when individuals believe they are going to get permanent after-tax income increases, that they will be spending more money. So, we thought it made a lot of sense. There was mixed reviews as to the extent that that was actually spent, or saved, or used to pay down bills.

These additional checks are a way to get income out, or payments out, to low-income individuals. It is a proposal that the President himself had talked to the bipartisan leadership in the House and Senate about.

In putting together the four principles in which he did that, he thinks a tax bill should be acted upon, in due respect to Senator Kerry, who is not here, who characterized them as partisan, the attempt really was to reach out to the Democrats and listening to their ideas, as well as the Republican ideas, and put together a package of, at least, principles that we thought made the most sense from an economic standpoint that would put cash in the hands of low-income people who will spend the money. That is what these low-income payments are for.

Senator Hatch. But let me ask you this. You do not think it was?

Senator Rockefeller. Would the Senator yield?

Senator Hatch. Could I just ask the one last part of this so that I can get it out, then I will be glad to yield? I will yield now. I will now, Jay. Go ahead.

Senator Rockefeller. I just object a little bit to the tone. You are free to do what you want, but you need to know that--

Senator Hatch. I am for this. I think it is a wonderful thing. I just have questions about it.

Senator Rockefeller. You have characterized it as "partisan," because you used that word.

Senator Hatch. No. I characterized it as something we had to give to the Democrats.

Senator Rockefeller. There was a bill presented by one of the members of the Democrat party to cut off $30 million out of the IRS, which all of you at the table will remember, particularly Mr. Weinberger, so that these letters promising the first installment from the last tax bill would go to the American people. It was a very close vote.

The Chairman and the Ranking Democrat, with the Chairman, namely myself, voted against that because that was already done. It was a letter that had been written by the President. We chose not to play politics. We wanted that to get to the American people.

And, yes, the IRS and all government employees have been under incredible stress since something called September 11th. But that does not mean that when that money gets out there it is not going to do good. I think that is one of the reasons why Chairman Baucus and I voted against that amendment, because we wanted to see the money get to the people.

Senator Hatch. I accept that statement.

Let me just ask this last question. That is, that these are rebates for people who pay Social Security, right? They are rebates for people who do not pay income taxes, but pay Social Security. Am I wrong on that?

The Chairman. Mr. Sullivan, could you answer that question?

Mr. Sullivan. Senator Hatch, the rebates in this instance will go to individuals who did not have income tax liability in the year 2000.

Senator Hatch. Does it go to everybody who pays Social Security?

Mr. Sullivan. It does not go to everyone who paid Social Security taxes. But most of the people, the vast majority of individuals that will receive this check will have paid payroll taxes.

Senator Hatch. Or Social Security payroll taxes.

Mr. Sullivan. Correct.

Senator Hatch. All right. That is my understanding, is that the only ones who will get the rebates are those who do not pay income taxes, but do make Social Security payroll taxes.

The Chairman. I think it is important to remind all of us--Mr. Sullivan, you have got the figure--that the majority of Americans pay most of their taxes in payroll taxes, not income taxes.

Senator Hatch. Why not include everybody?

The Chairman. I just want to make it clear, because sometimes some Senators like to imply that, if you do not pay income taxes, somehow you are not worthy of receiving these checks. I just want to make the point very clearly that a vast majority of Americans pay more in payroll taxes than the do in income taxes.

Senator Hatch. As I understand it, this goes to people who do not even pay payroll taxes, right?

Mr. Sullivan. The criteria for this would be people who filed an income tax return. There are some individuals who may not have had payroll taxes. For example, it could be a retiree who had only interest income, or something like that.

Senator Hatch. Well, Mr. Sullivan, then my question goes to this. If you are going to do it on the basis of those who pay payroll taxes, then why do you not do it for everybody who pays payroll taxes? Is there any reason why you would not do that and be fair to everybody? I mean, I do not think it is a rebate.

But if we call it a rebate and it is to stimulate the economy by getting that amount of money out there, $300, whatever it is, then why would it not apply to everybody who pays payroll taxes, since you even include people that do not pay payroll taxes, but for some reason or another filed a return who do not pay any income taxes either?

Mr. Sullivan. Senator, the checks, clearly, if we send them to a broader group of people, would put more money into the economy. I think the thought here was to complement the rebates that were sent last summer and to provide those to a broader group of people.

The Chairman. If I might say, too, there are administrative problems with trying to send checks out to everybody that paid payroll taxes. Nothing is perfect, but we cannot let perfection be the enemy of the good. This is a way, given the need to act quickly and to stimulate the economy, to get the balance of the checks out to the people who need them.

Senator Hatch. I accept that. I am not against this. The President is going to do it, we are going to do it. By why call a tax rebate something for people who do not pay taxes? I mean, that is the difference. If you are going to do it for people who make payroll taxes, why not for everybody, especially if it is going to stimulate the economy?

I am not blaming you, Mr. Sullivan. You are doing a wonderful job down there. But I blame you, Mr. Weinberger. [Laughter].

The Chairman. But you are doing a wonderful job, too.

Senator Hatch. And you are doing a wonderful job, also. A very, very good job.

Senator Torricelli. Mr. Chairman, if I could, I heard in my absence a question has been raised by Senator Hatch about the Amtrak provisions.

The Chairman. If I might, Senator.

Senator Hatch. I am willing to withdraw that question.

The Chairman. I get the sense that we are kind of close to a vote. I am hoping we can move quickly here. I say that, because I know that some Senators have obligations not too far down the road away from here. I would urge all of us to work together. I think we know what is going to happen. I think this bill is going to pass. We know where the votes are.

I do not want to cut off any Senators, but, in the spirit of accommodation, I would just urge us to kind of keep our remarks brief.

Dr. Fowler, do you want to briefly explain the health provision?

Dr. Fowler. Sure. There are two categories of assistance for displaced workers in the Chairman's mark, temporary health insurance coverage and temporary enhanced unemployment compensation benefits.

The Chairman's mark would provide temporary premium assistance for COBRA coverage for displaced workers and their dependents. It would provide a 75 percent premium subsidy for 12 months, or until the individual is no longer covered by COBRA, whichever comes first.

The program is temporary, and it does expire on December 31, 2002, regardless of how many months an individual has received such assistance.

Those eligible for COBRA assistance include workers separated from employment after September 11, and dependents of an individual who was killed as a result of the September 11th terrorist attack.

The program would be administered by the Department of Treasury, in consultation with the Department of Labor, through appropriate direct payment arrangements with group health plans, employers, third party administrators, or State unemployment offices.

We give States the option of administering this program in lieu of the Federal Government, however, it is a State option and States are not required to do so.

For those not eligible for COBRA, States would have the option to provide Medicaid coverage to displaced workers who meet the following conditions: those who lost their job between September 11, 2001 and December 31, 2002; those who are not eligible for COBRA and who are uninsured; and those whose assets and resources do not exceed limitations that a State may choose to apply.

Coverage under this option, like the COBRA coverage, is limited to 12 months. And, like the COBRA premium assistance, the program is temporary and expires on December 31, 2002, regardless of how many months an individual has received such coverage. The federal matching rate under this temporary State option is the enhanced CHIP match, which averages 70 percent.

States have a second option available to them under this proposal. They can choose to cover the remaining portion of COBRA premiums that are not covered under the 75 percent subsidy for individuals who are below 200 percent of poverty.

Because this is not a new program, like CHIP, but is rather an expansion of an existing program, we anticipate that States choosing to take up this option would be able to adopt and implement the program relatively quickly. States could do this through a State plan amendment, though other States would require legislative action.

Recognizing that some States may not be in a position to take up this option due to economic distress or tight fiscal budgets, we also include a provision to increase the State Medicaid matching rate, which hopefully will give States more flexibility and the ability to adopt the Medicaid coverage option.

So, the Chairman's mark provides a temporary, one-year increase to States' Federal Medical Assistance Percentage, or FMAP. Specifically, the match rate for the 29 States experiencing a decrease in FY 2002 over their 2001 rate would receive the 2001 rate and would, therefore, not see a reduction.

Above that amount, the mark, as it is written, would give all States a one percent increase in their Medicaid match. I want to note that, under the modification of the Chairman's mark, this amount was increased to 1.5 percent.

For States with higher than average unemployment, the proposal would provide an additional 1 percent, and thereafter modified to 1.5 percent, for a total increase or 3 percent above their 2001 rate, or 2002, whichever is higher.

Again, this policy would only apply in fiscal year 2002, and States would receive this increase in exchange for maintaining current eligibility rates.

The Chairman. Thank you.

Any questions? Why do you not go ahead, Senator. We will get to Senator Kyl's question later.

Senator Hatch. The Chairman's mark does not provide immediate relief to dislocated workers. Instead, a new bureaucracy, in my opinion, is created that would take months to get up and running. That is because federal law requires regulations to be promulgated once a new federal program is enacted or established.

Now, the bottom line is, hardworking Americans who have lost their jobs as a result of the tragedy cannot wait 6, 9, or 12 months for health care insurance or unemployment checks. They need their help now. Unfortunately, this mark does not provide them with the relief that I think they deserve.

Could you respond to that?

Dr. Fowler. Sure. I appreciate your remarks. I guess that I would respond by saying that we do not see this as a new program, but building upon existing programs.

For example, the COBRA program is already in place. We would provide premium assistance for the benefits that are already available for those displaced workers who are eligible.

The Medicaid program is also already in place, and we would anticipate that States would be able to build upon existing programs rather than to create a whole new program.

Senator Hatch. Do you consider that stimulus?

Dr. Fowler. Yes.

Senator Hatch. You do?

Dr. Fowler. Yes.

Senator Hatch. All right.

Could I ask you, Mr. McClellan, for your opinion on that?

Mr. McClellan. Yes, Senator. I want to say that we have been working with Finance Committee Majority staff on these issues and think that, while we are not all the way along, that we can find some ways to help workers with COBRA provisions quickly.

Dr. Fowler is correct that COBRA is an existing program, Medicaid is an existing program. The distinction here, is that what is not an existing program is direct federal payments for COBRA premiums. COBRA regulations are administered by the Department of Labor.

At least as I understand it in the current draft, this new payment system would actually be administered by the Department of Treasury. Treasury obviously does not have any offices now set up to direct payments to insurers, workers, or other offices.

Senator Hatch. So I am right about the 6, 9, or 12 months' delay.

Mr. McClellan. I believe so. I mean, we have not, obviously, thought through exactly how to do it. But in addition to setting up a new office in Treasury, I suppose, we would need to go through a regulatory process for issuing the specific guidance.

There is also a State option for providing this coverage. We would need to have some formal rules established for whether that meets the requirements. So, I think it would take some time to get up and running. We would try to respond quickly, as we have to a lot of the September 11th events, but is a new program.

Senator Hatch. I think that may be something we want to do, but I do not think we want to do it in the light of a stimulus package.

Dr. Fowler, why are you requiring the Secretary of the Treasury to submit a report to Congress every three months on the premium assistance program? I mean, how did you choose the three-month timeframe, and why is that efficacious?

Dr. Fowler. I think that we wanted some way of monitoring that people actually were getting assistance.

Senator Hatch. So that is the purpose.

Dr. Fowler. And some sort of oversight that people actually were getting their payments. We want to make sure that premiums are paid in a timely manner so that people are able to maintain their coverage.

Senator Hatch. Do you really believe that there will be payments made within the first three- or six-month period?

Dr. Fowler. We hope so, and we had intended so.

The Chairman. Dr. Fowler, if you could also comment on the somewhat competing delivery programs and whether they are going to be any more efficient or not to get dollars to unemployed workers any more quickly or not.

I do not want to get into too long of a debate here. But we have got the NEG proposal here, and there are a lot of questions on how long that is going to take. So, the goal here is to find the most efficient way to get the job done.

Senator Hatch. Well, I am suggesting that creating a new bureaucracy is not the way to do it.

The Chairman. Unfortunately, the competing proposal is just that, a new bureaucracy.

Dr. Fowler. Just to answer your question, Senator, there are other options for providing such coverage. Tax credits, for example, to cover COBRA premiums. We believe that, while that can be done, it is very similar in structure and it would also be administered by the Department of Treasury. I can leave it to Mark Weinberger.

The Chairman. But the point is, we are trying to find the right way to do this. That is what this is all about.

Senator Hatch. I understand. I am just asking the questions.

I just have two more questions. Under this temporary Medicaid coverage section, you lay out State options for temporary Medicaid coverage. One provision says that a State may provide coverage under its Medicaid program in the case of an individual whose assets, resources, and/or earned income, or both, do not exceed such limitations, if any, as the State may establish.

Well, there is other legislative language that says that, "A State may elect to apply any income, asset, or resource limitation permitted under the State and Medicaid plan."

I find the intent of this particular section a little bit confusing. Does this mean that it is possible that a person could be eligible for coverage, regardless of income or asset level, if the State does not have any limitations?

Dr. Fowler. Let me answer that. What we had intended, was to give States the option to either apply their existing assets test or to not apply those assets tests in the interests of getting money out the door quickly.

Sometimes those requirements and forms can be burdensome, so the intent was, since it is a temporary program and we do see this as different than existing Medicaid coverage, that States could choose not to apply those limitations. We think that that would allow them to get the money out more quickly.

Senator Hatch. All right. In the description prepared by the Joint Committee on Taxation on the Chairman's mark, it says that States electing to provide Medicaid coverage to those laid off after September 11th and are not eligible for COBRA could use the same eligibility criteria allowed through the Workers Incentive Improvement Act of 2000.

Now, this includes full subsidies, up to 250 percent of poverty and sliding scale assistance up to 450 percent of poverty. Is that true?

Dr. Fowler. That is true. That is correct. States could choose to adopt a lower standard or a lower limit. But at least we gave them fairly broad flexibility to go above that. This is, again, for those who are not eligible for COBRA coverage.

Senator Hatch. If I understood you before, and maybe I did not, you are saying there is not any income. Yet, now you are saying they can go up to 450 percent of poverty.

Dr. Fowler. Again, States can choose. Hopefully, they are doing so expeditiously and accurately. There are limitations in terms of the federal match rate, but in terms of actual assets tests, for example, looking at how much your car is worth or how much your liquid assets are worth, or something like that, those sort of tests, they can choose to waive. But, yes, there is an income limitation. That is simply based on, for example, your last wages earned.

Senator Hatch. Thank you, Mr. Chairman.

The Chairman. Senator Kyl?

Senator Kyl. I have four questions on the tax provisions, but, in the interest of time, might I just ask one of those questions? I think this question will be for Lindy Paull.

Has a simplification report been conducted on the mark, and if so, what is the result? If not, when might that be done?

Ms. Paull. Senator Kyl, we have not done our complexity report yet. It will hopefully be done by the time it goes to the floor, which I understand might be tomorrow.

Senator Kyl. So you might have it done by tomorrow?

Ms. Paull. Yes.

Senator Kyl. Great.

The Chairman. Thank you.

Senator Kyl. Thank you, Mr. Chairman.

The Chairman. Senator Grassley?

Senator Grassley. For Dr. Fowler. I have got a long question, but what I am trying to get at is how long it might take States to put machinery in order and get money to the workers under the COBRA benefit.

Give us a rough idea of what you think States would have to do. Would they not also have to establish reporting mechanisms to the Federal Government because we want some accountability? It is my understanding that some State legislatures would most likely have to act to approve new infrastructure and allocate resources to administer the new benefit.

Dr. Fowler. First, were you talking about the COBRA subsidy or the Medicaid option?

Senator Grassley. Yes. I am sorry. I did make that clear. COBRA.

Dr. Fowler. The COBRA option. It is an option for States. They can choose to do this. They must submit a plan to the Department of Labor and to the Department of the Secretary by January 1, 2002. So, to take advantage of this administrative option, States would have to act very quickly.

We would anticipate that States would likely use existing frameworks to administer the program, for example, through the unemployment insurance offices.

How fast would it take them to get up and running? I think that we were hopeful that this could be done within the next three months if they were able to submit their plan and have it approved, and with the existing, like I said, delivery system already in place.

Senator Grassley. Well, let me ask either Mr. Weinberger or Mr. McClellan. Did the administration, before you put your proposal out, not do some consulting with States about the best way to get this help for health benefits for unemployed people or people hurt by the disaster?

Mr. McClellan. We did, Senator. We talked to a number of States, as well as reviewed all of the programs by the administration that are available now or that could be moved into vehicles for providing COBRA assistance. This is something the President believes is a high priority and should be included as part of a stimulus package, because it is one area where current worker benefits do have a bit of a gap.

In that review, and in our consultation with States, our conclusion was that the best approach would be to go through an existing mechanism in the Department of Labor, a flexible program that does not require a formal notice and comment process, because it is a grant program.

A flexible program that enables States to build on the mechanisms that they have in place that can best be adapted to providing a COBRA assistance for their workers.

So, we chose that route rather than a formal entitlement with the necessary rulemaking steps, and so forth, that would be required before we could even get applications in the program.

Senator Grassley. After hearing what Dr. Fowler said about their supposition about how quickly that can be inaugurated, do you agree that it can be done that quickly? Or even if it could be done that quickly, would your program be instituted more quickly?

Mr. McClellan. Well, we have had some discussions about this already. We can have more to see if we can get to a better understanding. I think it would take a bit more time to do this formal COBRA entitlement, as in the Chairman's mark.

One reason for that, is that because it is an entitlement, it would need a formal notice and comment process. The States would want to know, if they are setting up an option to participate in this, what the standards are for being able to do so and whether or not they are going to be approved.

So that is going to require us to formulate those standards, put them out for notice and comment, which is a 60-day review requirement for the public to make comments on the proposal, and then we would have to take account of those comments and issue a final rule that also reflected why we did not make certain other changes. At that point, States could probably apply, but I think that would put us into next year.

Senator Grassley. Do you think that States would go through this COBRA process presented in this mark if it were going to sunset at the end of the year 2002?

Mr. McClellan. I think it might be a bit of a challenge, especially since, as Dr. Fowler said, all the benefits would end at the end of 2002. So even if you lost your job in the middle of 2002, you do not get the full amount of the assistance. It really ends at the end of December, 2002. So, it is a pretty short timeframe for a big, new State program and application process.

The Chairman. If I might say, this subject, the general subject of health insurance, as you all know, as we all have been part of the discussions many, many times over the last couple of months, it seems, with Senator Grassley, his staff, and our staff, and so forth, the goal here is to get the health insurance benefits out quickly. There are lots of ideas here.

Do you want to say something, Dr. Fowler?

Dr. Fowler. I did not want to interrupt you.

The Chairman. Go ahead.

Dr. Fowler. I just wanted to make a couple of quick points. The first thing, is we did not intend for this to create a new entitlement. I know that is a concern of a lot of Republicans when we have been in discussions. The language that we have specifically states that this does not create a new entitlement program. It is intended to be a temporary assistance program for displaced workers in a time of economic distress.

The second point I wanted to raise, was that we did, in looking at the different options, including the national emergency grants, consider all the administrative options out there. I think that each one has its own set of difficulties.

The Chairman. Correct.

Dr. Fowler. I think we could all speculate about how much time this one would take relative to that time.

The Chairman. Correct.

Dr. Fowler. They might take time, but I think that we came to the conclusion that it was an important thing to do, and it was the right thing to do, and that it was important to include.

The Chairman. I think that is an important point. All of these various alternatives have their pluses and minuses, and we are just trying to find the one that works best.

Senator Hatch?

Senator Hatch. Dr. Fowler, just let me follow up, because I have been thinking about this.

I want to go back to my last questions. Your legislation states, and you confirmed, that in certain circumstances there would be no asset or income limitations for temporary medical assistance.

Now, I thought that the purpose of the Medicaid program was to assist low-income or vulnerable populations. Why are we allowing no income or asset limitations in a program that, historically, has provided services for the very poor?

Dr. Fowler. I understand your concern, Senator.

Senator Hatch. If that does not create a new entitlement, I do not know what does.

Dr. Fowler. Right. I would just, again, point out that this was intended to be temporary. Also, just that Medicaid is intended for low-income folks. We also, in looking at the administration's proposal, which builds on the CHIP program and would allow the CHIP program to provide assistance to displaced workers, that program was not intended to for displaced workers either.

I think that what the point is, is we are trying to build on existing programs that are already in place in order to get the money and to get the benefits out the door more quickly.

Senator Hatch. Well, as the author of the CHIP program, that helps low-income children. In other words, families that just do not make enough money to pay for health insurance.

Dr. Fowler. Right.

Senator Hatch. Can you tell me any entitlement, once it is established, that has become a temporary program? Just name one, would you? I would love to know whether there has ever been an entitlement that has become a temporary program.

Dr. Fowler. AFDC and unemployment, I think, would be the two examples that I would raise.

The Chairman. Wool and mohair is another one.

Senator Hatch. But I am talking about health care entitlement.

Dr. Fowler. Right. Right. Health care.

The Chairman. Honey, AFDC. There are several.

Senator Hatch. Yes. But I am talking about health care.

Dr. Fowler. Right. At least previously, AFDC provided Medicaid benefits, but only when you were on AFDC. Then those benefits went away, along with your coverage under the old, prior to welfare reform.

Senator Hatch. Your contention, as I understand it here, is we are going to do this, but it is going to be a temporary program, even though it means more than what has heretofore been defined as the poor under Medicaid?

The Chairman. Senator, I might say, this is a stimulus package. The idea here is just to help people in a crisis. That is all we are trying to do here. There are all kinds of ways to do this.

Senator Hatch. Well, we have just found out that it is going to take you six months to a year to help them.

The Chairman. We are just trying to find the one that works the best.

Senator Hatch. Well, I think what I am pointing out is, this is hardly a stimulus package, this particular provision. As Mr. McClellan, I think, very carefully explained, it is going to take somewhere between six months and a year to get up and running. How does that stimulate the economy? That is just another big cost to taxpayers.

The Chairman. All right.

Senator Lincoln. Mr. Chairman?

The Chairman. Yes, Senator Lincoln?

Senator Lincoln. Can I just ask a brief question? In all this talk about spending and stimulus, perhaps, Mr. Weinberger, your comments in terms of whether the administration feels that spending has no stimulus effect.

Mr. Weinberger. No, Senator Lincoln. What we said, was we believe we have to secure business confidence and consumer confidence. The President does support the low-income payments through the checks to people who did not get them the first time.

But we strongly believe that the best thing to do is to get the economy going and to get investment going so we could get people to have jobs, so that they will not have to be getting these extended benefits for unemployment insurance, COBRA, and the like. To do that, we believe you need to have more of a stimulative effect on the business side that is in the current mark.

Senator Lincoln. Does the administration feel that spending has any stimulus effect at all?

Mr. Weinberger. The problem with spending as stimulus is the long pay-out time that it takes when you have new projects. So, it depends on the type of payments and it depends on the types of projects.

Senator Lincoln. So you do think it has value.

Mr. Weinberger. Some spending could have value in the right circumstances.

Senator Torricelli. Mr. Chairman?

The Chairman. The Senator from New Jersey.

Senator Torricelli. You are aware, in looking at these projects, they have been evaluated on whether or not they are prepared for construction in the near term.

As we have gone through possible spending on the stimulative side the question repeatedly asked is, are there approvals, are there blueprints, are these things that could be built very quickly?

It is one of the reasons why a mainstay of this has been the Amtrak program, because these are projects the

States are prepared to move on, in some cases, very, very quickly. I think you will see that throughout the bill.

So we all recognize there is responsibility to have the stimulative that people are put to work in the next three or six months on projects that are identifiable and real. No one is trying to provide stimulus here for projects that will be built in a year, or two, or three. These are immediate.

Mr. Weinberger. I appreciate that, Senator. What I was referring to, was when the President laid out his principles for this stimulus package he asked for $60 to $75 billion as a marker in tax cuts on top of the money that was already spent.

As he said most recently, as you well know, he believes that the deal that he had reached with the appropriators at $686 billion was the spending that was going to occur, plus the $40 billion, obviously, in the stimulus spending.

So what he was talking about in the context of a stimulus package on the tax side, was the principles he laid out. So, that is what I was referring to earlier, Senator, when I said that this was light in that department.

Senator Torricelli. Mr. Chairman, I do not want to prolong this. I know that some of my colleagues have a concern that the recession will be over before this stimulative package actually takes effect. I think there is a chance the recession will be over before this meeting is over. [Laughter].

But there is a common thread through many of these comments. It is as if Chairman Baucus, in offering the stimulative and tax package, somehow is producing something that is unprecedented.

If we were sitting here during any of the 15 or 18 recessions in the latter half of the 20th century, you would find that this is a remarkably similar strategy. We have applied the same standard. It is to get financial resources in the hands of consumers who are most likely to spend this money.

Now, I voted for the tax package last spring and I make no apologies for it. But even as someone who supported the President's tax reduction, I could not argue that the funds given to those taxpayers were as likely to be spent as they are to the moderate- and low-income people that will receive these rebates. People of modest incomes are simply far more likely, to a mathematical certainty, to spend that money because of their other lack of resources. That is the first.

Second, people are acting as if they are incredulous at the notion that somehow government spending is stimulative to the economy. Well, that is not an argument to have with Max Baucus. That is an argument to have with FDR in 1933. That is an argument to have with Harry Truman after the war. That is an argument to have with Dwight D. Eisenhower in 1958.

There is not a recession that this country has had, particularly in the last 50 years, in which we have not used exactly the same formula: stimulate consumers and get direct spending.

Now, the odds, I think, are good that when you give these financial resources to taxpayers they will spend it on consumption. The odds are absolute. They are 100 in 100 that, when this goes to road or railroad construction, that money will be spent for employment and it will be stimulative.

But, yet, this entire discussion, in which I have been very patient and my tongue is bleeding from biting it for the last several hours, has been as if this was something new. This is not a Democratic formula at all. I hope that we would recognize that these historic precedents have some reason.

Max Baucus has done nothing more here than employ an age-old formula to try to get money in the hands of people who need it and employment to those who otherwise would not have it.

I have concluded.

The Chairman. All right. I would like to modify the mark. I think all Senators know what it is, including the further modifications. I think all Senators know what they are. So, the mark is modified, with the modifications.

Senator Torricelli. Mr. Chairman, I do have an amendment.

The Chairman. And that is the next step.

Senator Torricelli?

Senator Torricelli. Mr. Chairman, I have an amendment. For all the disagreements that we have had here, there is one thing on which I think we all can agree. It has been both tradition and law in America that, when American soldiers have died on foreign battlefields, for their widows and their families in the year in which they have deceased, we have not given them a federal tax liability. Indeed, in the terrorist attacks in recent years we extended that to civilian employees of the U.S. Government.

Almost every member of Congress and the President of the United States have argued since September the 11th that we are in a two-front war, and one of those fronts is at home. In this war, all Americans are soldiers.

My amendment is consistent with that philosophy. I have provided an exemption from federal taxation to the widows, the widowers, and the children of the attacks on September 11th from federal tax liability.

I have done so for those who were in the World Trade Center and the Pentagon, and those who were on the aircraft that were affected, and I have done so in several ways.

One, waive income tax liability for the year of death and at least one previous year. Second, increase the estate tax and the formula that shields the first $3 million in assets from federal and State tax, and $8.5 million in assets from federal estate tax only for 2001.

Payroll tax relief. Refund for two years the payroll taxes for those killed in the attacks. Debt relief. Exempts tax for any cancellation of debt made by lenders to victims who have died. Survivors' benefits. Makes death benefits paid on account of death resulting from a terrorist attack and military action exempt from tax. I do the same with disability benefits and disaster relief payments.

Mr. Chairman, this is as simple as it is fair. I do not believe any member of this committee would want a widow or widower to have to pay estate taxes or taxation on benefits for any bonuses paid by employers to an employee who was in the World Trade Center on September

11, 2001.

This is obviously limited in scope to those some 5,000 people who lost their lives on those days. It is obviously not a question of financial resources, it is a question of fairness.

Also, on behalf of Senator Nickles, who is not here but has asked me to offer an amendment, which I think is right and is fair, which would treat the people who lost their lives on April 19, 1995 in the Oklahoma City bombing with parity, on an equitable basis with the amendment that I am offering here today.

So, Mr. Chairman, I offer an amendment on behalf of those who were victims on September the 11th, and offer an amendment on behalf of Senator Nickles that would do the same for people of Oklahoma.

The Chairman. Is there any further discussion?

[No response].

The Chairman. Without objection, it is agreed to.

Senator Conrad. Mr. Chairman?

The Chairman. Senator Conrad.

Senator Conrad. Might I just inquire if this applies to those at the Pentagon?

Senator Torricelli. It does. And the people on the aircraft.

Senator Grassley. Mr. Chairman, I would like to have 15 seconds.

The Chairman. Are you going to wrap up at the end?

Senator Grassley. Yes.

The Chairman. All right.

Senator Kerry?

Senator Kerry. You accepted that?

The Chairman. That has been accepted.

Senator Kerry. Thank you.

Mr. Chairman, I just wanted to clarify a point. I was not here, but Senator Nickles responded during my absence. Apparently, he suggested that I was incorrect and that people with taxable incomes over $45,000 would benefit from this bill.

Let me just, again, assert--and I think this is correct--taxable income is not gross income. Only 24 percent of all taxpayers are in the 27 percent bracket or higher. Those people have to have a $66,000 gross income in order to qualify for this bill. There is a distinction between taxable and gross. So what I said, that you have to have a $66,000 income in order to qualify for anything in the Republican bill, is correct.

I thank the Chair.

Senator Gramm. Mr. Chairman?

The Chairman. The Senator from Texas.

Senator Gramm. Not to drag this old dead cat back across the table.

The Chairman. Then do not.

Senator Gramm. But the bottom line is, by accelerating the rates, that will benefit any individual who has taxable income of $27,751. Now, I know that is a very rich person and it benefits families that have $46,401. Every occupation you listed this morning falls in that category.

Senator Grassley. Mr. Chairman?

The Chairman. Go ahead.

Senator Grassley. As we conclude this mark-up, I would like to renew an offer to you, to Senator Daschle, to Senator Lott, to Senator Breaux, Senator Snowe, and Senator Jeffords. I think it is obvious why I included those folks.

I want everybody to have a copy of the letter, and ask unanimous consent that it be placed in the record. I sent this letter last Tuesday. The letter basically requests that the group I just named--and it could include other people as well, but at least that group--represents each side's leadership, senior tax writers, and the leaders of the Centrist Coalition, that we meet as a task force.

The goal of this task force would be a bipartisan stimulus package. It is clear that this group ultimately must get together or we are not going to be able to get a package out of the Senate. Consequently, starting right away at 8:00 Tuesday morning would be a good time for this group to start meeting.

[The letter appears in the appendix.]

Senator Torricelli. Well, Mr. Chairman, speaking only for myself, I find the list incomplete. [Laughter].

The Chairman. I imagine there are others that would be in the same situation. I can think of a lot of Senators that would like to be in that group, like to be in that room. As Senator Long would say, I am not favor of any combine that I am not a part of, and I think that applies to most everybody here.

Senator Torricelli. Mr. Chairman, is my amendment adopted?

The Chairman. It is adopted. We adopted it. It is adopted.

Senators are on their way. Let us wait just a couple of minutes before we vote.

While we are waiting, I would just like to say to members of this committee, I deeply appreciate this discussion. I think there have been a lot of very constructive comments, and it has been helpful.

Our goal here, clearly, is to help our country get people back to work and income in people's pockets. I am not going to get into all the sequence of events that led us here. Everybody has made his or her points, and that is history.

The point is, how do we get on from here? I must say that I talked to a lot of people about, what is the right thing to do here? While we were talking with Senator Grassley, Secretary O'Neal, and others, and after those talks broke down, I made a lot of telephone calls around the country. I talked to a lot of economists. I talked to a lot of CEOs all around the country. And I did not pick out those who I thought would give me a certain answer. I was trying to find out, what do people actually think? What do heads of companies actually think? It is interesting.

The answers I got from the economists--and I talked to many--and to the CEOs--and I talked to very many, names that you all would recognize and names that you have very strong confidence in--and it was very interesting to me that, with a near-unanimous opinion, they said to me privately, sure, we would like to have corporate rate cut.

Sure, we would like to have corporate AMT repealed. Sure, we would like to have capital gains reductions. But we know that this is not the time for that. This is not the time for that.

What did they say? They said, almost unanimously, that this economy can be jump-started----

Senator Gramm. They wanted a beet subsidy, right? [Laughter].

The Chairman. [Continuing]. If we put dollars in people's pockets. If we put dollars in people's pockets.

I want to say, Senator, it is helpful if this is a respectful conversation. It is only when we respect each other that we are going to get results. When we do not respect each other, then things break down.

I must say, virtually every CEO and virtually every economist that I talked to, and I talked to a bunch of them, said, to get this economy going you have got to put money in people's pockets.

They said, we like sending the checks out. That is very good. We like that. That helps the economy, because that helps people start to spend. They also said they liked the extension of the unemployment benefits because people need to spend.

On health insurance, I grant you, with respect to stimulus, it was not quite as clear from a stimulus perspective, but still it is very clear from the point of view of just helping some people who really need some help, given the economic downturn.

Now, on the business investment questions, I asked, what works? What is most stimulative? The answers I got back were, essentially, bonus depreciation, NOL. Those were the ones that worked. They also said, Senator, we like all of those other business depreciation provisions, but the fact is, we are unlikely to invest any further if people are not buying products that we could manufacture.

I have got to tell you, it was astounding. It was stunning. I will give you the names, Senator, privately, of who I talked to.

Senator Gramm. Would the Senator yield?

The Chairman. I have not finished. No, I will not yield at this point.

I, therefore, put together a mark which I thought was the right thing to do. It was up front dollars, it is in the first year, it is temporary, it stimulates the economy, and it is the right thing to do.

Now, there has been some talk about taxes versus stimulus. This is no a tax bill. This is a stimulus bill. This is not the ordinary tax bill where we have all kinds of different provisions and are writing tax reductions, or whatnot. This is a stimulus bill.

Clearly, putting those paychecks out is stimulus. Clearly. Nobody disputes that. Clearly, unemployment compensation benefit increases is stimulus. Clearly, the agriculture provisions are stimulus. They are going to be spent. They are going to be spent. The unemployment checks are going to be spent. The rebate checks are going to be spent. That is money in the economy.

Now, are they tax reductions? No, of course they are not tax reductions. But they are stimulus. They are tax proposals that many suggest are not stimulus because they help some companies immediately in their profit margin, or they help high-income individuals who will not spend, or at least will spend much less of the proportion of what they get than will people spend in the provisions contained in this bill.

So there are two dynamics here. One, is working together to get something done right. The other, is what is right, and what is right for the country, and what stimulates the economy, and to do the best we can to get people working and to get people to have more jobs. I think that is clear.

Senator Gramm. Mr. Chairman?

The Chairman. Very quickly, then we are going to vote.

Senator Gramm. Yes. Very quickly.

I not only am an economist, I spend two-thirds of my life around them. I have never met one of them that agrees with you.

The Chairman. Or with you.

Senator Gramm. Well, I agree with myself, so by definition. [Laughter].

The Chairman. That is clear.

Senator Gramm. Second, the problem is, with all this demagoguery against the successful, what gets an economy going is getting rich people to invest their money in the economy.

Senator Rockefeller. That is true over the long haul, Senator.

Senator Gramm. And if you are going to vilify investment, you cannot love capitalism and hate capitalists. I think that is the whole problem here.

Senator Rockefeller. Let us vote. Let us vote.

The Chairman. Let us get a count, first.

[Pause].

Senator Kerry. Is it possible that we could go ahead and vote and keep the vote open for the others that are obviously on the way?

The Chairman. Well, Senators can vote later after the vote, but they cannot change the result. Right now, at nine and nine, it does not pass.

Senator Kerry. Well, I would ask consent at this point that they be allowed to cast their vote.

The Chairman. I am not sure I could get the other two Senators here. That is not a lock.

Senator Kerry. If they cannot get here, how can you have a vote anyway?

The Chairman. Well, let us cross that bridge when we get there.

Senator Lincoln. Mr. Chairman?

The Chairman. Senator Lincoln?

Senator Lincoln. In the spirit of bipartisan, can I ask the panel a question?

Senator Lott. Mr. Chairman, we are about to lose a quorum here, because we are all fixing to leave.

The Chairman. Well, we are not going to lose a quorum. Eleven is a quorum.

Senator Lott. I still do not understand why we cannot find a way to go ahead and start having a rolling vote.

The Chairman. No, no. I would rather do this according to the rules, frankly.

Senator Breaux. You can let them vote their proxies.

The Chairman. No, no. They cannot vote their proxies. Proxies cannot change the result. Right now, it is nine and nine.

[Pause].

Senator Murkowski. Mr. Chairman?

The Chairman. Senator Murkowski?

Senator Murkowski. I wonder if we have some way to resolve this.

The Chairman. Well, there is.

Senator Murkowski. I know. If you do not get your two other members, theoretically we would prevail.

The Chairman. We will get two other members. The point is, that is later. We can solve it now if one of your side did not vote.

Senator Kerry. Let us get the people here, Mr. Chairman.

Senator Kyl. Mr. Chairman, might I ask you a parliamentary question?

The Chairman. Wait. One person on the floor at a time.

Senator Murkowski. It would seem to me that I have chaired other committees and the rules accommodate members in voting in such a way as to have a rolling quorum.

The Chairman. Well, different committees have different rules.

Senator Murkowski. Can the Joint Committee not make the rule, if we want to alter it here by a vote of a majority, to try to accommodate it? I mean, there is no secret as to what is going to happen.

On the issue of trying to accommodate members, it is almost a quarter to 7:00. I do not know where your folks are and I do not know where ours are, but it is a foregone conclusion of what is going to happen. I would propose that we have a vote on an exception to the rule to allow us to proceed.

The Chairman. I think they are very close to arriving, the two absent Senators.

Senator Lott. Mr. Chairman, I would just say, I would like to make sure that the record records my presence as being here. I have a commitment I must leave for, because I have to be there by 10 after. My vote will be cast by proxy. But I feel the necessity, I have just got to leave. I was here when I was told to be.

The Chairman. All right. I understand. Senator Graham is now here. We all have a gentleman's agreement here that it is going to be 9 and 10.

Senator Kyl. Mr. Chairman, might I just ask a parliamentary question?

The Chairman. Yes.

Senator Kyl. I appreciate your desire to follow the rules here.

Mr. Chairman, if every Republican left at this point, would the Chair have a quorum to conduct business?

The Chairman. Yes.

Senator Kyl. If every Republican left?

The Chairman. By the rules. We are ready to vote. The Clerk will call the roll.
The Clerk. Mr. Rockefeller?
Senator Rockefeller. Aye.
The Clerk. Mr. Daschle?
Senator Daschle. Aye.
The Clerk. Mr. Breaux?
Senator Breaux. Aye.
The Clerk. Mr. Conrad?
Senator Conrad. Aye.
The Clerk. Mr. Graham?
Senator Graham. Aye.
The Clerk. Mr. Jeffords?
Senator Jeffords. Aye.
The Clerk. Mr. Bingaman?
Senator Bingaman. Aye.
The Clerk. Mr. Kerry?
Senator Kerry. Aye.
The Clerk. Mr. Torricelli?
Senator Torricelli. Aye.
The Clerk. Mrs. Lincoln?
Senator Lincoln. Aye.
The Clerk. Mr. Grassley?
Senator Grassley. No.
The Clerk. Mr. Hatch?

Senator Hatch. No.
The Clerk. Mr. Murkowski?
Senator Murkowski. No.
The Clerk. Mr. Nickles?
Senator Nickles. No.
The Clerk. Mr. Gramm?
Senator Gramm. No.
The Clerk. Mr. Lott?
Senator Lott. No.
The Clerk. Mr. Thompson?
Senator Thompson. No.
The Clerk. Ms. Snowe?
Senator Snowe. No.
The Clerk. Mr. Kyl?
Senator Kyl. No.
The Clerk. Mr. Thomas?
Senator Thomas. No.
The Clerk. Mr. Chairman?
The Chairman. Aye.
The Clerk. Mr. Chairman, the tally is 11 ayes, 10 nays.
Senator Murkowski. Mr. Chairman?
The Chairman. Senator?
Senator Murkowski. A question relative to, we adopted the Terrorist Victims Relief bill, but does it

include those who died from anthrax? If not, I think it should. Can the Chair enlighten me?

The Chairman. My understanding is that it does not. I suggest that that is a matter we could take up between here and the floor, because obviously that is something we have to deal with.

Senator Murkowski. I would suggest that we instruct the staff to take it up. Was it considered?

Mr. Sullivan. Mr. Murkowski, parts of it would be applicable to the victims of terrorist attacks, if the anthrax was determined to be a terrorist attack, but not all the provisions.

Senator Murkowski. Well, who makes that determination, and when?

The Chairman. Can I ask staff to have authority to draft necessary technical and conforming changes to the Chairman's mark? This would include that determination.

Senator Murkowski. All right. Well, let us take a look at it.

The Chairman. We will.

Senator Murkowski. Thank you.

Senator Lincoln. Mr. Chairman, may I submit my question for the record to be answered?

The Chairman. Absolutely.

[The questions appear in the appendix.]

The Chairman. All right. The bill is reported out favorably.

[Whereupon, at 6:46 p.m. the meeting was recessed.]

I N D E X

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STATEMENT OF SENATOR ORRIN G. HATCH
BEFORE THE SENATE FINANCE COMMITTEE
Mark up of the
Economic Recovery and Assistance for American Workers Act of 2001

November 8, 2001

Mr. Chairman, I must say that I am saddened to see this committee so divided today. I have been a member of the Finance Committee for ten years, and I can recall only one or two times when the committee has had before it such a bitterly divisive Chairman's mark as the one we are considering today.

Frankly, this puzzles me. I know you are sincere when you say you want a bipartisan product, and I am aware of the many hours you have spent with Senator Grassley trying to find a compromise. But I just cannot understand how we have so miserably failed to find some middle ground.

Earlier this year, before the Chairman and Ranking Republican member of this committee switched places, we faced another difficult challenge – how to find a compromise on the largest tax cut in a generation. With the bipartisan cooperation for which this committee is known, we were able to forge a package that was supported by a solid majority. More importantly, that compromise survived with a strong vote on the floor of the Senate and the tax cut became law.

Enactment of a bill that will effectively stimulate the economy, I hope, is the goal for all of us here today. Unfortunately, Mr. Chairman, the path you have set us on with this mark does not lead to that destination. This bill will require 60 votes to pass on the floor, and I just do not see how we can build that result on this shaky foundation.

I understand that Democrats and Republicans have different views as to what will work to stimulate the economy. And I also know that my side cannot entirely get its own way. What it so troublesome to me, though, is why at least some of your mark cannot represent bold economic stimulus, as defined by Republicans.

Let me just mention two examples of where this mark falls way short, Mr. Chairman. The first deals with bonus depreciation. This is a provision you have in your mark, but at only 10 percent, it is so weak that it is almost meaningless.

Bonus depreciation is one provision that almost everyone – Democrats, Republicans, Secretary Rubin, Chairman Greenspan, the President – agrees should be part of the package. It makes sense to include it, because stimulating the economy is about changing behavior. Bonus depreciation lowers the cost of an asset. When the incentive is a strong one, behavior is changed, a purchase is made that otherwise would not be, and the economy is stimulated.

But what happens if the incentive is weak, such as a 10 percent bonus depreciation deduction? Obviously, a tepid incentive will yield a tepid response.

But do not simply take my word for it, Mr. Chairman. A recent study by the National Association of Manufacturers shows significant advantages of a 30 percent bonus depreciation provision over a 10 percent plan. The 30 percent plan would yield $74 billion more in GDP by the end of 2004 than would the 10 percent plan. This translates into faster GDP growth, which translates into hundreds of thousands more jobs.

This is not the time for timidity. We need a stimulus provision that roars with the leadership of a lion, not the whimper of a kitten.

Personally, I favor a stronger depreciation measure than what was passed by the House. I introduced a 50 percent bonus depreciation bill, and I filed an amendment reflecting that level.

Bonus depreciation is probably the best single stimulus idea around. So why would we include only a lightweight version of what should be the centerpiece of this bill?

The second example, Mr. Chairman, is the fact that the mark does not include the repeal of the corporate alternative minimum tax. We have thousands of distressed employers in America that are being mangled by the AMT, which is contributing to the number of layoffs we are seeing.

But when it comes to unemployment, this mark is trying to temporarily relieve the symptom, but is not trying to find the cure. The symptom is unemployed workers, and they need and deserve our help. But, do we better help them by merely easing their pain with extended unemployment benefits, or by helping employers create good jobs?

I believe most unemployed workers would rather have a paycheck than an unemployment check any day.

By repealing the alternative minimum tax, we instantly strengthen employers, especially those in manufacturing and mining, where about half the companies were paying AMT in 1998, even before the economy started slowing. Now the AMT bite will be even more painful.

One reason I am baffled by the omission of the AMT repeal, Mr. Chairman, is that your mark does include another provision to assist distressed employers – the net operating loss carryback provision, which I support. But, why is it OK to help employers distressed by losses, but leave behind employers buffeted by the alternative minimum tax?

[redacted]

I guess the thing that perplexes me the most, Mr. Chairman, is the fact that you have been so strong on economic growth and job creation issues in the past. You and I have together sponsored several important pro-growth tax cut measures including the permanent research credit and international tax simplification. Moreover, you demonstrated superb courage and leadership earlier this year on the Bush tax cut bill.

What I am asking for is not a bill that is 100 percent tax cut or 100 percent Republican. I understand the need for compromise. But I do think that a stimulus bill worthy of the name should include a bold measure or two that will attack the heart of the problems of our economy. Window dressing or piddling around the edges does not address these serious matters.

Although I am not optimistic that we will report a real economic stimulus bill today, I do hope we can improve this bill on the floor enough that it will earn the bipartisan support it needs to help us succeed in our job of strengthening the economy.

Thank you, Mr. Chairman.

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Jon Kyl

Mr. Chairman, thank you for holding a mark up of this legislation.

I had hoped that this process would give us an opportunity to work together to craft a responsible economic stimulus package during this time of great need. But if initial indications are any guide to what these proceedings will amount to, it appears that we have come together only to run through a familiar, tired, partisan political exercise. Members masquerade as champions of bipartisanship, as they tout the benefits of this bill, but they failed to attract even a single Republican to their effort.

This contrasts starkly with our experience in May, when a Republican majority made repeated compromises in the crafting of the tax-relief legislation. Time after time, we bent over backwards to produce a bill that truly reached across the aisle. But now, where is the reciprocity? Where is the evidence of any comparable effort to work with Republican Members of this committee in the drafting of this bill?

In my view, the product before us is an utter embarrassment. Where is the "stimulus" in livestock-assistance programs? Where is the "stimulus" in creating new entitlements? This is not an agriculture bill. This is not a bill to expand entitlements. If we pass a bill that contains such measures, it will be anything *but* an economic stimulus bill. It will simply be a bloated gift to favored special interests -- just in time for the holidays.

I understand that this mark might represent some priorities that are not entirely your own, but have been foisted upon you by Members who are not on this committee. It is our responsibility, therefore, to bring some sense to the table and to strike a better balance in the interests of the American people. I am still hopeful that we can do so, and I urge my colleagues to drop the pretense of bipartisanship and begin practicing the real thing.

Before I speak on the merits of the particular stimulus package that I support, let me first speak to the reasons why such a package is needed at all. The horrific events of September 11 have struck a massive blow to an already ailing national economy. No one disputes this fact. Any signs of an observed economic turnaround before September 11 – and make no mistake, the signs were there -- have now all but vanished. Congress did the right thing when it passed the tax-relief legislation in May. The economy was struggling and we stepped in to give it a lift. Now, it is reeling, and we must act again.

The dismal economic reports released last week underscore the need for a timely and appropriate response. In the month of October, consumer confidence plunged to a seven-year low, unemployment soared from 4.9 percent to 5.4 percent, 415,000 jobs were lost, and manufacturing activity declined to its lowest levels since February 1991. With stocks slumping, third quarter GDP fell by 0.4 percent, the first decline in eight years, and the fourth quarter looks worse. It doesn't take a rocket scientist to see that we've hit hard times. But a lot of people are trying to make rocket science out of what should be a simple solution.

President Bush has proposed an economic stimulus package that makes sense, and I urge my colleagues to support it. Its main virtue is that it is in fact well-balanced. Nearly $55 billion has already been proposed for emergency spending, and it is crucial, if we are to truly stimulate the economy, that any package passed by Congress offset this new spending with tax relief. As Federal Reserve Chairman Alan Greenspan and other leading economists have pointed out, our country is now experiencing what could properly be called an investment recession. Incentives are therefore needed to raise after-tax economic rewards for innovation, investment, and work effort in order to get our economy back on track. Additionally, the President has said clearly that the country must assist those workers who lost their jobs as a result of the September 11 attacks.

The President has been very clear on the importance of a balanced plan. The need to extend unemployment benefits, and national emergency grants must be coupled in equal measure with further tax relief. Otherwise no economic "stimulus" package will be worthy of the name. The administration has offered a four-component proposal that would reward work and encourage investment:

First, it would accelerate the marginal income-tax rate cuts that became law this summer but are now delayed until 2004 and 2006. The proposed plan would have them take effect on January 1, 2002, and would apply to rates at every level of income. Considering that roughly one-third of personal tax filers are actually small businesses, it is essential that the 40 percent top marginal tax rate come down immediately to 33 percent to help unincorporated small firms retain and create more jobs. Entrepreneurs and the customers they serve are the life-blood of our economic system. More money in their hands means more money moving through the entire economy.

In an effort to encourage investment, the President's plan also incorporates a 30 percent depreciation bonus for the purchase of any new capital assets. This would enable companies to get much-needed equipment and other resources that might not otherwise have been affordable.

Furthermore, his plan includes a full repeal of the corporate alternative minimum tax (AMT), a thoroughly regressive, tortuously complicated, and utterly unfair tax that literally imposes a heavier burden on companies when their income falls. On November 6, the Treasury Department released data showing that, in 1998, some 30,226 companies paid higher taxes due to the corporate AMT than they would otherwise have paid. Thus, during an economic downturn like the one we are currently experiencing, as companies see their sales and profits dip, their tax burden is actually increased.

The President's plan advocates a prospective repeal of the corporate AMT, unlike other proposals that are retroactive. Repeal would immediately free up monies for investment and employee retention, and what's more, elimination of this administrative nightmare would dramatically lessen the tax code's current drag on the economy. It's really quite simple; repeal of the corporate AMT yields immediate short-term relief at a time when the economy needs it most.

Lastly, in a bipartisan effort, the President has reached across the aisle and embraced a Democratic proposal that would provide rebates of up to $300 for workers who filed income-tax returns but did not have an income-tax liability. We have joined him in support of this measure, to ensure that money finds its way back into the hands of those workers most adversely affected in the aftermath of the September 11 attacks.

I strongly support the President's plan; however, I believe it can be strengthened by a couple of key provisions. First, it is absolutely crucial that we make the provisions of the tax law signed on June 7 permanent, especially with respect to repeal of the estate tax. The importance of permanence cannot be understated. It is critical to the financial planning of our families and businesses, all of whom must make important decisions based on what they expect will be the tax laws in the future. Assuring taxpayers that the tax relief they now have will still be there 10 years down the line provides a level of economic certainty in these less-than-certain times, helping to bolster consumer confidence and encourage investment.

Second, if we are to prevent thousands of bankruptcies, hundreds of thousands of lost jobs, and many other indirect consequences to the rest of the economy, we need to specifically help our struggling travel and tourism industry. Accordingly, I have introduced legislation that I hope to include in any economic stimulus package passed out of the Senate. My bill, entitled the Travel America Now Act of 2001, would provide a $500 tax credit per person ($1,000 for a couple filing jointly) for personal travel expenses for travel originating within the United States. This includes travel by airplane, ship, train, car, and bus, hotel and motel accommodations, and rental cars, but not meals. The credit would become effective from the date of enactment until December 31, 2001. The most important effect of such legislation is that it would get America moving and doing business again.

So there it is. Beyond all doubt, our economy is struggling. It continues to worsen every day we fail to act. Remember, we have already approved nearly $55 billion in emergency spending. If we are to stimulate the economy, if we are to give it the type of boost it truly needs, we must offer incentives to work, save, and invest – the activities that form the cornerstone of a healthy, and growing economy.

Let's set aside this partisan proposal that is before us and join together to support the stimulus legislation proposed by President Bush.

Mr. Chairman, I ask unanimous consent that the text of this statement be printed in the record.

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COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
FINANCE
SELECT COMMITTEE ON ETHICS
SPECIAL COMMITTEE ON AGING

Mr. Chairman, In the spirit of bipartisan compromise, can I ask one last question of Mr. Weinberger?

Thank you Mr. Chairman, Mr. Weinberger, Chairman Greenspan has said several times and in many places, both public and private, that S corporation reform would be a preferred method of stimulus. I have here Chairman Greenspan's testimony before the Joint Economic Committee where he testified to that very thing back in October. S-corporations are important to my state and this country. There are approximately 2.6 million S corporations which operate in virtually every sector and in every state across the nation. Senators Hatch and Breaux and I introduced a bill which is cosponsored here in the Committee by Senators Gramm and Thompson, that would provide for broad S corporation reform. I want to continue to expand the opportunities for capital formation, preserving family-owned businesses and lifting burdensome and obsolete rules that would result from S corporation reform, and I guess my question would be, does the Administration agree with Chairman Greenspan that S corporation reform would be a stimulus? If so, I hope that you would consider the S corporation bill that I have helped author, as a starting place for bipartisan stimulus compromise.

JOINT COMMITTEE ON TAXATION
November 6, 2001
JCX-74-01

ESTIMATED REVENUE EFFECTS OF A CHAIRMAN'S AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2269, THE "RETIREMENT SECURITY ADVICE ACT OF 2001," SCHEDULED FOR MARKUP BY THE COMMITTEE ON WAYS AND MEANS ON NOVEMBER 7, 2001

Fiscal Years 2002 - 2011

[Millions of Dollars]

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-06	2002-11
Add a new category of prohibited transaction exemption for investment advice, certain investments of plan assets, and the receipt of fees in connection with the advice or investments	iapo/a 1/1/02	- Negligible Revenue Effect -											

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column: iapo/a = investment advice provided on or after

DESCRIPTION OF THE "ECONOMIC RECOVERY AND ASSISTANCE FOR AMERICAN WORKERS ACT OF 2001"

Scheduled for Markup
By the
SENATE COMMITTEE ON FINANCE
on November 8, 2001

Prepared by
the Staff of the
JOINT COMMITTEE ON TAXATION

November 6, 2001
JCX-75-01

CONTENTS

INTRODUCTION

This document,[1] provides a description of the "Economic Recovery and Assistance for American Workers Act of 2001," scheduled for a markup on November 8, 2001, by the Senate Committee on Finance. The description of the provisions in this document were generally prepared by the staff of the Joint Committee on Taxation. However, the provisions contained in Parts VI (Health Insurance Coverage for Displaced Workers), VII (Unemployment Insurance), and VIII (Emergency Agriculture Assistance) of the document were prepared by the majority staff of the Senate Committee on Finance.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the "Economic Recovery and Assistance for American Workers Act of 2001"* (JCX-75-01), November 6, 2001.

I. SUPPLEMENTAL REBATE FOR INDIVIDUAL TAXPAYERS

Present Law

The Economic Growth and Tax Relief Reconciliation Act of 2001 provided for a rate reduction credit for 2001. The credit is computed in the following manner. Taxpayers are entitled to a credit in tax year 2001 of 5 percent (the difference between the 15-percent rate and the 10-percent rate) of the amount of income that would have been eligible for the new 10-percent rate. Taxpayers may not receive this credit in excess of their income tax liability (determined after nonrefundable credits).

Most eligible taxpayers have received this credit in the form of a check issued by the Department of the Treasury. The amount of the check was computed in the same manner as the credit, except that it was done on the basis of tax returns filed for 2000 (instead of 2001).

On their tax returns for 2001, taxpayers will reconcile the amount of the credit with the check they receive in the following manner. They will complete a worksheet calculating the amount of the credit based on their 2001 tax return. They will then subtract from the credit the amount of the check they received. For many taxpayers, these two amounts will be the same. If, however, the result is a positive number (because, for example, the taxpayer paid no tax in 2000 but is paying tax in 2001), the taxpayer may claim that amount as a credit against 2001 tax liability. If, however, the result is negative (because, for example, the taxpayer paid tax in 2000 but owes no tax for 2001), the taxpayer is not required to repay that amount to the Treasury. Otherwise, the checks have no effect on tax returns filed in 2001; the amount is not includible in gross income and it does not otherwise reduce the amount of withholding. In no event may the Department of the Treasury issue checks after December 31, 2001. This is designed to prevent errors by taxpayers who might claim the full amount of the credit on their 2001 tax returns and file those returns early in 2002, at the same time the Treasury check might be mailed to them. Payment of the credit (or the check) is treated, for all purposes of the Code,[2] as a payment of tax. As such, the credit or the check is subject to the refund offset provisions, such as those applicable to past-due child support under section 6402 of the Code.

In general, taxpayers eligible for the credit (and the check) are individuals other than estates or trusts, nonresident aliens, or dependents. The determination of this status for the relevant year is made on the basis of the information filed on the tax return.

Description of Proposal

The proposal would provide a new supplemental rebate. Individuals who filed income tax returns for 2000[3] (regardless of whether they had any income tax liability, any payroll tax

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[2] A special rule provides that no interest will be paid with respect to the checks.

[3] Taxpayers who did not file an income tax return for 2000 but who do file an income tax return for 2001 will continue to be eligible for the rate reduction credit previously enacted, the amount of which is dependent upon the amount of income subject to the 10-percent rate. They would not, however, be eligible for this supplemental rebate.

liability, or showed any amount as wages) would be eligible for this supplemental rebate. The amount of the rebate would be calculated in the following manner: taxpayers would be eligible for the maximum rebate amount for their filing status ($300 single or married filing separately, $500 head of household, $600 joint filers) minus the amount (if any) of any previous rebate check issued. Thus, for example, if a single person received $100 earlier this year as her rate reduction credit, she would receive an additional $200 as a supplemental rebate. Those taxpayers who earlier received the full amount for their filing statuses would receive no supplemental rebates.

Dependents and nonresident aliens would be ineligible for the supplemental rebates (as they were for the previous rebates).[4] The IRS would be required to send notices to affected taxpayers explaining the computation of their supplemental rebate amounts and how the taxpayer should properly complete the rebate reconciliation schedule contained in the tax return forms package.

The proposal would make a technical correction to EGTRA 2001 to provide that the rate reduction credit enacted by that Act would be treated as a nonrefundable personal credit. The correction thus would allow the rate reduction credit prior to determining the amount of the refundable child credit or the amount of the carryovers of other nonrefundable personal credits, such as the adoption credit.

Residents of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands who filed income tax returns with those jurisdictions for 2000 (regardless of whether they had any income tax liability, any payroll tax liability, or showed any amount as wages) would also be eligible for this supplemental rebate. The amount of the rebate would be calculated in the same manner as described above. Any such residents who may have filed an income tax return for 2000 with both the United States and one (or more) of those jurisdictions may only receive in total the maximum rebate amount ($300, $500, or $600 depending on filing status as described above). The governments of these jurisdictions would be required to provide to the IRS the names, addresses, and taxpayer identification numbers of eligible residents so that the IRS can authorize the issuance of these supplemental rebates. This information would have to be provided in the manner specified by the IRS.

Effective Date

The proposal would be effective on the date of enactment. The notice informing U.S. taxpayers of the amount of their supplemental rebates would be required to be issued, to the maximum extent feasible, by December 25, 2001.[5] In order to prevent difficulties that could

[4] Some nonresident aliens may, however, be eligible for the supplemental rebates described in the last paragraph.

[5] This requirement is inapplicable to notices sent to residents of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands who filed income tax returns with those jurisdictions for 2000, because it is not possible for those jurisdictions to provide the information to the IRS and for the IRS to process the information sufficiently rapidly for any of these notices to be issued by December 25, 2001.

arise in the simultaneous administration of two rebate provisions, the issuance of checks under the previous rebate provision would be required to cease on the date of enactment of the supplemental rebates.

II. TEMPORARY BUSINESS RELIEF PROVISIONS

A. Special Depreciation Allowance for Certain Property

Present Law

Depreciation deductions

A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the modified accelerated cost recovery system ("MACRS"). Under MACRS, different types of property generally are assigned applicable recovery periods and depreciation methods. The recovery periods applicable to most tangible personal property (generally tangible property other than residential rental property and nonresidential real property) range from 3 to 25 years. The depreciation methods generally applicable to tangible personal property are the 200-percent and 150-percent declining balance methods, switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

Section 280F limits the annual depreciation deductions with respect to passenger automobiles to specified dollar amounts, indexed for inflation.

Section 167(f)(1) provides that capitalized computer software costs, other than computer software to which section 197 applies, are recovered ratably over 36 months.

Section 167(g) provides that the cost of motion picture films, sound recordings, copyrights, books, and patents are eligible to be recovered using the income forecast method of depreciation. Under the income forecast method, a property's depreciation deduction for a taxable year is determined by multiplying the cost of the property by a fraction, the numerator of which is the income generated by the property during the year and the denominator of which is the total forecasted or estimated income to be derived from the property during its useful life.

Expensing election

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $24,000 (for taxable years beginning in 2001 or 2002) of the cost of qualifying property placed in service for the taxable year (sec. 179). This amount is increased to $25,000 for taxable years beginning in 2003 and thereafter. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $24,000 ($25,000 for taxable years beginning in 2003 and thereafter) amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expensed for a taxable year may not exceed the taxable income for a taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations). No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179.

Description of Proposal

The proposal would allow an additional first-year depreciation deduction equal to 10 percent of the adjusted basis of certain qualified property that is placed in service before January 1, 2003. The additional depreciation deduction would be allowed for both regular tax and alternative minimum tax purposes for the taxable year in which the property is placed in service.[6] The basis of the property and the depreciation allowances in the year of purchase and later years would be appropriately adjusted to reflect the additional first-year depreciation deduction. A taxpayer would be allowed to elect out of the additional first-year depreciation for any class of property for any taxable year.

Property would qualify for the additional first-year depreciation deduction if the property is (1) property to which MACRS applies with a recovery period of 20 years or less, (2) water utility property as defined in section 168(e)(5), (3) qualified leasehold improvement property[7], (4) motion picture films, sound recordings, books, copyrights, and patents eligible for depreciation under section 167(g), or (5) computer software other than computer software covered by section 197. In order to be qualified property, the original use[8] of the property must commence with the taxpayer on or after September 11, 2001.[9] A special rule precludes the

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[6] The additional depreciation deduction is subject to the general rules regarding whether an item is deductible under section 162 or subject to capitalization under section 263 or section 263A.

[7] Qualified leasehold improvement property would be any improvement to an interior portion of a building that is nonresidential real property, provided certain requirements are met. The improvement must be made under or pursuant to a lease either by the lessee (or sublessee) of that portion of the building, or by the lessor of that portion of the building. That portion of the building is to be occupied exclusively by the lessee (or any sublessee). The improvement must be placed in service more than three years after the date the building was first placed in service.

Qualified leasehold improvement property would not include any improvement for which the expenditure is attributable to the enlargement of the building, any elevator or escalator, any structural component benefiting a common area, or the internal structural framework of the building.

[8] The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. In addition, it is intended that additional capital expenditures incurred to recondition or rebuild property the original use of which began with the taxpayer would satisfy the "original use" requirement. See Treasury Regulation 1.48-2 Example 2. However, it is intended that additional capital expenditures incurred to recondition or rebuild property the original use of which did not begin with the taxpayer would not satisfy the "original use" requirement.

[9] A special rule would apply in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was

additional first-year depreciation deduction for property that is required to be depreciated under the alternative depreciation system of MACRS.

In addition, property would qualify only if acquired by the taxpayer (1) after September 10, 2001 and before September 11, 2002, and no binding written contract for the acquisition is in effect before September 11, 2001 or (2) pursuant to a binding written contract which was entered into after September 10, 2001, and before September 11, 2002. Finally, property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer would qualify if the taxpayer begins the manufacture, construction, or production of the property after September 10, 2001, and before September 11, 2002 (and all other requirements are met). Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property would be considered to be manufactured, constructed, or produced by the taxpayer.

The limitation on the amount of depreciation deductions allowed with respect to certain passenger automobiles (sec. 280F of the Code) would be increased in the first year by $1,600 for automobiles that qualify (and do not elect out of the increased first year deduction). The $1,600 increase would not be indexed for inflation.

The following examples illustrate the operation of the provision.

Example 1. -- Assume that on March 1, 2002, a calendar year taxpayer acquires and places in service qualified property that costs $1 million. Under the proposal, the taxpayer is allowed an additional first-year depreciation deduction of $100,000. The remaining $900,000 of adjusted basis would be recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

Example 2. -- Assume that on March 1, 2002, a calendar year taxpayer acquires and places in service qualified property that costs $50,000. In addition, assume that the property qualifies for the expensing election under section 179. Under the provision, the taxpayer is first allowed a $35,000 deduction under section 179.[10] The taxpayer then is allowed an additional first-year depreciation deduction of $1,500 based on $15,000 ($50,000 original cost less the section 179 deduction of $35,000) of adjusted basis. Finally, the remaining adjusted basis of $13,500 ($15,000 adjusted basis less $1,500 additional first-year depreciation) is to be recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

Effective Date

The proposal would apply to property placed in service after September 10, 2001.

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placed in service, the property would be treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback.

[10] A subsequent proposal would temporarily increase the amount deductible under section 179 to $35,000.

B. Increase in Section 179 Expensing

Present Law

Present law provides that, in lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $24,000 (for taxable years beginning in 2001 or 2002) of the cost of qualifying property placed in service for the taxable year (sec. 179). This amount is increased to $25,000 of the cost of qualified property placed in service for taxable years beginning in 2003 and thereafter. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $24,000 ($25,000 for taxable years beginning in 2003 and thereafter) amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expensed for a taxable year may not exceed the taxable income for a taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations). No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179.

Description of Proposal

The proposal would provide that the maximum dollar amount that may be deducted under section 179 is increased to $35,000 for property placed in service in taxable years beginning after December 31, 2001, and before January 1, 2003. In addition, the proposal would increase the present-law $200,000 limit to $325,000. Thus, under the proposal the $35,000 amount would be reduced by the amount by which the cost of qualifying property placed in service exceeds $325,000. As under present law, no general business credit under section 38 would be allowed with respect to any amount for which a deduction is allowed under section 179. For taxable years beginning after December 31, 2002, present law would apply.

Effective Date

The proposal would apply to taxable years beginning after December 31, 2001.

C. Five-Year Carryback of Net Operating Losses

Present Law

A net operating loss ("NOL") is, generally, the amount by which a taxpayer's allowable deductions exceed the taxpayer's gross income. A carryback of an NOL generally results in the refund of Federal income tax for the carryback year. A carryforward of an NOL reduces Federal income tax for the carryforward year.

In general, an NOL may be carried back two years and carried forward 20 years to offset taxable income in such years. Different rules apply with respect to NOLs arising in certain circumstances. For example, a three-year carryback applies with respect to NOLs (1) arising from casualty or theft losses of individuals, or (2) attributable to Presidentially declared disasters for taxpayers engaged in a farming business or a small business. A five-year carryback period applies to NOLs from a farming loss (regardless of whether the loss was incurred in a Presidentially declared disaster areas). Special rules also apply to real estate investment trusts (no carryback), specified liability losses (10-year carryback), and excess interest losses (no carryback).

The alternative minimum tax rules provide that a taxpayer's NOL deduction cannot reduce the taxpayer's alternative minimum taxable income ("AMTI") by more than 90 percent of the AMTI.

Description of Proposal

The proposal would temporarily extend the general NOL carryback period to five years (from two years) for NOLs arising in a taxable year ending after December 31, 2000 and before January 1, 2002. In addition, the five-year carryback period would apply to NOLs from these years that qualify under present law for a three-year carryback period (i.e., NOLs arising from casualty or theft losses of individuals or attributable to certain Presidentially declared disaster areas).

The proposal also would allow an NOL deduction attributable to these taxable years to offset 100 percent of a taxpayer's AMTI in a carryback year.

A taxpayer could elect to forgo the five-year carryback period. The election to forgo the five-year carryback period would be made in the manner prescribed by the Secretary of the Treasury and would be made by the due date of the return (including extensions) for the year of the loss. The election is irrevocable. If a taxpayer elects to forgo the five-year carryback period, then the losses are subject to the rules that otherwise would apply under section 172 absent the proposal.

Effective Date

The proposal would be effective for NOLs arising in taxable years ending after December 31, 2000.

III. TAX INCENTIVES FOR NEW YORK CITY AND DISTRESSED AREAS

A. Expansion of Work Opportunity Tax Credit Targeted Categories to Include Certain Employees in New York City

Present Law

In general

The work opportunity tax credit ("WOTC") is available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The credit equals 40 percent (25 percent for employment of less than 400 hours) of qualified wages. Generally, qualified wages are wages attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer.

The maximum credit per employee is $2,400 (40 percent of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40 percent of the first $3,000 of qualified first-year wages).

For purposes of the credit, wages are generally defined as under the Federal Unemployment Tax Act, without regard to the dollar cap.

Targeted groups eligible for the credit

The eight targeted groups are: (1) families eligible to receive benefits under the Temporary Assistance for Needy Families ("TANF") Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income ("SSI") benefits.

The employer's deduction for wages is reduced by the amount of the credit.

Expiration date

The credit is effective for wages paid or incurred to a qualified individual who begins work for an employer before January 1, 2002. A separate provision of the Chairman's Mark provides a one-year extension of the WOTC through December 31, 2002.

Description of Proposal

The proposal would create a new targeted group for the WOTC. The new targeted group would be individuals employed by businesses located on or south of Canal street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, New York (the "New York Recovery Zone") or that relocated from the New York Recovery Zone elsewhere within New York City due to the destruction or damage of their workplaces within the New York Recovery Zone. An employer could claim the credit for work performed after September 10, 2001 and before

January 1, 2003 by such qualified individuals. Unlike the other targeted categories, the credit for the new targeted group would be available for wages paid to both new hires and existing employees. For each employer, the number of employees whose wages would be eligible under the new targeted category could not exceed the number of its employees in the New York Recovery Zone on September 11, 2001. For the new category, the maximum credit would be $4,800 (40 percent of $12,000 of qualified wages) per qualified employee in each taxable year.

The New York State Department of Labor would certify members of this new targeted group. In the case of existing employees or those who begin work for the employer before April 1, 2002, certifications must be submitted by May 1, 2002. In the case of new employees (i.e., those who begin work for the employer after March 31, 2002) within this category, the otherwise applicable certification rules will apply. It is contemplated that an additional form similar to Form 8850 may be necessary for this new targeted group.

The portion of each employer's WOTC credit attributable to the new targeted group would be allowed against the alternative minimum tax.

The proposal would reduce the amount that would otherwise be available for disaster recovery activities and assistance related to the terrorist acts in New York under the Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Acts on the United States (Public Law 107-38).

Effective Date

The proposal would be effective for wages paid or incurred to a qualified individual for work after September 10, 2001 and before January 1, 2003.

B. Authorize Issuance of Tax-Exempt Private Activity Bonds for Rebuilding the Portion of New York City Damaged in the September 11, 2001, Terrorist Attack

Present Law

Rules governing issuance of tax-exempt bonds

In general

Interest on debt incurred by States or local governments is excluded from income if the proceeds of the borrowing are used to carry out governmental functions of those entities or the debt is repaid with governmental funds (Code sec. 103). Interest on bonds that nominally are issued by States or local governments, but the proceeds of which are used (directly or indirectly) by a private person and payment of which is derived from funds of such a private person is taxable unless the purpose of the borrowing is approved specifically in the Code or in a non-Code provision of a revenue Act. These bonds are called "private activity bonds."[11] The term "private person" includes the Federal Government and all other individuals and entities other than States or local governments.

Private activities eligible for financing with tax-exempt private activity bonds

Present law includes several exceptions permitting States or local governments to act as conduits providing tax-exempt financing for private activities. Both capital expenditures and limited working capital expenditures of charitable organizations described in section 501(c)(3) of the Code ("qualified 501(c)(3) bonds") may be financed with tax-exempt bonds.

States or local governments may issue tax-exempt "exempt-facility bonds" to finance property for certain private businesses. Business facilities eligible for this financing include transportation (airports, ports, local mass commuting, and high speed intercity rail facilities); privately owned and/or privately operated public works facilities (sewage, solid waste disposal, local district heating or cooling, and hazardous waste disposal facilities); privately-owned and/or operated low-income rental housing;[12] and certain private facilities for the local furnishing of electricity or gas. A further provision allows tax-exempt financing for "environmental enhancements of hydro-electric generating facilities." Tax-exempt financing also is authorized for capital expenditures for small manufacturing facilities and land and equipment for first-time farmers ("qualified small-issue bonds"), local redevelopment activities ("qualified redevelopment bonds"), and eligible empowerment zone and enterprise community businesses.

Tax-exempt private activity bonds also may be issued to finance limited non-business purposes: certain student loans and mortgage loans for owner-occupied housing ("qualified mortgage bonds" and "qualified veterans' mortgage bonds"). Purchasers of houses financed

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[11] Interest on private activity bonds (other than qualified 501(c)(3) bonds) is a preference item in calculating the alternative minimum tax.

[12] Residential rental projects must satisfy low-income tenant occupancy requirements for a minimum period of 15 years.

with qualified mortgage bonds must be first-time homebuyers satisfying prescribed income limits, the purchase prices of the houses is limited, the amount by which interest rates charged to homebuyers may exceed the interest paid by issuers is restricted, and a recapture provision applies to target the benefit to purchasers having longer-term need for the subsidy provided by the bonds. Qualified veterans' mortgage bonds are not subject to these limitations, but these bonds may only be issued by five States and may only be used to finance mortgage loans to veterans who served on active duty before January 1, 1977.

With the exception of qualified 501(c)(3) bonds, private activity bonds may not be issued to finance working capital requirements of private businesses.

In most cases, the aggregate volume of tax-exempt private activity bonds that may be issued in a State is restricted by annual volume limits. These annual volume limits are equal to $62.50 per resident of the State, or $187.5 million if greater. The volume limits are scheduled to increase to the greater of $75 per resident of the State or $225 million in calendar year 2002. After 2002, the volume limits will be indexed annually for inflation..

Arbitrage restrictions on tax-exempt bonds

The Federal income tax does not apply to the income of States and local governments that is derived from the exercise of an essential governmental function. To prevent these tax-exempt entities from issuing more Federally subsidized tax-exempt bonds than is necessary for the activity being financed or from issuing such bonds earlier than needed for the purpose of the borrowing, the Code includes arbitrage restrictions limiting the ability to profit from investment of tax-exempt bond proceeds. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods" before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, profits that are earned during these periods or on such investments must be rebated to the Federal Government. Governmental bonds are subject to less restrictive arbitrage rules that most private activity bonds.

Miscellaneous additional restrictions on tax-exempt bonds

Several additional restrictions apply to the issuance of tax-exempt bonds. First, private activity bonds (other than qualified 501(c)(3) bonds) may not be advance refunded. Governmental bonds and qualified 501(c)(3) bonds may be advance refunded one time. An advance refunding occurs when the refunded bonds are not retired within 90 days of issuance of the refunding bonds.

Issuance of private activity bonds is subject to restrictions on use of proceeds for the acquisition of land and existing property, use of proceeds to finance certain specified facilities, (e.g., airplanes, skyboxes, other luxury boxes, health club facilities, gambling facilities, and liquor stores) and use of proceeds to pay costs of issuance (e.g., bond counsel and underwriter fees). Additionally, the term of the bonds generally may not exceed 120 percent of the economic life of the property being financed and certain public approval requirements (similar to requirements that typically apply under State law to issuance of governmental debt) apply under Federal law to issuance of private activity bonds. Present law precludes substantial users of property financed with private activity bonds from owning the bonds to prevent their deducting tax-exempt interest paid to themselves. Finally, owners of most private-activity-bond-financed property are subject to special "change-in-use" penalties if the use of the bond-financed property changes to a use that is not eligible for tax-exempt financing while the bonds are outstanding.

"Bank carrying cost" exception

In general, costs incurred to purchase or carry tax-exempt bonds may not be deducted. Financial institutions are subject to a special rule that disallows a pro rata portion of the interest expense they incur if those institutions invest in tax-exempt bonds (other than certain bonds issued by governmental units that issue no more than $10 million of governmental bonds in the calendar year when the exempt bonds are issued).

Description of Proposal

In general

The proposal would authorize issuance during calendar year 2002 of $15 billion of tax-exempt private activity bonds to finance the construction and rehabilitation of commercial[13] and residential rental[14] real property in a newly designated New York Recovery Zone ("Zone") of New York City.[15] Property eligible for financing with these bonds would include buildings and their structural components, fixed tenant improvements,[16] and functionally related and subordinate public utility property (e.g., gas, water, electric and telecommunication lines). All business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan will be considered to be located within the New York Recovery Zone.

If the government of New York City determined that it was not feasible to use all of the authorized bond proceeds for property located in the Zone, up to $7 billion of bond proceeds could be used for the construction and rehabilitation of commercial real property (including fixed

[13] No more than 10 percent of the authorized bond amount could be used to finance property used for retail sales of tangible property (e.g., department stores, restaurants, etc.) and functionally related and subordinate property.

[14] No more than 20 percent of the authorized bond amount could be used to finance residential rental property.

[15] Current refundings of outstanding bonds issued under the proposal would not count against the $10 billion volume limit to the extent that the principal amount of the refunding bonds did not exceed the outstanding principal amount of the bonds being refunded. The bonds could not be advance refunded.

[16] Fixtures and equipment that could be removed from the designated zone for use elsewhere would not be eligible for financing with these bonds.

tenant improvements) located outside the Zone and within New York City.[17] Bond-financed property located outside the Zone would have to meet the additional requirements that the project have at least 100,000 square feet of usable office or other commercial space in a single building or multiple adjacent buildings.

Bond authority that was not allocated to bonds issued during calendar year 2002 could be carried forward for a period of up to three years under rules similar to the rules governing carryforward of the State private activity bond volume limits.

Subject to the following exceptions and modifications, issuance of these tax-exempt bonds would be subject to the general rules applicable to issuance of exempt-facility private activity bonds:

(1) Issuance of the bonds would not be subject to the aggregate annual State private activity bond volume limits (sec. 146);

(2) The restriction on use of private activity bond proceeds to finance land acquisition would be determined by reference to the $15 billion amount of bonds authorized under the proposal rather than by reference to individual bond issues (sec. 147(c));

(3) The restriction on acquisition of existing property would be applied using a minimum requirement of 50 percent of the cost of acquiring the building being devoted to rehabilitation (sec. 147(d));

(4) The special arbitrage expenditure rules for certain construction bond proceeds would apply to construction proceeds of the bonds (sec. 148(f)(4)(C));

(5) The tenant targeting rules applicable to exempt-facility bonds for residential rental property (and the corresponding change in use penalties for violation of those rules) would not apply to such property financed with the bonds (secs. 142(d) and 150(b)(2));

(6) Rules similar to the rules of section 143(a)(2)(A)(iv), regarding the use of loan repayments, would apply to bonds authorized under the proposal;

(7) Interest on the bonds would not be a preference item for purposes of the alternative minimum tax preference for private activity bond interest (sec. 57(a)(5)); and

(8) The pro rata interest deduction disallowance rule for financial institutions that invest in tax-exempt bonds would be waived for such institutions purchasing the special tax-exempt bonds authorized in the proposal.

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[17] Public utility property and residential property located outside the Zone could not be financed with the bonds.

Coordination with emergency appropriations

The proposal would reduce the amount that otherwise would be available for disaster recovery activities and assistance related to the terrorist acts in New York under the Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107-38).

Effective Date

The proposal would be effective for bonds issued after the date of enactment.

C. Incentive for Reinvestment in New York City

Present Law

In recent years, provisions have been added to the Internal Revenue Code that target specific geographic areas for special Federal income tax treatment. In general, these areas suffer from pervasive poverty, high unemployment, and general distress, which result in a lack of business investment. The provisions in the Code are designed to stimulate greater business investment in these geographical areas by offering tax incentives to taxpayers that operate businesses in these areas. Examples of such provisions are the empowerment zone and renewal community provisions (secs. 1392-1397F, 1400E-1400J).

In the case of damage or destruction to property used in a trade or business, a taxpayer may deduct any loss sustained, to the extent the loss is not compensated by insurance or otherwise.[18]

If a taxpayer realizes gain from the destruction or damage of property by reason of compensation by insurance or otherwise, the taxpayer may elect to limit the recognition of gain to the amount by which the amount realized exceeds the cost of replacement property which is purchased within a specified time period and which is similar or related in use to the property damaged or destroyed (sec. 1033(a)). The basis of the replacement property is decreased by the amount of gain not recognized.

Gain on the disposition of section 1245 property (depreciable property other than real estate) is treated as ordinary income to the extent of any depreciation deductions allowed. Gain on the disposition of section 1250 property (depreciable real estate) is treated as ordinary income to the extent the depreciation deductions exceed the amount of depreciation deductions allowable on the straight-line method of depreciation. Exceptions are provided for involuntary conversions of property under certain circumstances.

Description of Proposal

The proposal would provide taxpayers with an election to not take into account insurance proceeds in determining gain or loss (for regular tax and alternative minimum tax purposes) with respect to eligible property damaged or destroyed in the New York City Recovery Zone as a consequence of the September 11, 2001 terrorist attacks. Insurance proceeds may be disregarded only to the extent the taxpayer purchases (from an unrelated party) qualified replacement property no later than by December 31, 2006. In general, any increase in loss (or reduction in gain) resulting from this proposal would be taken into account in the taxable year that includes September 11, 2001.[19]

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[18] Section 165(i) allows taxpayers to deduct, in the preceding year, any uncompensated loss attributable to a disaster area determined by the President of the United States as warranting assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

[19] A taxpayer that makes the election under this proposal would not be permitted to elect under sec. 165(i) to treat such losses as occurring in the preceding taxable year.

Eligible property would mean depreciable tangible personal property and qualified leasehold improvement property,[20] substantially all of the use of which (as of September 11, 2001) was in a business establishment of the taxpayer located in the New York City Recovery Zone.[21] Qualified replacement property would mean tangible personal property or qualified leasehold improvement property purchased by the taxpayer on or after September 11, 2001 and placed in service before January 1, 2007. In addition, the original use of such property in New York City must begin with the taxpayer, and substantially all of the use of such property is reasonably expected to be in the taxpayer's business establishment in New York City.[22]

If the taxpayer is a member of an affiliated group of corporations filing a consolidated return, the proposal would permit the replacement property to be purchased by any member of the affiliated group (in lieu of the taxpayer). It is anticipated that the Secretary of the Treasury will issue guidance as may be necessary to ensure that gain shall not be recognized under the consolidated return provisions and to ensure that any investment adjustments, or any other adjustments under the consolidated regulations, accurately reflect the implications of permitting another member of the consolidated group to purchase the qualifying replacement property.

If an election under this proposal is made, the basis of the qualified replacement property is reduced by the amount of the insurance proceeds not taken into account by virtue of this proposal. The amount of the proceeds reinvested in qualified replacement property is treated as depreciation for purposes of sections 1245 and 1250.[23] Therefore, all or a portion of any gain on a sale or exchange of any qualified replacement property may be characterized as ordinary income.

If a taxpayer makes an election provided by the proposal, the time for assessment of any deficiency attributable to the election shall not expire prior to the expiration of three years from the date the Secretary of the Treasury is notified by the taxpayer of the replacement of the converted property or of the intention not to replace (in a manner similar to the extension of the statute of limitations under section 1033(a)(2)). A taxpayer electing the provisions of the proposal would be required to attach a statement in the time and manner as the Secretary of the Treasury shall prescribe. The election would be binding for that taxable year and all subsequent taxable years.

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[20] For this purpose, the term "qualified leasehold improvement property" has the same meaning as in the proposal to provide a special depreciation allowance in Part II.A., above.

[21] The "New York City Recovery Zone" is defined to include all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, New York.

[22] Recapture rules similar to section 179(d)(10) would apply with respect to property that ceases to be qualified replacement property.

[23] Section 1017(d)(2) contains a similar recapture rule in connection with basis reductions attributable to discharge of indebtedness income that is excluded under section 108.

The proposal would reduce the amount that would otherwise be available for disaster recovery activities and assistance related to the terrorist acts in New York under the Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107-38).

The following examples illustrate the operation of the proposal.

Example 1.--A calendar-year corporation owned eligible property with an adjusted basis of $1 million that it used in its trade or business and was destroyed in the New York Recovery Zone. The property was fully insured for its fair market value of $1.5 million and the corporation receives insurance proceeds of that amount. In 2006, the corporation purchases qualified replacement property in New York City at a cost of $1.7 million. If the corporation makes the election provided by the proposal, the corporation would be allowed a deduction for the $1 million cost of its converted property. The corporation's basis in the qualified replacement property would be $200,000 ($1.7 million cost less the $1.5 million of disregarded insurance proceeds). On a disposition of the replacement property, the first $1.5 million of gain would be characterized as ordinary income under this proposal.

Example 2.--Same facts as in example 1 except that the cost of the qualified replacement property is $1.3 million. The corporation would be allowed a deduction for $800,000 on its converted property ($1 million basis less $200,000 of non-reinvested insurance proceeds). The corporation's basis in qualified replacement property would be zero ($1.3 million cost less the $1.3 million of disregarded insurance proceeds). On a disposition of the replacement property, the first $1.3 million of gain would be characterized as ordinary income under this proposal.

Example 3.--Same facts as in example 1 except that the cost of the qualified replacement property is $200,000. The corporation would have gain of $300,000 on its converted property ($1.3 million of non-reinvested insurance proceeds less $1 million basis). The corporation's basis in the qualified replacement property is zero ($200,000 cost less the $200,000 of disregarded insurance proceeds). On a disposition of the replacement property, the first $200,000 of gain would be characterized as ordinary income under this proposal.

Effective Date

The proposal would be effective for involuntary conversions in the New York City Recovery Zone occurring on or after September 11, 2001 as a consequence of the terrorist attacks on such date.

D. Reenact Exceptions for Qualified Mortgage Bond Financed Loans to Victims of Presidentially Declared Disasters

Present Law

Tax-exempt private activity bonds may be issued to finance mortgage loans to certain first-time homebuyers (secs. 103, 141, and 143). The purchase price of housing financed with these loans is restricted, and the incomes of the homebuyers must be below prescribed levels. More liberal rules apply to loans to homebuyers in targeted areas of economic distress. For bonds issued during 1997 and 1998, loans made in Presidentially declared disaster areas during the two years following the disaster declaration were exempt from certain of these targeting rules.

In addition to loans to finance the purchase of homes, qualified mortgage bond proceeds may be used to finance certain "rehabilitation loans" and "home improvement loans." Rehabilitation loans are limited to houses that are at least 20 years old. The maximum principal amount of any home improvement loan is $15,000.

Description of Proposal

The prior-law exception for qualified-mortgage-bond-financed loans made during the two-year period following a Presidential disaster declaration would be re-enacted for loans made to finance replacement or repair of housing damaged or destroyed in the disaster. Additionally, the size limit for home improvement loans would be increased from $15,000 to $25,000 per borrower for houses damaged in a qualifying disaster.

Effective Date

The proposal applies to bonds issued during calendar year 2002.

E. One-Year Expansion of Authority for Indian Tribes to Issue Tax-Exempt Private Activity Bonds

Present Law

Rules governing issuance of tax-exempt bonds

In general

Interest on debt incurred by States or local governments is excluded from income if the proceeds of the borrowing are used to carry out governmental functions of those entities or the debt is repaid with governmental funds (Code sec. 103). Interest on bonds that nominally are issued by States or local governments, but the proceeds of which are used (directly or indirectly) by a private person and payment of which is derived from funds of such a private person is taxable unless the purpose of the borrowing is approved specifically in the Code or in a non-Code provision of a revenue Act. These bonds are called "private activity bonds."[24] The term "private person" includes the Federal Government and all other individuals and entities other than States or local governments.

Issuance of tax-exempt private activity bonds for housing

Present law includes several exceptions permitting States or local governments to act as conduits providing tax-exempt financing for private activities. Among the activities eligible for financing are qualified residential rental projects. Generally, for qualified residential rental projects, 40 percent or more of the units in the project must be occupied by tenants having incomes of 60 percent or less of the area median gross income or 20 percent or more of the units must be occupied by tenants having incomes of 50 percent or less of the area median gross income. Residential rental housing projects generally must satisfy this low-income tenant set-aside for a minimum period of 15 years.

Tax-exempt private activity bonds also may be issued to finance certain mortgage loans for owner-occupied housing ("qualified mortgage bonds"). Purchasers of houses financed with qualified mortgage bonds must be first-time homebuyers satisfying prescribed income limits, the purchase prices of the houses is limited, the amount by which interest rates charged to homebuyers may exceed the interest paid by issuers is restricted, and a recapture provision applies to target the benefit to purchasers having longer-term need for the subsidy provided by the bonds.

In most cases, the aggregate volume of tax-exempt private activity bonds (including rental housing bonds and qualified mortgage bonds) that may be issued in a State is restricted by annual volume limits. These annual volume limits are equal to $62.50 per resident of the State, or $187.5 million if greater. The volume limits are scheduled to increase to the greater of $75

[24] Interest on private activity bonds (other than qualified 501(c)(3) bonds) is a preference item in calculating the alternative minimum tax.

per resident of the State or $225 million in calendar year 2002. After 2002, the volume limits will be indexed annually for inflation.

Enterprise zone facility bonds

Qualified businesses operating in enterprise communities and empowerment zones are eligible to finance property with tax-exempt private activity bonds ("enterprise zone facility bonds"). Generally, to be entitled to tax-exempt treatment, 95 percent of the proceeds of qualified enterprise zone bonds must be used to finance qualified zone property, the principal user of which is a qualified enterprise zone business.

These bonds are exempt from the general State private activity bond volume limits but are subject to the applicable per zone limitations. For bonds issued after December 31, 2001 (other than the DC Enterprise Zone), the following aggregate limitations on the face amount of the bonds apply: (1) 60 million if the zone is located in a rural area; (2) $130 million if the bonds are located in an urban area with a population under 100,000; or (3) $230 million if the zone is an urban area with a population of at least 100,0000.[25]

Special rules for Indian tribes

Under present law, Indian tribal governments may issue tax-exempt bonds in two general circumstances. First, tribal governments are treated as States and may issue governmental bonds to finance "essential governmental functions." An essential governmental function is defined as an activity that is customarily performed by States. Second, tribal governments may issue private activity bonds to finance the acquisition, construction, reconstruction or improvement of property that is part of a manufacturing facility. The bond-financed property must be located on qualified Indian land and must be owned and operated by an Indian tribal government. Issuance of these manufacturing-facility bonds is subject to an annual tribal employment test in lieu of annual dollar volume limits.

Tax credit for certain low-income housing projects

Present law provides an income tax credit for rental housing units that are occupied by low-income tenants (sec. 42). The credit is claimed over a 10-year period and has a present-value of 70 percent (new construction not receiving other Federal subsidies generally) or 30 percent (existing housing and new construction receiving other Federal subsidies) of total qualified expenditures. The term Federal subsidy includes tax-exempt financing.

In general, project owners receive low-income housing credits only if the State where the property is located allocates credits to them. States receive annual credit authority of $1.50 per resident (calendar year 2001). This authority is scheduled to increase to $1.75 in calendar year

[25] For pre-December 31, 2001 enterprise zone bonds, the per-business size limitations for Round I empowerment zones and enterprise communities (i.e., $3 million for each qualified enterprise zone business with a maximum of $20 million for each principal user for all zones and communities) apply. The per-business size limitations do not apply to qualifying bonds issued for Round II empowerment zones.

2002; the $1.75 amount will be adjusted for inflation annually after 2002. No allocation of State credit authority is required for low-income housing projects that are financed with the proceeds of tax-exempt bonds if the bonds are issued subject to the State private activity bond volume limits.

Description of Proposal

During calendar year 2002, qualified Indian tribal governments would be permitted to issue up to $10 million of tax-exempt private activity bonds to finance three activities in addition to the activities for which these entities may issue such bonds under present law. Bond authority that is not issued in 2002 could be carried forward for up to three years under rules similar to the rules governing carryforward of authority under the general State private activity bond volume limits. Interest on these bonds would not be a preference item for purposes of the alternative minimum tax.

First, Indian tribal governments could issue bonds for residential rental projects, defined as under the general tax-exempt private activity bond rules except the determination of tenant income would be made by reference to statewide median gross income. For purposes of the low-income housing tax credit, bonds issued subject to the $10 million limit would be treated as if they were issued under the general Code private activity bond volume limits; thus, the low-income housing credit would be available for these residential rental housing projects without the necessity of an allocation of State housing credit authority.

Second, Indian tribal governments could allocate authority under the $10 million limit to issuance of qualified mortgage bonds. Issuance of such qualified mortgage bonds would be subject to the restrictions of Code section 143.

Finally, Indian tribal governments could allocate authority under the $10 million limit to financing for businesses that would qualify as enterprise zone businesses if the Indian reservation were treated as an empowerment zone. Businesses owned by a tribal government would not be precluded from qualifying for these bonds if all requirements were otherwise met.

All property financed with bonds issued pursuant to this $10 million bond authority would have to be located on the reservation of the issuing tribal government. For these purposes, a reservation would include only those Indian lands over which the tribal government exercised general governmental authority.

Qualified tribal governments (i.e., tribal governments receiving authority to issue bonds under the proposal) would be required to have a joblessness rate of at least 25 percent among the Members of the tribe living on the reservation. This determination would be based on the *Indian Labor Force Report*, published by the Bureau of Indian Affairs, for the most recent calendar year preceding the issuance of the bonds.

The Treasury Department would be direct to compile necessary data from the information reports required under present law when tax-exempt bonds are issued and to report on (1) which Indian tribes used the authority and (2) the activities for which the bonds were issued. The Treasury Department would be directed to report this information to the Congress no later than September 30 of the calendar year following the year in which the bond issuance occurs.

Effective Date

The proposal would be effective for bonds issued after the date of enactment.

IV. EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

A. Alternative Minimum Tax Relief for Individuals

Present Law

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit[26], the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, the IRA credit, and the D.C. homebuyer's credit). For taxable years beginning after 2001, these credits (other than the adoption credit, child credit and IRA credit) are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax, determined without regard to the minimum tax foreign tax credit. The adoption credit, child credit, and IRA credit are allowed to the full extent of the individual's regular tax and alternative minimum tax.

For taxable years beginning in 2001, all the nonrefundable personal credits are allowed to the extent of the full amount of the individual's regular tax and alternative minimum tax.

The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is an amount equal to (1) 26 percent of the first $175,000 ($87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income ("AMTI") in excess of a phased-out exemption amount and (2) 28 percent of the remaining AMTI. The maximum tax rates on net capital gain used in computing the tentative minimum tax are the same as under the regular tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments. The exemption amounts are: (1) $45,000 ($49,000 in taxable years beginning before 2005) in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 ($35,750 in taxable years beginning before 2005) in the case of other unmarried individuals; (3) $22,500 ($24,500 in taxable years beginning before 2005) in the case of married individuals filing a separate return; and (4) $22,500 in the case of an estate or trust. The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation.

Description of Proposal

The proposal would allow an individual to offset the entire regular tax liability and alternative minimum tax liability by the personal nonrefundable credits in 2002.

[26] A portion of the child credit may be refundable.

Effective Date

The proposal would be effective for taxable years beginning in 2002.

B. Work Opportunity Tax Credit

Present Law

In general

The work opportunity tax credit ("WOTC") is available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified wages. Generally, qualified wages are wages attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer.

The maximum credit per employee is $2,400 (40 percent of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40 percent of the first $3,000 of qualified first-year wages).

For purposes of the credit, wages are generally defined as under the Federal Unemployment Tax Act, without regard to the dollar cap.

Targeted groups eligible for the credit

The eight targeted groups are: (1) families eligible to receive benefits under the Temporary Assistance for Needy Families ("TANF") Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income ("SSI") benefits.

The employer's deduction for wages is reduced by the amount of the credit.

Expiration date

The credit is effective for wages paid or incurred to a qualified individual who begins work for an employer before January 1, 2002.

Description of Proposal

The proposal would extend the work opportunity tax credit for one year (through December 31, 2002).

Effective Date

The proposal would be effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 2002, and before January 1, 2003.

C. Welfare-To-Work Tax Credit

Present Law

In general

The welfare-to-work tax credit is available on an elective basis for employers for the first $20,000 of eligible wages paid to qualified long-term family assistance recipients during the first two years of employment. The credit is 35 percent of the first $10,000 of eligible wages in the first year of employment and 50 percent of the first $10,000 of eligible wages in the second year of employment. The maximum credit is $8,500 per qualified employee.

Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received family assistance for a total of at least 18 months (whether or not consecutive) after the date of enactment of this credit if they are hired within 2 years after the date that the 18-month total is reached; and (3) members of a family who are no longer eligible for family assistance because of either Federal or State time limits, if they are hired within two years after the Federal or State time limits made the family ineligible for family assistance. Family assistance means benefits under the Temporary Assistance to Needy Families ("TANF") program.

For purposes of the credit, wages are generally defined under the Federal Unemployment Tax Act, without regard to the dollar amount. In addition, wages include the following: (1) educational assistance excludable under a section 127 program; (2) the value of excludable health plan coverage but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129.

The employer's deduction for wages is reduced by the amount of the credit.

Expiration date

The welfare to work credit is effective for wages paid or incurred to a qualified individual who begins work for an employer before January 1, 2002.

Description of Proposal

The proposal would extend the welfare to work credit for one year (through December 31, 2002).

Effective Date

The proposal would be effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 2002, and before January 1, 2003.

D. Section 45 Credit for Production of Electricity from Wind, Closed Loop Biomass, and Poultry Waste

Present Law

An income tax credit is allowed for the production of electricity from either qualified wind energy, qualified "closed-loop" biomass, or qualified poultry waste facilities (sec. 45).

The credit applies to electricity produced by a wind energy facility placed in service after December 31, 1993, and before January 1, 2002, to electricity produced by a closed-loop biomass facility placed in service after December 31, 1992, and before January 1, 2002, and to a poultry waste facility placed in service after December 31, 1999, and before January 1, 2002. The credit is allowable for production during the 10-year period after a facility is originally placed in service. In order to claim the credit, a taxpayer must own the facility and sell the electricity produced by the facility to an unrelated party. In the case of a poultry waste facility, the taxpayer may claim the credit as a lessee/operator of a facility owned by a governmental unit.

Closed-loop biomass is plant matter, where the plants are grown for the sole purpose of being used to generate electricity. It does not include waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste). The credit also is not available to taxpayers who use standing timber to produce electricity. Poultry waste means poultry manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

The credit for electricity produced from wind, closed-loop biomass, or poultry waste is a component of the general business credit (sec. 38(b)(8)). The credit, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000, or (2) the tentative minimum tax. For credits arising in taxable years beginning after December 31, 1997, an unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39). To coordinate the carryback with the period of application for this credit, the credit for electricity produced from closed-loop biomass facilities may not be carried back to a tax year ending before 1993 and the credit for electricity produced from wind energy may not be carried back to a tax year ending before 1994 (sec. 39).

Description of Proposal

The proposal would extend the placed in service date for qualified facilities by one year to include those facilities placed in service prior to January 1, 2003.

Effective Date

The proposal would be effective on the date of enactment.

E. Taxable Income Limit on Percentage Depletion for Marginal Production

Present Law

In general

Depletion, like depreciation, is a form of capital cost recovery. In both cases, the taxpayer is allowed a deduction in recognition of the fact that an asset -- in the case of depletion for oil or gas interests, the mineral reserve itself -- is being expended in order to produce income. Certain costs incurred prior to drilling an oil or gas property are recovered through the depletion deduction. These include costs of acquiring the lease or other interest in the property and geological and geophysical costs (in advance of actual drilling). Depletion is available to any person having an economic interest in a producing property.

Two methods of depletion are allowable under the Code: (1) the cost depletion method, and (2) the percentage depletion method (secs. 611-613). Under the cost depletion method, the taxpayer deducts that portion of the adjusted basis of the depletable property which is equal to the ratio of units sold from that property during the taxable year to the number of units remaining as of the end of taxable year plus the number of units sold during the taxable year. Thus, the amount recovered under cost depletion may never exceed the taxpayer's basis in the property.

Under the percentage depletion method, generally, 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year (sec. 613A(c)). The amount deducted generally may not exceed 100 percent of the net income from that property in any year (the "net-income limitation") (sec. 613(a)). The Taxpayer Relief Act of 1997 suspended the 100-percent-of-net-income limitation for production from marginal wells for taxable years beginning after December 31, 1997, and before January 1, 2000. The suspension of the limitation was extended to include taxable years beginning before January 1, 2002. Additionally, the percentage depletion deduction for all oil and gas properties may not exceed 65 percent of the taxpayer's overall taxable income (determined before such deduction and adjusted for certain loss carrybacks and trust distributions) (sec. 613A(d)(1)).[27] Because percentage depletion, unlike cost depletion, is computed without regard to the taxpayer's basis in the depletable property, cumulative depletion deductions may be greater than the amount expended by the taxpayer to acquire or develop the property.

A taxpayer is required to determine the depletion deduction for each oil or gas property under both the percentage depletion method (if the taxpayer is entitled to use this method) and the cost depletion method. If the cost depletion deduction is larger, the taxpayer must utilize that method for the taxable year in question (sec. 613(a)).

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[27] Amounts disallowed as a result of this rule may be carried forward and deducted in subsequent taxable years, subject to the 65-percent taxable income limitation for those years.

Limitation of oil and gas percentage depletion to independent producers and royalty owners

Generally, only independent producers and royalty owners (as contrasted to integrated oil companies) are allowed to claim percentage depletion. Percentage depletion for eligible taxpayers is allowed only with respect to up to 1,000 barrels of average daily production of domestic crude oil or an equivalent amount of domestic natural gas (sec. 613A(c)). For producers of both oil and natural gas, this limitation applies on a combined basis.

In addition to the independent producer and royalty owner exception, certain sales of natural gas under a fixed contract in effect on February 1, 1975, and certain natural gas from geopressured brine, are eligible for percentage depletion, at rates of 22 percent and 10 percent, respectively. These exceptions apply without regard to the 1,000-barrel-per-day limitation and regardless of whether the producer is an independent producer or an integrated oil company.

Description of Proposal

The proposal would extend the period when the 100-percent net-income limit is suspended to include taxable years beginning after December 31, 2001, and before January 1, 2003.

Effective Date

The proposal would be effective on the date of enactment.

F. Authority to Issue Qualified Zone Academy Bonds

Present Law

Tax-exempt bonds

Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Activities that can be financed with these tax-exempt bonds include the financing of public schools (sec. 103).

Qualified zone academy bonds

As an alternative to traditional tax-exempt bonds, States and local governments are given the authority to issue "qualified zone academy bonds" ("QZABs") (sec. 1397E). A total of $400 million of qualified zone academy bonds may be issued annually in calendar years 1998 through 2001. The $400 million aggregate bond cap is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit authority to qualified zone academies within such State.

Financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. A taxpayer holding a qualified zone academy bond on the credit allowance date is entitled to a credit. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and AMT liability.

The Treasury Department sets the credit rate at a rate estimated to allow issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond.

"Qualified zone academy bonds" are defined as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a "qualified zone academy" and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds.

A school is a "qualified zone academy" if (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in an empowerment zones enterprise community designated under the Code, or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

Description of Proposal

The proposal would authorize issuance of up to $400 million of qualified zone academy bonds annually in calendar year 2002.

Effective Date

The proposal would be effective on the date of enactment.

G. Exceptions Under Subpart F for Active Financing Income

Present Law

Under the subpart F rules, 10-percent U.S. shareholders of a controlled foreign corporation ("CFC") are subject to U.S. tax currently on certain income earned by the CFC, whether or not such income is distributed to the shareholders. The income subject to current inclusion under the subpart F rules includes, among other things, foreign personal holding company income and insurance income. In addition, 10-percent U.S. shareholders of a CFC are subject to current inclusion with respect to their shares of the CFC's foreign base company services income (i.e., income derived from services performed for a related person outside the country in which the CFC is organized).

Foreign personal holding company income generally consists of the following: (1) dividends, interest, royalties, rents, and annuities; (2) net gains from the sale or exchange of (a) property that gives rise to the preceding types of income, (b) property that does not give rise to income, and (c) interests in trusts, partnerships, and REMICs; (3) net gains from commodities transactions; (4) net gains from foreign currency transactions; (5) income that is equivalent to interest; (6) income from notional principal contracts; and (7) payments in lieu of dividends.

Insurance income subject to current inclusion under the subpart F rules includes any income of a CFC attributable to the issuing or reinsuring of any insurance or annuity contract in connection with risks located in a country other than the CFC's country of organization. Subpart F insurance income also includes income attributable to an insurance contract in connection with risks located within the CFC's country of organization, as the result of an arrangement under which another corporation receives a substantially equal amount of consideration for insurance of other country risks. Investment income of a CFC that is allocable to any insurance or annuity contract related to risks located outside the CFC's country of organization is taxable as subpart F insurance income (Prop. Treas. Reg. sec. 1.953-1(a)).

Temporary exceptions from foreign personal holding company income, foreign base company services income, and insurance income apply for subpart F purposes for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business (so-called "active financing income").[28]

With respect to income derived in the active conduct of a banking, financing, or similar business, a CFC is required to be predominantly engaged in such business and to conduct substantial activity with respect to such business in order to qualify for the exceptions. In addition, certain nexus requirements apply, which provide that income derived by a CFC or a qualified business unit ("QBU") of a CFC from transactions with customers is eligible for the

[28] Temporary exceptions from the subpart F provisions for certain active financing income applied only for taxable years beginning in 1998. Those exceptions were modified and extended for one year, applicable only for taxable years beginning in 1999. The Tax Relief Extension Act of 1999 (Pub.L. No. 106-170) clarified and extended the temporary exceptions for two years, applicable only for taxable years beginning after 1999 and before 2002.

exceptions if, among other things, substantially all of the activities in connection with such transactions are conducted directly by the CFC or QBU in its home country, and such income is treated as earned by the CFC or QBU in its home country for purposes of such country's tax laws. Moreover, the exceptions apply to income derived from certain cross border transactions, provided that certain requirements are met. Additional exceptions from foreign personal holding company income apply for certain income derived by a securities dealer within the meaning of section 475 and for gain from the sale of active financing assets.

In the case of insurance, in addition to a temporary exception from foreign personal holding company income for certain income of a qualifying insurance company with respect to risks located within the CFC's country of creation or organization, certain temporary exceptions from insurance income and from foreign personal holding company income apply for certain income of a qualifying branch of a qualifying insurance company with respect to risks located within the home country of the branch, provided certain requirements are met under each of the exceptions. Further, additional temporary exceptions from insurance income and from foreign personal holding company income apply for certain income of certain CFCs or branches with respect to risks located in a country other than the United States, provided that the requirements for these exceptions are met.

In the case of a life insurance or annuity contract, reserves for such contracts are determined as follows for purposes of these provisions. The reserves equal the greater of: (1) the net surrender value of the contract (as defined in sec. 807(e)(1)(A)), including in the case of pension plan contracts; or (2) the amount determined by applying the tax reserve method that would apply if the qualifying life insurance company were subject to tax under Subchapter L of the Code, with the following modifications. First, there is substituted for the applicable Federal interest rate an interest rate determined for the functional currency of the qualifying insurance company's home country, calculated (except as provided by the Treasury Secretary in order to address insufficient data and similar problems) in the same manner as the mid-term applicable Federal interest rate (within the meaning of sec. 1274(d)). Second, there is substituted for the prevailing State assumed rate the highest assumed interest rate permitted to be used for purposes of determining statement reserves in the foreign country for the contract. Third, in lieu of U.S. mortality and morbidity tables, mortality and morbidity tables are applied that reasonably reflect the current mortality and morbidity risks in the foreign country. Fourth, the Treasury Secretary may provide that the interest rate and mortality and morbidity tables of a qualifying insurance company may be used for one or more of its branches when appropriate. In no event may the reserve for any contract at any time exceed the foreign statement reserve for the contract, reduced by any catastrophe, equalization, or deficiency reserve or any similar reserve.

Present law also provides a temporary exception from foreign personal holding company income for income from investment of assets equal to 10 percent of reserves (determined for purposes of the provision) for contracts regulated in the country in which sold as life insurance or annuity contracts. This exception does not apply to investment income with respect to excess surplus.

Description of Proposal

The proposal would extend for one year the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

Effective Date

The proposal would be effective for taxable years of foreign corporations beginning after December 31, 2001, and before January 1, 2003, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

H. Increased Coverover Payments to Puerto Rico and the Virgin Islands

Present Law

A $13.50 per proof gallon[29] excise tax is imposed on distilled spirits produced in, or imported or brought into, the United States. The excise tax does not apply to distilled spirits that are exported from the United States or to distilled spirits that are consumed in U.S. possessions (e.g., Puerto Rico and the Virgin Islands).

The Code provides for coverover (payment) of $13.25 per proof gallon of the excise tax imposed on rum imported (or brought) into the United States (without regard to the country of origin) to Puerto Rico and the Virgin Islands during the period July 1, 1999 through December 31, 2001. Effective on January 1, 2002, the coverover rate is scheduled to return to its permanent level of $10.50 per proof gallon.

Amounts covered over to Puerto Rico and the Virgin Islands are deposited into the treasuries of the two possessions for use as those possessions determine.

Description of Proposal

The proposal would extend the $13.25-per-proof-gallon coverover rate for one additional year, through December 31, 2002.

Puerto Rico currently allocates a portion of the coverover payments it receives to the Puerto Rico Conservation Trust. It is appropriate that this allocation continue through the period when the $13.25-per-proof-gallon rate is extended.

Effective Date

The proposal would be effective on the date of enactment.

[29] A proof gallon is a liquid gallon consisting of 50 percent alcohol.

I. Effective Date of Requirement for Approved Diesel or Kerosene Terminal

Present Law

Excise taxes are imposed on highway motor fuels, including gasoline, diesel fuel, and kerosene, to finance the Highway Trust Fund programs. Subject to limited exceptions, these taxes are imposed on all such fuels when they are removed from registered pipeline or barge terminal facilities, with any tax-exemptions being accomplished by means of refunds to consumers of the fuel.[30] One such exception allows removal of diesel fuel or kerosene without payment of tax if the fuel is destined for a nontaxable use (e.g., use as heating oil) and is indelibly dyed.

Terminal facilities are not permitted to receive and store non-tax-paid motor fuels unless they are registered with the Internal Revenue Service. Under present law, a prerequisite to registration is that if the terminal offers for sale diesel fuel, it must offer both dyed and undyed diesel fuel. Similarly, if the terminal offers for sale kerosene, it must offer both dyed and undyed kerosene. This "dyed-fuel mandate" was enacted in 1997, to be effective on July 1, 1998. Subsequently, the effective date was delayed until July 1, 2000, and later until January 1, 2002.

Description of Proposal

The effective date of the diesel fuel and kerosene dyeing mandate would be delayed for one additional year, until January 1, 2003.

Effective Date

The proposal would be effective on the date of enactment.

[30] Tax is imposed before that point if the motor fuel is transferred (other than in bulk) from a refinery or if the fuel is sold to an unregistered party while still held in the refinery or bulk distribution system (e.g., in a pipeline or terminal facility).

J. Deduction for Qualified Clean-Fuel Vehicle Property and Qualified Clean-Fuel Vehicle Refueling Property

Certain costs of qualified clean-fuel vehicle property and clean-fuel vehicle refueling property may be expensed and deducted when such property is placed in service (sec. 179A).[31] Qualified clean-fuel vehicle property includes motor vehicles that use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). The maximum amount of the deduction is $50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults; $5,000 in the case of a truck or van with a gross vehicle weight between 10,000 and 26,000 pounds; and $2,000 in the case of any other motor vehicle. Qualified electric vehicles do not qualify for the clean-fuel vehicle deduction.

Clean-fuel vehicle refueling property comprises property for the storage or dispensing of a clean-burning fuel, if the storage or dispensing is the point at which the fuel is delivered into the fuel tank of a motor vehicle. Clean-fuel vehicle refueling property also includes property for the recharging of electric vehicles, but only if the property is located at a point where the electric vehicle is recharged. Up to $100,000 of such property at each location owned by the taxpayer may be expensed with respect to that location.

The deduction for clean-fuel vehicle property phases down in the years 2002 through 2004, and is unavailable for purchases after December 31, 2004. The deduction for clean-fuel vehicle refueling property is unavailable for property placed in service after December 31, 2004.

Description of Proposal

The proposal would defer the phase down of the deduction for clean-fuel vehicle property by one year. Taxpayers could claim the full amount of the deduction for qualified vehicles placed in service in 2002. The phase down of the deduction for clean-fuel vehicles would commence in 2003 and the deduction would be unavailable for purchases after December 31, 2005. A conforming modification would be made to section 280F.

The proposal would extend the placed in service date for clean-fuel vehicle refueling property by one year. The deduction for clean-fuel vehicle refueling property would be available for property placed in service prior to January 1, 2006.

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[31] The amount the taxpayer may claim as a depreciation deduction for any passenger automobile is limited (sec. 280F). In the case of a qualified clean-burning fuel vehicle, the limitation of sec. 280F applies only to that portion of the vehicle's cost not represented by the installed qualified clean-burning fuel property. The taxpayer may claim an amount otherwise allowable as a depreciation deduction on the installed qualified clean-burning fuel property, without regard to the limitation. These exceptions from sec. 280F apply to vehicles placed in service prior to January 1, 2005.

Effective Date

The proposal would be effective on the date of enactment.

K. Credit for Purchase of Electric Vehicles

A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000 (sec. 30). A qualified electric vehicle is a motor vehicle that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current, the original use of which commences with the taxpayer, and that is acquired for the use by the taxpayer and not for resale. The full amount of the credit is available for purchases prior to 2002. The credit phases down in the years 2002 through 2004, and is unavailable for purchases after December 31, 2004.[32]

Description of Proposal

The proposal would defer the phase down of the credit by one year. Taxpayers could claim the full amount of the credit for qualified purchases made in 2002. The phase down of the credit value would commence in 2003 and the credit would be unavailable for purchases after December 31, 2005. A conforming modification would be made to section 280F.

Effective Date

The proposal would be effective on the date of enactment.

[32] The amount the taxpayer may claim as a depreciation deduction for any passenger automobile is limited (sec. 280F). In the case of a passenger vehicle designed to be propelled primarily by electricity and built by an original equipment manufacturer, the otherwise applicable limitation amounts are tripled. These exceptions from sec. 280F apply to vehicles placed in service prior to January 1, 2005.

L. Tax on Failure to Comply with Mental Health Parity Requirements

Prior Law

The Mental Health Parity Act of 1996 amended ERISA and the Public Health Service Act to provide that group health plans that provide both medical and surgical benefits and mental health benefits cannot impose aggregate lifetime or annual dollar limits on mental health benefits that are not imposed on substantially all medical and surgical benefits. The provisions of the Mental Health Parity Act are effective with respect to plan years beginning on or after January 1, 1998, but do not apply to benefits for services furnished on or after September 30, 2001.

The Taxpayer Relief Act of 1997 added to the Internal Revenue Code the requirements imposed under the Mental Health Parity Act, and imposed an excise tax on group health plans that fail to meet the requirements. The excise tax is equal to $100 per day during the period of noncompliance and is imposed on the employer sponsoring the plan if the plan fails to meet the requirements. The maximum tax that can be imposed during a taxable year cannot exceed the lesser of 10 percent of the employer's group health plan expenses for the prior year or $500,000. No tax is imposed if the Secretary determines that the employer did not know, and exercising reasonable diligence would not have known, that the failure existed.

The excise tax is applicable with respect to plan years beginning on or after January 1, 1998, and expired with respect to benefits for services provided on or after September 30, 2001.

Description of Proposal

The excise tax on failures to comply with mental health parity requirements would be extended for one year.[33]

Effective Date

The provision would be effective with respect to plan years beginning on or after January 1, 2002, and would not apply to benefits for services furnished on or after September 30, 2002.

[33] The related provisions of ERISA and the Public Health Service Act, which also expired on September 30, 2001, have not been extended. However, the Senate has amended the 2002 Labor-HHS appropriations bill (H.R. 3061) to apply expanded requirements under ERISA and the Public Health Service Act as of 2003.

M. Combined Employment Tax Reporting

Present Law

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). No tax information may be furnished by the Internal Revenue Service ("IRS") to another agency unless the other agency establishes procedures satisfactory to the IRS for safeguarding the tax information it receives (sec. 6103(p)).

The Taxpayer Relief Act of 1997 authorized a demonstration project to assess the feasibility and desirability of expanding combined reporting. The demonstration project was: (1) limited to State of Montana, (2) limited to employment taxes, (3) limited to taxpayer identity (name, address, taxpayer identifying number) and the signature of the taxpayer, and (4) limited to a period of five years. After August 5, 2002, the demonstration project will expire.

To implement that demonstration project, the Taxpayer Relief Act of 1997 amended the Code to authorize the IRS to disclose the name, address, taxpayer identifying number, and signature of the taxpayer, which is common to both the State and Federal portions of the combined form. The Code permits the IRS to disclose these common data items to the State and not have it subject to the redisclosure restrictions, safeguards, or criminal penalty provisions.[34] Essentially, the State is allowed to use this information as if the State directly received this information from the taxpayer.

Description of Proposal

The proposal would extend the authority for the demonstration project and the concomitant disclosure authority of the IRS through December 31, 2002. The statutory waiver of the redisclosure restrictions, safeguards, and criminal penalty provisions would continue to apply. Further, the items authorized for disclosure would continue to be limited to the name, address, taxpayer identification number, and signature of the taxpayer.

Effective Date

The proposal would be effective on the date of enactment.

[34] Sec. 6103(d)(5). The following restrictions and requirements do not apply: (1) the prohibition on disclosure of returns or return information by State officers and employees (sec. 6103(a)(2)); (2) the Federal penalties for unauthorized disclosure and inspection of returns and return information (secs. 7213 and 7213A) and (3) the requirement that the State establish safeguards regarding the information obtained from the IRS (sec. 6103(p)(4)).

V. EXTENSION OF CERTAIN TRADE PROVISIONS EXPIRING IN 2001

A. Generalized System of Preferences

Present Law

Title V of the Trade Act of 1974 established the Generalized System of Preferences, whereby the President may provide duty-free treatment on imports of eligible articles from developing countries and territories, subject to certain conditions and limitations. The Generalized System of Preferences expired on September 30, 2001.

The purpose of the Generalized System of Preferences is to promote three broad policy goals: (1) to foster economic development in developing countries through increased trade rather than foreign aid; (2) to promote U.S. trade interests by encouraging beneficiary countries to open their markets and comply more fully with international trading rules; and (3) to help maintain U.S. international competitiveness by lowering costs for U.S. businesses, as well as lowering prices for American consumers.

To qualify for the Generalized System of Preferences privileges, each beneficiary country is subject to various mandatory and discretionary eligibility criteria. Title V specifies the criteria for determining the Generalized System of Preferences country and product eligibility and limitations on the extension of the Generalized System of Preferences treatment. Several articles are statutorily exempt from preferential treatment, including certain textile and apparel articles, watches, and many other import-sensitive products. The Generalized System of Preferences program currently provides unilateral, non-reciprocal duty-free treatment to about 6200 articles from approximately 140 beneficiary developing countries and territories to assist their economic development and increase diversification of their economies through preferential market access.

Section 114 of the Africa Growth and Opportunity Act (P.L. 106-200), enacted on May 18, 2000, extended the Generalized System of Preferences benefits through September 30, 2008 for qualified sub-Saharan African countries.

Description of Proposal

The proposal would renew the generalized system of preferences for the period of October 1, 2001, through December 31, 2002. The proposal would also include a retroactive provision which would provide duty-free treatment for items imported after September 30 that would have qualified for coverage if the Generalized System of Preferences had not expired. Imports made after September 30, 2001, and before the date of enactment would be eligible for duty-free treatment and refunds of any duty paid.

Effective Date

The proposal would be effective on October 1, 2001.

B. Andean Trade Preference Initiative

Present Law

The Andean Trade Preference Act provides preferential, mostly duty-free, treatment of selected U.S. imports from Bolivia, Ecuador, Columbia, and Peru. The Act authorizes the President to proclaim duty-free treatment for eligible articles from a beneficiary country, in accordance with the requirements of the Act. The Andean Trade Preference Act was originally introduced in 1991 as part of an initiative to address the growing narcotics trade problem in Latin America by promoting economic development as a way to create viable alternatives to illicit drug production. The Act provides an incentive for redirecting resources used for drug-related activities to Andean Trade Preference Act-eligible products. The Andean Trade Preference Act expires December 4, 2001.

Several conditions and requirements must be satisfied for imports to be eligible for preferential treatment under the Andean Trade Preference Act. Each of the four eligible nations must be designated a "beneficiary country" by meeting several legislative standards. Beneficiary status can be denied to a country for several reasons. Beneficiary status can be denied if the country is a Communist country, if it unfairly nationalizes or expropriates U.S. property, if it fails to act in good faith in recognizing or enforcing arbitral awards, and for several other reasons. The President is also required to consider other enumerated factors in determining beneficiary country status, such as economic conditions and compliance with trade agreements. The President is authorized to withdraw or suspend a designation if appropriate because of changed circumstances.

Additionally, to obtain duty-free status, eligible articles must be imported directly from a beneficiary country. Many products are ineligible for duty-free treatment under the Andean Trade Preference Act, such as textile and apparel products, while certain products are only eligible for a reduction in duties. Other specific requirements exist for articles to qualify for duty-free treatment. The cost or value of materials and processing costs originating in beneficiary countries (under the Andean Trade Preference Act or under the Caribbean Basin Economic Recovery Act), Puerto Rico and the Virgin Islands and up to 15 percent of the United States origin value must equal at least 35 percent of the value of the article when it enters the United States. The major imports entering the United States under the Andean Trade Preference Act include cut flowers, copper cathodes, precious metals, pigments, non-canned tuna, and zinc.

The Andean Trade Preference Act operates in addition to the Generalized System of Preferences.

Description of Proposal

The proposal would extend the trade benefits available under the Andean Trade Preference Act through December 31, 2002.

Effective Date

The proposal would be effective on December 5, 2001.

C. Trade Adjustment Assistance Program

Present Law

Three trade adjustment assistance programs have been enacted at different times beginning with the Trade Act of 1974. Congress has renewed the programs since then. The current authorization expired on September 30, 2001, and has been extended in a Continuing Resolution through November 15, 2001. The three trade adjustment assistance programs are: (1) trade adjustment assistance for workers, (2) trade adjustment assistance for firms, and (3) the North American Free-Trade Agreement trade adjustment assistance. The programs provide direct assistance and training to workers who are laid off in trade-impacted industries. Approximately 163,000 workers per year use the programs, which cost $457 million annually. The main beneficiaries are apparel/textile, oil and gas, electronics, and the metal/machinery industries.

Section 245 of the Trade Act of 1974, as amended (19 U.S.C. 2317), authorizes appropriations to the Department of Labor for the period beginning October 1, 1999 through September 30, 2001, of such sums as may be necessary to administer the general trade adjustment assistance and North American Free Trade Act-related trade adjustment assistance programs of Chapter 2 of Title II of that Act. Section 250(d)(2) of the Trade Act of 1974 caps the funding for North American Free Trade Act training programs for the period at $30,000,000.

Section 256 of the Trade Act of 1974, as amended (19 U.S.C. 2346(b)), authorizes appropriations to the Department of Commerce for the period beginning October 1, 1999 through September 30, 2001, of such sums as may be necessary to administer the trade adjustment assistance for firms program (Chapter 3 of Title II of the Trade Act of 1974, as amended).

Description of Proposal

The proposal would extend the authorization of the trade adjustment assistance programs through December 31, 2002.

Effective Date

The proposal would be effective on the date of the enactment.

VI. HEALTH INSURANCE COVERAGE FOR DISPLACED WORKERS

A. COBRA Coverage

Present Law

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), requires an employer with 20 or more employees to offer the option of continued health insurance coverage at group rates to qualified employees and their families who are faced with loss of coverage due to certain events (e.g., termination, reduction of hours, retirement, death of an insured spouse). The coverage generally lasts for 18 months, but can last up to 36 months, depending on the nature of the event. The employer is not required to pay for this coverage; rather, the beneficiary can be required to pay up to 102 percent of the premium. Employers who fail to provide the continued health insurance option are subject to tax and other penalties.

COBRA applies to employers who purchase group health plans for their employees, as well as those who self-insure. An employer must comply with COBRA even if it does not contribute to the health plan, as long as the employer maintains such a plan.

Description of Proposal

The proposal would provide a temporary 75 percent premium subsidy for displaced workers who are eligible for COBRA coverage. Workers who lose their jobs after September 11, 2001 and are eligible for COBRA would be eligible to receive such subsidies for up to 12 months. All benefits would end no later than December 31, 2002, regardless of how long a worker has received such coverage.

The Secretary of Treasury, in consultation with the Secretary of Labor, would administer the program through appropriate direct payment arrangements with group health plans, employers, and/or state unemployment insurance offices. States can choose to administer this program provided that they notify the Secretary and develop a plan for making the subsidies available by January 1, 2002. States would also be given the flexibility to provide "wrap-around" premium assistance for low-income workers who are COBRA eligible but not able to pay their share of the COBRA premium.

Effective Date

The proposal would expire on December 31, 2002.

B. Medicaid Coverage

Present Law

Medicaid is a means-tested health care entitlement program financed by both states and the federal government. The program was created to assist low-income Americans, but coverage is dependent upon several other criteria in addition to income. Eligibility is generally limited to those persons falling into particular "categories," such as low-income children, pregnant women, the elderly, people with disabilities, and parents meeting specific income thresholds.

By law, the federal government matches at least 50 percent of the cost of Medicaid in each state, and can match as much as 83 percent, depending on a state's per capita income. On average, the federal government pays 57 percent of the cost of Medicaid in each state, with relatively poor states receiving a higher matching rate than relatively wealthy states.

States receive a higher federal matching rate for expenditures made under the Children's Health Insurance Program (CHIP). Through the CHIP "enhanced matching rate," the federal government pays a minimum of 65 percent of the cost of state CHIP programs, and a maximum of 85 percent of the cost. The average federal matching rate paid to states is 70 percent.

States have considerable flexibility in structuring their programs within broad federal guidelines governing eligibility, provider payment levels and benefits. As a result, Medicaid programs vary widely from state to state.

Description of Proposal

The proposal would create a temporary state option to provide Medicaid coverage to workers who were laid off after September 11, 2001, and who are not eligible for COBRA. Such workers include those who worked for small businesses, for firms that go bankrupt or drop health coverage for their remaining employees. All benefits would end by December 31, 2002, regardless of how long a displaced worker has been covered.

States electing this option would receive the enhanced CHIP matching rate and are permitted to use the same eligibility criteria allowed through the Workers Incentive Improvement Act of 2000 (i.e., full subsidies up to 250 percent of poverty and sliding-scale assistance up to 450 percent of poverty). States could also choose to subsidize the remainder of the premium for low-income Americans eligible for the 75 percent COBRA premium subsidy.

Effective Date

The proposal would expire on December 31, 2002.

C. Temporary Increase in Federal Medicaid Matching Rate

Present Law

By law, the federal government matches at least 50 percent of the cost of Medicaid in each state, and can match as much as 83 percent, depending on a state's per capita income. On average, the federal government pays 57 percent of the cost of Medicaid in each state, with relatively poor states receiving a higher matching rate than relatively wealthy states.

Federal Medicaid matching rates are based on a state's per capita income relative to the national average and are determined by census data from the most recently available three calendar years. Because the Medicaid matching rates for FY 2002 are based on state per capita income data for the years 1997, 1998 and 1999, changes in states' matching rates for 2002 were triggered by changes in their economies that occurred during those years. More recent economic trends are not reflected in the new matching rates. Because the economy was especially strong from 1997-1999, the FY 2002 federal Medicaid matching rates are reduced for 29 states. Rates in three states are reduced by more than two percentage points.

Description of Proposal

The proposal would provide temporary financial assistance to States to help them meet the temporary rise in Medicaid costs that will result from the recent economic downturn. First, States in which the federal Medicaid matching rate is falling in fiscal year 2002 would be "held harmless" and retain their fiscal year 2001 matching rate. States in which the rates are rising would shift to the fiscal year 2002 rate. Second, all States would receive a federal Medicaid matching rate increase of 1.0 percent. Third, States with higher than average unemployment rates over the previous three months would receive an additional 1.0 percent increase – bringing their total matching rate increase to 2.0 percent. In exchange for these increases, States would maintain current eligibility levels.

Effective Date

The proposal would be effective for fiscal year 2002 only.

VII. UNEMPLOYMENT INSURANCE

A. Extended Benefits

Present Law

States set unemployment benefit rules within a broad federal framework. The maximum length of benefits is 26 weeks in all but two states. The average duration on unemployment was 14.5 weeks in 1999. During fiscal year 1999 32 percent of recipients used all of their eligibility, or "exhausted eligibility."

Extended benefits of an additional 13 weeks are available in states suffering severe ecônomic distress. These benefits become available when a state's "insured" unemployment rate is 5 percent and 120 percent of the average over the last two years or, at state option, if the "insured" rate is 6 percent. (The insured unemployment rate reflects only job losers covered by unemployment insurance and is 2-3 percent lower than the more familiar "total unemployment rate.") A handful of states have adopted a third trigger, a total unemployment rate of 6.5 percent and 110 percent of the average over the past two years. The benefits are 50 percent Federally-funded. (Regular UI benefits are funded by state taxes levied on employers.)

Congress has occasionally provided extended benefits on a Federally funded basis. Since 1970, Congress has acted 4 times -- in 1971, 1974, 1982, and 1991 -- to establish temporary programs of supplemental assistance.

Description of Proposal

The proposal would provide, through cooperative agreements with the states, 13 weeks of extended benefits in all States, starting immediately. The benefits would be available to those who have "exhausted" regular UI eligibility first and are still unable to locate work. Eligibility for extended benefits would include those who exhaust unemployment benefits after September 11, 2001, as well as those who initially lose jobs after September 11, 2001. The benefits would be available until December 31, 2002. They would be 100 percent Federally-funded.

B. Part-Time Workers

Present Law

In general, states set the rules to determine whether an unemployment applicant is "available for work" and willing to "accept suitable employment." Also, a general program rule is that the unemployed look for work "comparable" to their previous employment. Thirty-one states require that someone on unemployment pursue full-time employment as part of being "available for work" and willing to accept "suitable employment." Those working part-time, such as thirty hours a week, have unemployment taxes paid on their behalf and can often meet the other criteria – such as minimum earnings tests – to be eligible for benefits. Many states require them to seek full-time work to receive benefits.

Nationwide, just under 20 percent of workers are employed part-time. For some this is because they are unable to get full-time work – they are usually eligible for benefits because they will work full-time. But others believe they are only able to work part-time. About 300,000 former part-time workers are ineligible for benefits because of the full-time requirement per year.

Description of Proposal

The proposal would make those seeking part-time work eligible for benefits. The benefits would be wholly Federally-funded and available until December 31, 2002. State rules concerning minimum earnings requirements and other eligibility criteria would still apply. Part-time work would be defined as employment comparable to an applicant's previous job or would be permitted for those who showed good cause for their work availability being part-time only. States which already provide these benefits would receive Federal funding for them.

C. Alternative Base Period

Present Law

Eligibility for unemployment benefits is generally determined on earnings over a year, known as the "base period." States have a variety of tests, such as minimum earnings levels and or quarters worked, to decide whether an applicant has sufficient work history to qualify. Thirty-eight States use the first four of the most recently completed five quarters as the year to consider. This means that for many applicants the most recent wage data used for eligibility determination is four to six months old.

Description of Proposal

For those applicants found ineligible for benefits, the proposal would require states to redetermine eligibility using the most recently completed quarter's data. If an applicant's "alternative base period" wage history would make the applicant eligible then benefits would be provided, according to the normal state formulas. The benefits would be Federally-funded and would be available until December 31, 2002.

D. Supplemental Benefits

Present Law

States determine unemployment benefit levels. Typically, they are set to replace 50 percent of the recipients former wages, up to a maximum. Those with higher earnings as workers generally receive higher benefits. The national weekly average is $231 and average wage replacement is 47 percent. This represents about 2/3 of the poverty line for a family of four.

Description of Proposal

The proposal includes a temporary Federal supplement to UI benefits of 15 percent or $25 per week, whichever is higher. For the average unemployed recipient this would be an additional $35 per week. The supplement would be included in benefits provided under the extended benefit, part-time worker, and "alternative base period" provisions of the proposal as well.

E. Administrative Funding

Present Law

Unemployment insurance programs are operated by the States but funded by the Federal government. A portion of the Federal unemployment tax is reserved in a trust fund and then the Labor-HHS appropriations bill each year appropriates some of those funds, on the basis of a complicated workload-based calculation, to support state administration efforts. There is also a contingency reserve, which allows states to receive additional appropriated funding when unemployment claims rise substantially.

Under the Reed Act, when reserves in the three Federal unemployment trust fund accounts exceed statutory limits, funds are transferred to state unemployment program accounts. The Balanced Budget Act of 1997 limited such transfers to $100 million in fiscal year 2002.

Description of Proposal

The proposal would provide an additional $500 million accelerated "Reed Act" distribution of funds from the Federal UI accounts to States.

F. Financing

Present Law

Regular unemployment benefits are financed by States through taxes levied on employers. These taxes are usually "experience-rated" so employers with more former employees receiving unemployment benefits pay higher tax rates. They are usually payroll taxes in the form of a percentage of wages up to certain maximum wage level. In 1999, the average tax rate was 1.8 percent of taxable wages. Tax rates can vary from zero on some employers to as high as 10 percent in two states.

The Federal unemployment tax, known as FUTA, is 6.2 percent on the first $7,000 of wages, but is reduced to 0.8 percent in States with approved programs. These funds are deposited into three federal unemployment accounts. The first, the Employment Security Administration Account, supports State program administration. The second, the Extended Unemployment Compensation Account, provides the funds for the 50 percent share of the extended benefits program. The third, Federal Unemployment Account, provides funds for loans to State unemployment programs in distress to ensure a continued flow of benefits.

As noted, the Reed Act requires that funds exceeding a statutory ceiling be transferred to State unemployment trust funds. The CBO baseline for the Budget Resolution projected transfers to State programs of $3-4 billion per year beginning in fiscal year 2003.

Description of Proposal

The proposal would use funds in the Federal accounts to pay for the benefits. Because of the CBO projections of Reed Act distributions, the 10 year costs of the proposal are zero – the proposal is paid for by accelerating spending due to occur over the next ten years.

VIII. EMERGENCY AGRICULTURE ASSISTANCE

A. Crop Disaster Assistance

Present Law

Congress has periodically established temporary programs in order to provide assistance to farmers who suffered crop losses, including specialty crops, due to natural disaster or quality loss. The most recent programs were authorized in the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001. Both programs expired at the end of fiscal 2001.

Under the Natural Disaster Program, producers were compensated if their losses exceeded 35 percent of historic yields. The payment formulas provided greater benefits to producers who bought insurance on their eligible crops.

Under the Quality Loss program, farmers were eligible for assistance if they suffered at least a 20 percent loss in 2001-year crop quality due to weather-related disasters.

Description of Proposal

The proposal reestablishes both the Natural Disaster Program and Quality Loss programs for fiscal 2002, on terms identical to those contained in the 2001 law.

B. Livestock Disaster Assistance

Present Law

Congress has periodically established a temporary program to assist livestock producers who suffered grazing losses due to natural disasters. The most recent program was enacted as part of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001. The program expired at the end of fiscal 2001.

Under the program, the eligibility of an individual producer was based on whether a natural disaster caused the producer in an approved county to suffer a 40 percent or greater loss of grazing for 3 or more consecutive months during calendar year 2001.

Description of Proposal

The proposal reestablishes the Livestock Assistance Program for fiscal 2002, on terms identical to those contained in the 2001 law. It also provides that not more than $12 million of the amounts made available under the program are for the American Indian Livestock Feed Program.

C. Rural Development Loan and Grant Applications

Description of Proposal

The proposal provides $3 billion to clear the backlog of pending rural development loan and grant applications. Pending applications for community facility grants and direct loans, water and waste disposal grants and direct loans, rural water and wastewater technical assistance and training grants, business and industry guaranteed loans, and solid waste management grants will be eligible for funding under this provision. Applications in the preapplication phase are not eligible for funding under this provision. The funds in the account established under this section will be available only after funds appropriated in the annual appropriations act for fiscal year 2002 for these loans, loan guarantees and grants have been exhausted.

D. Commodity Purchases

Present Law

Congress has periodically established a temporary agricultural commodity purchase program to help producers of specialty crops who have suffered losses due to low prices.

The program encourages the Secretary to purchase such commodities in a manner that reflects geographic diversity with particular attention given to production in the Northeast and Mid-Atlantic States.

Description of Proposal

The proposal authorizes the Secretary to use $220 million of funds from the Commodity Credit Corporation to establish a commodity purchase program for fiscal 2002, to purchase agricultural commodities that have experienced low prices during the 2000 or 2001 crops years. Not less than $55 million of the funds shall be used to purchase agricultural commodities that qualify for and are distributed to schools and service institutions under the School Lunch Act.

JOINT COMMITTEE ON TAXATION
November 6, 2001
JCX-76-01 R

ESTIMATED REVENUE EFFECTS OF THE "ECONOMIC RECOVERY AND ASSISTANCE FOR AMERICAN WORKERS ACT OF 2001," SCHEDULED FOR MARKUP BY THE COMMITTEE ON FINANCE ON NOVEMBER 8, 2001

Fiscal Years 2002 - 2011

[Millions of Dollars]

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-06	2002-11
Supplemental Rebate for Individual Taxpayers - provide a rebate ($300 individual, $600 married filing jointly, and $500 head-of-household) for individuals who filed a tax return in 2000 (including insular areas) other than dependents and nonresident aliens; rebate amount reduced by amount of rebate individual received under H.R. 1836 [1]	DOE	-14,173	---	---	---	---	---	---	---	---	---	-14,173	-14,173
Temporary Business Relief Provisions													
1. Special depreciation allowance for certain property - 10% expensing of the value of capital assets with MACRS lives of 20 years or less, software, leasehold improvements, and property eligible for the income forecast method (sunset after 12 months) [2]	ppisa 9/10/01	-14,010	-1,596	3,507	2,585	2,241	1,828	1,349	956	583	381	-7,274	-2,177
2. Increase in section 179 expensing to $35,000, and increase beginning point for phaseout to $325,000 for 12 months	tyba 12/31/01	-852	-592	424	277	202	158	116	77	42	25	-541	-123
3. 5-year carryback of net operating losses and waive the AMT 90% limitation on the allowance of losses (sunset after 12 months)	NOLs gi tyei 2001	-4,587	1,147	1,147	1,147	764	115	38	38	38	38	-382	-115
Total of Temporary Business Relief Provisions		-19,449	-1,041	5,078	4,009	3,207	2,101	1,503	1,071	663	444	-8,197	-2,415
Tax Incentives for New York City and Distressed Areas [3]:													
1. Expansion of Work Opportunity Tax Credit targeted categories to include certain employees in New York City - add individuals working in or relocated from the Recovery Zone as a targeted group eligible for a modified WOTC (40% on first $12,000; allow against the AMT) (sunset 12/31/02)	wpoifwpa 9/10/01	-1,173	-544	-160	-59	-17	---	---	---	---	---	-1,954	-1,954
2. Authorize issuance of tax-exempt private activity bonds for rebuilding the portion of New York City damaged in the September 11, 2001, terrorist attack - tax-exempt reconstruction bonds capped at $15 billion for calendar year 2002 with 3-year carryforward of unused amount; exempt from AMT	bia DOE	-21	-82	-145	-199	-245	-259	-259	-259	-259	-259	-693	-1,986

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-06	2002-11
3. Bank carrying cost exception for tax-exempt reconstruction bonds	bia DOE	-21	-48	-58	-80	-82	-82	-82	-82	-82	-82	-288	-698
4. Incentive for reinvestment of insurance proceeds received for property damaged in New York City in the September 11, 2001, terrorist attack to the extent reinvested in eligible property in New York City before January 1, 2007	[4]	-584	-358	-122	-8	98	118	110	104	104	104	-973	-432
5. Re-enact exceptions for qualified mortgage bond financed loans to victims of Presidentially-declared disasters for calendar year 2002	[5]	-3	-7	-8	-8	-8	-8	-8	-8	-8	-8	-33	-73
6. One-year expansion of authority for Indian tribes to issue tax-exempt private activity bonds - authorize issuance of up to $10 million tax-exempt private activity bonds for qualified Indian tribal governments for calendar year 2002 with 3-year carryforward; exempt from AMT	DOE	-1	-4	-8	-13	-16	-16	-16	-16	-16	-16	-41	-121
Total of Tax Incentives for New York City and Distressed Areas		**-1,803**	**-1,043**	**-501**	**-367**	**-270**	**-247**	**-255**	**-261**	**-261**	**-261**	**-3,982**	**-5,264**
Extension of Certain Expiring Provisions													
1. Treatment of nonrefundable personal credits under the individual alternative minimum tax (sunset 12/31/02) [6]	tyba 12/31/01	-123	-490	---	---	---	---	---	---	---	---	-613	-613
2. Work opportunity tax credit (sunset 12/31/02)	wpoifibwa 12/31/01	-92	-153	-92	-36	-14	-3	---	---	---	---	-387	-390
3. Welfare-to-work tax credit (sunset 12/31/02)	wpoifibwa 12/31/01	-27	-52	-38	-16	-7	-2	[7]	---	---	---	-140	-141
4. Tax credit for electricity production from wind, closed-loop biomass, and poultry litter -- facilities placed in service date (sunset 12/31/02)	ppisa 12/31/01	-9	-17	-19	-20	-20	-21	-21	-22	-22	-23	-85	-193
5. Suspension of 100 percent-of-net-income limitation on percentage depletion for oil and gas from marginal wells (sunset 12/31/02)	tyba 12/31/01	-27	-14	---	---	---	---	---	---	---	---	-41	-41
6. Qualified zone academy bonds (sunset 12/31/02)	DOE	[7]	-2	-5	-9	-11	-11	-11	-11	-11	-11	-27	-79
7. Exceptions under subpart F for active financing income (sunset 12/31/02)	tyba 12/31/01	-260	-781	---	---	---	---	---	---	---	---	-1,041	-1,041
8. Temporary increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sunset 12/31/02) [8]	DOE	-56	-14	---	---	---	---	---	---	---	---	-70	-70
9. Suspension of requirement that terminals selling diesel fuel and kerosene must sell both dyed and undyed fuel (sunset 12/31/02)	DOE	*Negligible Revenue Effect*											
10. Deductions for clean-fuel vehicles and refueling property (sunset after 12 months)	ppisa 12/31/01 [9]	-9	-10	-7	-5	7	11	7	4	2	[10]	-24	---
11. Tax credit for electric vehicles (sunset after 12 months)	ppisa 12/31/01 [11]	-25	-33	-25	-17	-1	5	3	2	1	[10]	-102	-92
12. Tax on failure to comply with mental health parity requirements applicable to group health plans (sunset 12/31/02)	pybo/a 1/1/02	*Negligible Revenue Effect*											
13. Combined employment tax reporting demonstration project (sunset 12/31/02)	8/6/02	*No Revenue Effect*											
Total of Extension of Certain Expiring Provisions		**-628**	**-1,566**	**-186**	**-103**	**-46**	**-21**	**-22**	**-27**	**-30**	**-34**	**-2,530**	**-2,660**

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-06	2002-11
Extension of Additional Provisions Expiring in 2001													
1. Generalized System of Preferences (sunset 12/31/02) [8]	10/1/01	-332	-87	---	---	---	---	---	---	---	---	-419	-419
2. Andean Trade Preference Initiative (sunset 12/31/02) [8]	12/5/01	-18	-6	---	---	---	---	---	---	---	---	-24	-24
3. Trade Adjustment Assistance Program (sunset 12/31/02) [8]	DOE	No Revenue Effect											
Total of Extension of Additional Provisions Expiring in 2001		-350	-93	---	---	---	---	---	---	---	---	-443	-443
Health Insurance Coverage for Displaced Workers and Increase the Medicaid Federal Match [8]	---	-10,900	-3,700	---	---	---	---	---	---	---	---	-14,500	-14,500
Unemployment Insurance Provisions [8] [12]	---	-14,400	-5,100	---	---	---	---	---	---	---	---	-19,400	-19,400
Emergency Agriculture Assistance Provisions [8]	---	*Estimate To Be Provided by the Congressional Budget Office*											
NET TOTAL		-61,703	-12,543	4,391	3,539	2,891	1,833	1,226	783	372	149	-63,225	-58,855

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column:

bia = bonds issued after
DOE = date of enactment
gi = generated in
NOLs = net operating losses
ppisa = property placed in service after
pybo/a = plan years beginning on or after
tyba = taxable years beginning after
tyei = taxable years ending in
wpoifibwa = wages paid or incurred for individuals beginning work after
wpoifwpa = wages paid or incurred for work performed after

[1] Includes outlay effect of $14,173 million in fiscal year 2002.
[2] A binding contract placed-in-service extension would apply in certain cases.
[3] The New York City Recovery Zone is defined as all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, NY.
[4] Effective with respect to involuntary conversions in the New York City Recovery Zone on or after September 11, 2001, as a consequence of the terrorists acts, in the taxable year that includes such date.
[5] Effective for bonds issued during calendar year 2002 and for qualified mortgage bonds issued during calendar year 2002.
[6] The "Economic Growth and Tax Relief Reconciliation Act of 2001" provides that the child tax credit and adoption tax credit are allowed for purposes of the alternative minimum tax for 2002 through 2010.
[7] Loss of less than $500,000.
[8] Estimate provided by the Congressional Budget Office.
[9] The deduction phases down for vehicles placed in service after 12/31/02. The credit is reduced by 25 percent in 2003, 50 percent in 2004, and 75 percent in 2005. No expensing is available after 2005.
[10] Gain of less than $500,000.
[11] The credit phases down for vehicles placed in service after 12/31/02. The credit is reduced by 25 percent in 2003, 50 percent in 2004, and 75 percent in 2005. No credit is available after 2005.
[12] This revenue estimate does not reflect interaction with Reed Act transfers. The Congressional Budget Office anticipates this proposal would have little net effect on the Federal budget over 10 years.

DESCRIPTION OF CHAIRMAN'S MODIFICATION TO THE "ECONOMIC RECOVERY AND ASSISTANCE FOR AMERICAN WORKERS ACT OF 2001"

Scheduled for Markup
By the
SENATE COMMITTEE ON FINANCE
on November 8, 2001

Prepared by
the Staff of the
JOINT COMMITTEE ON TAXATION

November 8, 2001
JCX-78-01

INTRODUCTION

This document,[1] provides a description of the Chairman's Modification to the "Economic Recovery and Assistance for American Workers Act of 2001," scheduled for a markup on November 8, 2001, by the Senate Committee on Finance.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman's Modification to the "Economic Recovery and Assistance for American Workers Act of 2001"* (JCX-78-01), November 8, 2001.

CONTENTS

INTRODUCTION

This document,[1] provides a description of the Chairman's Modification to the "Economic Recovery and Assistance for American Workers Act of 2001," scheduled for a markup on November 8, 2001, by the Senate Committee on Finance.

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[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman's modification to the "Economic Recovery and Assistance for American Workers Act of 2001"* (JCX-78-01), November 8, 2001.

I. MODIFICATIONS TO THE CHAIRMAN'S MARK

The following modifications would be made to the Chairman's mark:

A. Expansion of Work Opportunity Tax Credit Targeted Categories to Include Certain Employees in New York City

The modification clarifies that the limitation on the number of qualified employees for the new Work Opportunity Tax Credit targeted group (i.e., the number of each business' employees in the New York Recovery Zone on September 11, 2001) only applies to qualified businesses that relocated in New York City due to the destruction or damage of their workplaces within the New York Recovery Zone. Other qualified businesses (e.g., businesses that operate in the New York Recovery Zone both on and after Sept. 11, 2001 and businesses that move into the New York Recovery Zone after September 11, 2001) would not be subject to that limitation.

B. Andean Trade Preference Initiative

The proposal to extend the trade benefits available under the Andean Trade Preference Act would extend such benefits through June 4, 2002.

C. State Fiscal Relief - Temporary Increase in Federal Medicaid Matching Rate

The Chairman's mark would provide temporary financial assistance to states to help them meet the temporary rise in Medicaid costs that will result from the recent economic downturn. States in which the federal Medicaid matching rate is falling in FY 2002 would be "held harmless" and retain their FY 2001 matching rate. States in which the rates are rising would shift to the FY 2002 rate. Under the modification, all states would receive a federal Medicaid matching rate increase of 1.5 percent, and states with higher than average unemployment rates over the past three months would receive an additional 1.5 percent increase – bringing their total matching rate increase to 3.0 percent. The modification represents a .5 percent increase in the rate paid to all states, and a .5 percent increase over the rate paid to states with high unemployment rates. In exchange for these increases, states would maintain current eligibility levels.

The proposal would be effective for FY 2002 only.

D. Crop Disaster Assistance

The modification to the Chairman's mark authorizes the Secretary to establish a sugar beet disaster program of up to $25 million for marketing year 2001 for economic disasters not covered by the natural disaster program.

E. Rural Development Loan and Grant Applications

The following clarifications would be made to the Chairman's mark, describing the particular programs on which the $3 billion of Rural Development expenditures would be made.

1. Rural Community Advancement Program

The modification to the Chairman's mark clarifies that the bill would provide $1.273 billion in funding to support additional loans and grants under the Rural Community Advancement Program. These funds would support approximately $1 billion in grants and $1.9 billion in direct loans to establish, expand or modernize water treatment and waste disposal facilities. Funds will also support approximately $340 million in loans and grants to construct and improve community facilities, including health care, child care, fire and emergency services and other facilities.

2. Rural telecommunications loans

The modification to the Chairman's mark clarifies that the bill would provide $40 million in funding to support $1.74 billion in additional loans to improve the telecommunications infrastructure in rural America.

3. Distance learning/telemedicine/broadband loans

The modification to the Chairman's mark clarifies that the bill would provide $5 million in funding to support an additional $400 million in loans to finance installation of enhanced services, such as high speed modems, Internet access to rural communities and advanced telecommunications that provide educational and health care benefits to rural Americans.

4. Environmental Quality Incentives Program (EQIP)

The modification to the Chairman's Mark clarifies that the bill provides $1.4 billion to the Environmental Quality Incentives Program (EQIP). The program has a backlog of approximately 200,000 applications covering 67 million acres nationally.

5. Agricultural land protection

The modification to the Chairman's mark clarifies that the bill would provide $150 million for the preservation of agricultural lands. Funds will support acquisition of conservation easements or other interest in order to limit the conversion of agricultural lands to nonagricultural uses. Benefits would include protection of prime, unique, or other productive soil and preservation of open spaces.

F. Commodity Purchases

The modification to the Chairman's mark expands the commodities eligible for purchase under the commodity purchase program to include the following: apples, apricots, asparagus, bell peppers, bison meat, black beans, blackeyed peas, blueberries (wild and cultivated), cabbage, cantaloupe, cauliflower, chickpeas, cranberries, cucumbers, dried plums, dry peas, eggplants, lemons, lentils, melons, onions, peaches (including freestone), pears, potatoes (summer or fall), pumpkins, raisins, raspberries, red tart cherries, snap beans, spinach, strawberries, sweet corn, tomatoes, and watermelons.

II. ADDITIONAL PROPOSALS

A. Tax-Credit Bonds for the National Railroad Passenger Corporation ("Amtrak")

Present Law

Present law does not authorize the issuance by any private, for-profit corporation of bonds the interest on which is tax-exempt or eligible for an income tax credit. Tax-exempt bonds may be issued by States or local governments to finance their governmental activities or to finance certain capital expenditures of private businesses or loans to individuals. Additionally, States or local governments may issue tax-credit bonds to finance the operation of "qualified zone academies."

Tax-exempt bonds

Interest on bonds issued by States or local governments to finance direct activities of those governmental units is excluded from tax (sec. 103). In addition, interest on certain bonds ("private activity bonds") issued by States or local governments acting as conduits to provide financing for private businesses or individuals is excluded from income if the purpose of the borrowing is specifically approved in the Code (sec. 141). Examples of approved private activities for which States or local governments may provide tax-exempt financing include transportation facilities (airports, ports, mass commuting facilities, and certain high speed intercity rail facilities); public works facilities such as water, sewer, and solid waste disposal; and certain social welfare programs such as low-income rental housing, student loans, and mortgage loans to certain first-time homebuyers. High speed intercity rail facilities eligible for tax-exempt financing include land, rail, and stations (but not rolling stock) for fixed guideway rail transportation of passengers and their baggage using vehicles that are reasonably expected to operate at speeds in excess of 150 miles per hour between scheduled stops.

Issuance of most private activity bonds is subject to annual State volume limits of $62.50 per resident ($187.5 million if greater). These volume limits are scheduled to increase to $75 per resident ($225 million if greater) in calendar year 2002; after 2002, the limits will be indexed annually for inflation.

Investment earnings on all tax-exempt bonds, including earnings on invested sinking funds associated with such bonds is restricted by the Code to prevent the issuance of bonds earlier or in a greater amount than necessary for the purpose of the borrowing. In general, all profits on investment of such proceeds must be rebated to the Federal Government. Interest on bonds associated with invested sinking funds is taxable.

Tax-credit bonds for qualified zone academies

As an alternative to traditional tax-exempt bonds, certain States or local governments are given authority to issue "qualified zone academy bonds." A total of $400 million of qualified zone academy bonds is authorized to be issued in each year of 1998 through 2001. The $400 million is allocated to States according to their respective populations of individuals below the poverty line.

Qualified zone academy bonds are taxable bonds with respect to which the investor receives an income tax credit equal to an assumed interest rate set by the Treasury Department to allow issuance of the bonds without discount and without interest cost to the issuer. The bonds may be used for renovating, providing equipment to, developing course materials for, or training teachers in eligible schools. Eligible schools are elementary and secondary schools with respect to which private entities make contributions equaling at least 10 percent of the bond proceeds.

Only financial institutions are eligible to claim the credits on qualified zone academy bonds. The amount of the credit is taken into income. The credit may be claimed against both regular income tax and AMT liability.

There are no arbitrage restrictions applicable to investment earnings on qualified zone academy bond proceeds.

Tax treatment of certain contributions to the capital of a corporation

Section 118(a) provides that gross income of a corporation does not include a contribution to its capital. In general, section 118(b) provides that a contribution to the capital of a corporation does not include any contribution in aid of construction or any other contribution as a customer or potential customer and, as such, is includible in gross income of the corporation.

Description of Proposal

Tax-credit bond authority

The provision would authorize the National Railroad Passenger Corporation ("Amtrak") to issue an aggregate amount of $7 billion of tax-credit bonds to finance its capital projects during calendar year 2002. In addition to this $7 billion for capital expenditures generally, $2 billion of tax-credit bonds could be issued to finance construction of a new Hudson River rail tunnel. Unused bond authority could be carried forward for up to two years under rules similar to those that apply to carryforward of authority to issue qualified zone academy bonds.

Projects eligible for tax-credit bond financing would be defined as the acquisition or construction of equipment or rolling stock, and other capital improvements for (1) the northeast rail corridor between Washington, D.C. and Boston, Massachusetts; (2) high-speed rail corridors designated under section 104(d)(2) of Title 23 of the United States Code; and (3) non-designated high-speed rail corridors, including station rehabilitation or construction, track or signal improvements, or grade crossing elimination. Limits would be imposed on the portion of the $7 billion in bond authority that could be issued to finance projects in any one State or on any one rail corridor. Additionally, 15 percent of that amount would be required to be set-aside for use in non-Federally designated high speed rail corridors.

As with qualified zone academy bonds, the interest rate on Amtrak tax-credit bonds would be set to allow issuance of the bonds at par, i.e., without any interest cost to Amtrak. In general, proceeds of Amtrak tax-credit bonds would have to be spent within 36 months after the bonds are issued. As of the date the bonds were issued, Amtrak would be required to certify that it reasonably expected –

(1) to incur a binding obligation with a third party to spend at least 10 percent of the bond proceeds within six months (or in the case of self-constructed property, to have commenced construction within six months);

(2) to spend the bond proceeds with due diligence; and

(3) to spend at least 95 percent of the proceeds for qualifying capital costs within three years.

Failure to satisfy these requirements would trigger special rules at the conclusion of the three-year period.

Amtrak tax credit bonds may only be issued for projects that are approved by the Department of Transportation and with respect to which the issuing railroad had received matching contributions of at least 20 percent of the project cost from one or more States in which the projects would be located. This approval would be conditioned on Amtrak agreeing to spend certain amounts of the bond proceeds for other passenger rail carriers (including the Alaska Railroad). The State matching contributions, along with earnings on investment of the tax-credit bond proceeds would be required to be invested in a trust account (i.e., an sinking fund) and used along with earnings on the trust account for repayment of the principal amount of the bonds.

Amtrak tax-credit bonds could be owned (and income tax credits claimed) by any taxpayer. The amount of the credit would be included in the bondholder's income.

The required State matching contribution could not be derived from Federal monies. Any Federal Highway Trust Fund monies transferred to the States would treated as Federal monies for this purpose. During the period when tax-credit bonds were authorized, Amtrak would not be allowed to receive any Highway Trust Fund monies other than those authorized (both amount and purpose) on the date of the provision's enactment. Violation of this restriction (including pursuant to subsequently enacted legislation) would result in (1) termination of deposit to the Highway Trust Fund of all Federal highway excise tax revenues and (2) inability of Amtrak to issue additional tax-credit bonds (until such time as the Secretary of the Treasury and the Secretary of Transportation certified that Amtrak had repaid the amounts received from the Highway Trust Fund).

Amtrak would be required annually to submit a five-year capital plan to Congress, and to satisfy independent oversight requirements with respect to the management of tax-credit- bond-financed projects. Finally, the Treasury Department would be required to certify annually that funds deposited in the escrow accounts for repayment of tax-credit bonds (with actual and projected earnings thereon) are sufficient to ensure full repayment of the bond principal.

<u>**Tax treatment of improvements to property owned by freight railroads**</u>

The proposal would provide that any contribution by Amtrak of personal or real property funded by the proceeds of Amtrak tax-credit bonds would be considered a contribution to the capital of a corporation. Thus, such contributions would not be taxable to the recipient. Contributed property would have a zero basis in the hands of the recipient.

Effective Date

The provision would be effective on the date of enactment.

B. Broadband Internet Access Tax Credit

Present Law

Present law does not provide a credit for investments in telecommunications infrastructure.

Description of Proposal

In general

The proposal would provide a 10 percent credit of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which the taxpayer offers "current generation" broadband services to potential subscribers in rural and underserved areas. In addition, the proposal would provide a 20 percent credit of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which the taxpayer offers "next generation" broadband services to potential business subscribers in rural areas, underserved areas, and to any potential residential subscriber. The credit would be part of the general business credit and the taxpayer's basis in qualified equipment would be reduced by any credit allowed.

Definition of "current generation broadband" and "next generation broadband"

Current generation broadband services would be defined as the transmission of signals at a rate of at least one million bits per second to the subscriber and at a rate of at least 128,000 bits per second from the subscriber. Next generation broadband services would be defined as the transmission of signals at a rate of at least 22 million bits per second to the subscriber and at a rate of at least 5 million bits per second from the subscriber.

Qualifying expenditures and equipment

Qualified expenditures would be those amounts otherwise chargeable to the capital account with respect to the purchase and installation of qualified equipment for which depreciation is allowable under section 168. Qualified expenditures would be those that are incurred by the taxpayer after December 31, 2001, and before January 1, 2003. The expenditures would be taken into account for purposes of claiming the credit in the taxable year in which the taxpayer places the qualifying equipment in service.[2] In the case of a taxpayer who incurs expenditures for equipment capable of serving both subscribers in qualifying areas and other areas, qualifying expenditures are determined by multiplying otherwise qualifying expenditures by the ratio of the number of potential qualifying subscribers to all potential subscribers the qualifying equipment would be capable of serving.

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[2] For this purpose property placed in service by a taxpayer and which is subsequently sold and leased back by the taxpayer within three months of the date on which the property was originally placed in service will be deemed to be placed in service not earlier than the date on which such property is used under the leaseback.

Not all equipment capable of providing current generation or next generation broadband service would qualify for the credit. Qualifying equipment must be capable of providing broadband services a majority of the time during periods of maximum demand to each subscriber who is utilizing such services and in a manner substantially the same as like services are provided by the service provider to subscribers utilizing equipment on which no credit is allowed. In addition, services provided utilizing otherwise qualifying equipment must be offered to potential subscribers at prices deemed comparable, under Treasury regulations, to similar services offered elsewhere by the service provider in order for the equipment to be qualifying equipment.

Additional restrictions apply to qualifying equipment depending upon the equipment's place in the architecture of the broadband system. In the case of a telecommunications provider, qualifying equipment is only that equipment that extends from the last point of switching to the outside of the building in which the subscriber is located. In the case of a commercial mobile service carrier, qualifying equipment is only that equipment that extends from the customer side of a mobile telephone switching office to a transmission/reception antenna (including the antenna) of the subscriber. In the case of a cable operator or open video system operator, qualifying equipment is only that equipment that extends from the customer side of the headend to the outside of the building in which the subscriber is located. In the case of a satellite carrier or other wireless carrier (other than a telecommunications carrier), qualifying equipment is only that equipment that extends from a transmission/reception antenna (including the antenna) to a transmission/reception antenna on the outside of the building used by the subscriber. Any packet switching equipment deployed in connection with other qualifying equipment would be qualifying equipment, regardless of location, provided that it is the last such equipment in a series as part of transmission of a signal to a subscriber or the first in a series in the transmission of a signal from a subscriber. Multiplexing and demultiplexing equipment exploited in connection with other qualifying equipment would be qualifying equipment only to the extent such equipment is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such equipment is located between the last in the series of packet switches (as described above) and a building in which a subscriber is located.

<u>Qualifying geographic areas</u>

In general, qualifying expenditures must be for qualifying equipment placed in service in rural or underserved areas in the case of the credit for current generation broadband investments. In the case of the credit for next generation broadband investments, expenditures for qualifying equipment to serve potential residential subscribers, wherever located, would qualify.[3]

A rural area would be any census tract which is not within 10 miles of any incorporated or census designated place with a population of more than 25,000 and which is not within a county with a population density of more than 500 people per square mile. An underserved area would be any census tract that is located in an empowerment zone, enterprise community,

[3] Treasury regulations would provide for the allocation of credit in the case of qualifying equipment providing next generation broadband services to home offices.

renewal community, the District of Columbia Enterprise Zone, or any geographic area designated as a "low-income community" for purposes of the "new markets tax credit" (sec. 45D(e)). However, if under regulation the Secretary determines that certain rural and underserved areas are "saturated markets," taxpayers would not be permitted to claim the credit for current generation broadband investments related to expenditures for otherwise qualifying equipment placed in service in such areas. A saturated market would be a census tract in which one or more service providers offer current generation broadband service to 85 percent or more of individuals that reside within the census tract and that such service offered is available a majority of the time during periods of maximum demand to each subscriber who is utilizing such services and in a manner substantially the same as like services are provided by the service provider to subscribers utilizing equipment on which no credit is allowed.

Treasury regulations

The proposal directs the Secretary to designate and publish within 90 days of the date of enactment all areas that qualify as "rural," "underserved," and "saturated markets." The proposal would direct the Secretary to prescribe regulations related to qualified expenditures such that competitive neutrality is maintained in the provision of broadband services and such that there are incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for potential subscribers in rural and low income areas and to all potential residential customers. The proposal would further provide that, until the Secretary prescribes regulations, taxpayers may make a reasonable determination for purpose of claiming credit so long as the taxpayer's determination is consistent with maintaining competitive neutrality in the provision of broadband services and increasing the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for potential subscribers in rural and low income areas and to all potential residential subscribers.

Effective Date

The proposal would be effective for expenditures incurred after December 31, 2001.

C. Expansion of Period for Reinvestment of Converted Citrus Tree Property and Ratable Income Inclusion for Citrus Canker Tree Payments

Present Law

Generally, a taxpayer recognizes gain to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property. The recognized gain is subject to current income tax unless the gain is deferred or not recognized under a special tax provision.

Under section 1033, gain realized by a taxpayer from an involuntary conversion of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within the applicable period. The taxpayer's basis in the replacement property generally is the same as the taxpayer's basis in the converted property, decreased by the amount of any money or loss recognized on the conversion, and increased by the amount of any gain recognized on the conversion. The applicable period for the taxpayer to replace the converted property begins with the date of the disposition of the converted property (or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is earlier) and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized.

Description of Proposal

The proposal would permit a taxpayer to elect to treat any realized gain by reason of receiving a citrus canker tree payment ratably over a 10-year period beginning with the taxable year in which such payment is received or accrued by the taxpayer. The proposal would define a citrus canker tree payment as a payment made to an owner of a commercial citrus grove to recover income that was lost as a result of the removal of commercial citrus trees to control canker under the amendments to the citrus canker regulations made by the final rule published in the Federal Register by the Secretary of the Agriculture on June 18, 2001. An election under the proposal would be made by attaching a statement to that effect in the taxpayer's return for the taxable year in which the payment is received or accrued in the manner as the Secretary shall prescribe. The election would be binding for that taxable year and all subsequent taxable years.

The proposal also would extend the applicable period under section 1033 for a taxpayer to replace commercial citrus trees which are involuntarily converted under a public order as a result of citrus tree canker to four years after the close of the taxable year in which a State or Federal plant health authority determines that the land on which such trees grew is free from the bacteria that causes citrus tree canker.

Effective Date

The proposal would be effective for taxable years beginning before, on, or after the date of enactment.

D. Provision of Form 1099 Electronically

Present Law

Temporary regulations allow Form W-2 to be furnished electronically on a voluntary basis. Under Temp. Treas. Reg. Sec. 31.6051-1T(j), a recipient must have affirmatively consented to receive the statement electronically and must not have withdrawn that consent before the statement is furnished.

Description of Proposal

The proposal would allow IRS Form 1099 to be provided to taxpayers electronically, if they so consent. The authority would be granted for forms due for taxable years ending before January 1, 2003.

Effective Date

The proposal would be effective on date of enactment.

E. Expand Exemption from Aviation Fuels Excise Taxes for Aerial Applicators

Present Law

Excise taxes are imposed on aviation gasoline (19.4 cents per gallon) and jet fuel (21.9 cents per gallon) (secs. 4081 and 4091). All but 0.1 cent per gallon of the revenues from these taxes are dedicated to the Airport and Airway Trust Fund. The remaining 0.1-cent-per-gallon rate is imposed for the Leaking Underground Storage Tank Trust Fund.

Fuel used on a farm for farming purposes is exempt from tax. Aerial applicators (crop dusters) are allowed to claim the exemption on behalf of farm owners and operators, e.g., in the case of aviation gasoline if the owners or operators give written consent to the aerial applicators. This exemption applies only to fuel consumed in the airplane while operating over the farm, i.e., fuel consumed traveling to and from the farm is not exempt.

A further exemption applies to fuel used in helicopters engaged in oil, gas, and hard mineral exploration and timber operations when the helicopters are not using the Federally funded airport and airway services.

Description of Proposal

Three modifications would be made to the exemptions for aviation fuel consumed by aerial applicators. First, the direct exemption beneficiary would be changed to the aerial applicator in all cases. Second, the exemption would be expanded to include fuels consumed when flying between the farm where chemicals are applied and the airport where the airplane takes off and lands. Third, the present exemption for helicopters engaged in timber operations would be expanded to include fixed-wing aircraft.

Effective Date

The proposal would be effective for fuels consumed during calendar year 2002.

F. Recovery Period for Certain Wireless Telecommunications Equipment

Present Law

Depreciation allowances for property used in a trade or business generally are determined under the modified Accelerated Cost Recovery System ("MACRS") of section 168. Under MACRS, qualified technological equipment is depreciated for regular tax purposes over a 5-year recovery period using the 200-percent declining balance method. Qualified technological equipment includes any computer or peripheral equipment, any high technology station equipment installed on the customer's premises, and any high technology medical equipment.

Description of Proposal

The proposal would define qualified technological equipment to include wireless telecommunications equipment for property placed in service after September 10, 2001, and before September 11, 2002. Wireless telecommunications equipment would be defined as equipment used in the transmission, reception, coordination, or switching of wireless telecommunications service. Wireless telecommunications equipment would not include towers, buildings, T-1 lines and other cabling connecting cell sites to mobile switching centers. For this purpose, wireless telecommunications service includes any commercial mobile radio service as defined in title 47 of the Code of Federal Regulations.

Effective Date

The proposal would apply to wireless telecommunications equipment placed in service after September 10, 2001, and before September 11, 2002.[4]

[4] No inference is intended as to the proper treatment of wireless telecommunication equipment under present law.

G. Native American Breast and Cervical Cancer Prevention and Treatment Act Technical Amendment

Present Law

The "Breast and Cervical Cancer Prevention and Treatment Act of 2000" (Pub. L. 106-354) gives states the option to extend coverage for the treatment of breast and cervical cancer through the Medicaid program to certain women who have been screened by programs operating under Title XV of the Public Health Service Act (the National Breast and Cervical Cancer Early Detection program) and who do not have "creditable coverage," as defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

In referencing the HIPAA definition of "creditable coverage," the bill language effectively precludes coverage to Native American women who have access to medical care under the Indian Health Service ("HIS"), which runs counter to all other Medicaid law that recognizes Native Americans as citizens of their individual states for the purpose of qualifying for Medicaid coverage.

Description of Proposal

The Chairman's Modification would make a technical change to the "Breast and Cervical Cancer Prevention and Treatment Act" (Pub. L. 106-354) by clarifying that American Indian and Alaska Native women should not be excluded from receiving coverage through Medicaid for breast and cervical cancer treatment through the end of fiscal year 2002.

Effective Date

The proposal would be effective for fiscal year 2002 only.

H. Emergency Spending

This provision would designate much of the Chairman's mark as an emergency.

ESTIMATED REVENUE EFFECTS OF A MODIFIED CHAIRMAN'S MARK OF THE "ECONOMIC RECOVERY AND ASSISTANCE FOR AMERICAN WORKERS ACT OF 2001," SCHEDULED FOR MARKUP BY THE COMMITTEE ON FINANCE ON NOVEMBER 8, 2001

Fiscal Years 2002 - 2011

[Millions of Dollars]

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-06	2002-11
Supplemental Rebate for Individual Taxpayers - provide a rebate ($300 individual, $600 married filing jointly, and $500 head-of-household) for individuals who filed a tax return in 2000 (including insular areas) other than dependents and nonresident aliens; rebate amount reduced by amount of rebate individual received under H.R. 1836 [1]	DOE	-14,173	---	---	---	---	---	---	---	---	---	-14,173	-14,173
Temporary Business Relief Provisions													
1. Special depreciation allowance for certain property - 10% expensing of the value of capital assets with MACRS lives of 20 years or less, software, leasehold improvements, and property eligible for the income forecast method (sunset after 12 months) [2]	ppisa 9/10/01	-14,010	-1,596	3,507	2,585	2,241	1,828	1,349	956	583	381	-7,274	-2,177
2. Increase in section 179 expensing to $35,000, and increase beginning point for phaseout to $325,000 for 12 months	tyba 12/31/01	-852	-592	424	277	202	158	116	77	42	25	-541	-123
3. 5-year carryback of net operating losses and waive the AMT 90% limitation on the allowance of losses (sunset after 12 months)	NOLs gi tyei 2001	-4,587	1,147	1,147	1,147	764	115	38	38	38	38	-382	-115
Total of Temporary Business Relief Provisions		**-19,449**	**-1,041**	**5,078**	**4,009**	**3,207**	**2,101**	**1,503**	**1,071**	**663**	**444**	**-8,197**	**-2,415**
Tax Incentives for New York City and Distressed Areas [3]:													
1. Expansion of Work Opportunity Tax Credit targeted categories to include certain employees in New York City - add individuals working in or relocated from the Recovery Zone as a targeted group eligible for a modified WOTC (40% on first $12,000; allow against the AMT) (sunset 12/31/02)	wpoifwpa 9/10/01	-1,199	-558	-165	-61	-18	---	---	---	---	---	-2,000	-2,000
2. Authorize issuance of tax-exempt private activity bonds for rebuilding the portion of New York City damaged in the September 11, 2001, terrorist attack - tax-exempt reconstruction bonds capped at $15 billion for calendar year 2002 with 3-year carryforward of unused amount; exempt from AMT	bia DOE	-21	-82	-145	-199	-245	-259	-259	-259	-259	-259	-693	-1,986

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-06	2002-11
3. Bank carrying cost exception for tax-exempt reconstruction bonds	bia DOE	-17	-51	-58	-80	-82	-82	-82	-82	-82	-82	-288	-698
4. Incentive for reinvestment of insurance proceeds received for property damaged in New York City in the September 11, 2001, terrorist attack to the extent reinvested in eligible property in New York City before January 1, 2007	[4]	-584	-358	-122	-8	98	118	110	104	104	104	-973	-432
5. Re-enact exceptions for qualified mortgage bond financed loans to victims of Presidentially-declared disasters for calendar year 2002	[5]	-3	-7	-8	-8	-8	-8	-8	-8	-8	-8	-33	-73
6. One-year expansion of authority for Indian tribes to issue tax-exempt private activity bonds - authorize issuance of up to $10 million tax-exempt private activity bonds for qualified Indian tribal governments for calendar year 2002 with 3-year carryforward; exempt from AMT	DOE	-1	-4	-8	-13	-16	-16	-16	-16	-16	-16	-41	-121
Total of Tax Incentives for New York City and Distressed Areas		**-1,825**	**-1,060**	**-506**	**-369**	**-271**	**-247**	**-255**	**-261**	**-261**	**-261**	**-4,028**	**-5,310**
Extension of Certain Expiring Provisions													
1. Treatment of nonrefundable personal credits under the individual alternative minimum tax (sunset 12/31/02) [6]	tyba 12/31/01	-123	-490	---	---	---	---	---	---	---	---	-613	-613
2. Work opportunity tax credit (sunset 12/31/02)	wpoifibwa 12/31/01	-92	-153	-92	-36	-14	-3	---	---	---	---	-387	-390
3. Welfare-to-work tax credit (sunset 12/31/02)	wpoifibwa 12/31/01	-27	-52	-38	-16	-7	-2	[7]	---	---	---	-140	-141
4. Tax credit for electricity production from wind, closed-loop biomass, and poultry litter -- facilities placed in service date (sunset 12/31/02)	ppisa 12/31/01	-9	-17	-19	-20	-20	-21	-21	-22	-22	-23	-85	-193
5. Suspension of 100 percent-of-net-income limitation on percentage depletion for oil and gas from marginal wells (sunset 12/31/02)	tyba 12/31/01	-27	-14	---	---	---	---	---	---	---	---	-41	-41
6. Qualified zone academy bonds (sunset 12/31/02)	DOE	[7]	-2	-5	-9	-11	-11	-11	-11	-11	-11	-27	-79
7. Exceptions under subpart F for active financing income (sunset 12/31/02)	tyba 12/31/01	-260	-781	---	---	---	---	---	---	---	---	-1,041	-1,041
8. Temporary increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sunset 12/31/02) [8]	DOE	-56	-14	---	---	---	---	---	---	---	---	-70	-70
9. Suspension of requirement that terminals selling diesel fuel and kerosene must sell both dyed and undyed fuel (sunset 12/31/02)	DOE	Negligible Revenue Effect											
10. Deductions for clean-fuel vehicles and refueling property (sunset after 12 months)	ppisa 12/31/01 [9]	-9	-10	-7	-5	7	11	7	4	2	[10]	-24	---
11. Tax credit for electric vehicles (sunset after 12 months)	ppisa 12/31/01 [11]	-25	-33	-25	-17	-1	5	3	2	1	[10]	-102	-92
12. Tax on failure to comply with mental health parity requirements applicable to group health plans (sunset 12/31/02)	pybo/a 1/1/02	Negligible Revenue Effect											
13. Combined employment tax reporting demonstration project (sunset 12/31/02)	8/6/02	No Revenue Effect											
Total of Extension of Certain Expiring Provisions		**-628**	**-1,566**	**-186**	**-103**	**-46**	**-21**	**-22**	**-27**	**-30**	**-34**	**-2,530**	**-2,660**

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-06	2002-11
Extension of Additional Provisions Expiring in 2001													
1. Generalized System of Preferences (sunset 12/31/02) [8]	10/1/01	-332	-87	---	---	---	---	---	---	---	---	-419	-419
2. Andean Trade Preference Initiative (sunset 6/30/02) [8]	12/5/01	-12	---	---	---	---	---	---	---	---	---	-12	-12
3. Trade Adjustment Assistance Program (sunset 12/31/02) [8]	DOE	No Revenue Effect											
Total of Extension of Additional Provisions Expiring in 2001		-344	-87	---	---	---	---	---	---	---	---	-431	-431
Health Insurance Coverage for Displaced Workers and Increase the Medicaid Federal Match [8]	---	-12,300	-3,800	---	---	---	---	---	---	---	---	-16,100	-16,100
Unemployment Insurance Provisions [8]	---	-14,300	-4,500	1,200	1,900	2,600	2,600	3,300	3,000	2,200	1,500	-13,100	-600
Emergency Agriculture Assistance Provisions [8] [12]	---	-2,849	-751	-727	-443	-307	-258	-71	-45	-59	-8	-5,077	-5,518
Additional Provisions													
1. Tax credit bonds for the National Railroad Passenger Corporation ("Amtrak") - allow $9 billion of Amtrak tax credit bonds for one year	bia DOE	-39	-136	-329	-516	-569	-563	-560	-560	-560	-560	-1,589	-4,393
2. Provide a broadband internet access tax credit (sunset 12/31/02)	[13]	-413	-211	15	13	11	10	10	9	8	8	-585	-540
3. Expansion of period for reinvestment of converted citrus tree property and ratable income inclusion for citrus canker tree payments	tybbo/a DOE	-10	1	1	1	1	1	1	1	1	[10]	-7	-3
4. Allow Form 1099 to be filed electronically with respect to taxable years 2001 and 2002	DOE	No Revenue Effect											
5. Expand exemption from aviation fuels excise taxes for aerial applicators (one year only)	1/1/02	-4	-1	---	---	---	---	---	---	---	---	-5	-5
6. Recovery period for certain wireless telecommunications equipment (sunset after 12 months)	[14]	-19	-22	-11	-2	-3	5	15	14	10	8	-57	-5
Total of Additional Provisions		-485	-369	-324	-504	-560	-547	-534	-536	-541	-544	-2,243	-4,946
NET TOTAL		-66,353	-13,174	4,535	4,490	4,623	3,628	3,921	3,202	1,972	1,097	-65,879	-52,153

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column:

bia = bonds issued after
DOE = date of enactment
gi = generated in
NOLs = net operating losses
ppisa = property placed in service after
pybo/a = plan years beginning on or after
tyba = taxable years beginning after
tybbo/a = taxable years beginning before on or after
tyei = taxable years ending in
wpoifibwa = wages paid or incurred for individuals beginning work after
wpoifwpa = wages paid or incurred for work performed after

[Footnotes for JCX-79-01 appear on the following page]

Footnotes for JCX-79-01:

[1] Includes outlay effect of $14,173 million in fiscal year 2002.
[2] A binding contract placed-in-service extension would apply in certain cases.
[3] The New York City Recovery Zone is defined as all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, NY.
[4] Effective with respect to involuntary conversions in the New York City Recovery Zone on or after September 11, 2001, as a consequence of the terrorists acts, in the taxable year that includes such date.
[5] Effective for bonds issued during calendar year 2002 and for qualified mortgage bonds issued during calendar year 2002.
[6] The "Economic Growth and Tax Relief Reconciliation Act of 2001" provides that the child tax credit and adoption tax credit are allowed for purposes of the alternative minimum tax for 2002 through 2010.
[7] Loss of less than $500,000.
[8] Estimate provided by the Congressional Budget Office.
[9] The deduction phases down for vehicles placed in service after 12/31/02. The credit is reduced by 25 percent in 2003, 50 percent in 2004, and 75 percent in 2005. No expensing is available after 2005.
[10] Gain of less than $500,000.
[11] The credit phases down for vehicles placed in service after 12/31/02. The credit is reduced by 25 percent in 2003, 50 percent in 2004, and 75 percent in 2005. No credit is available after 2005.
[12] The money allocated for the emergency agriculture section includes $50 million to offset additional USDA Farm Service Agency expenses for administering the programs.
[13] Effective for qualified expenditures made after December 31, 2001, and before January 1, 2003.
[14] Effective for wireless telecommunications equipment placed in service after September 10, 2001, and before September 11, 2002.

Joint Committee on Taxation
November 8, 2001
JCX-80-01

DESCRIPTION OF FURTHER MODIFICATION TO THE "ECONOMIC RECOVERY AND ASSISTANCE FOR AMERICAN WORKERS ACT OF 2001"

The Chairman's mark for the "Economic Recovery and Assistance for American Workers Act of 2001" would be further modified to delete the proposal to authorize the establishment of a sugar beet disaster program of up to $25 million for marketing year 2001.