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2d Session
HOUSE OF REPRESENTATIVES
REPORT
102-650

UNEMPLOYMENT COMPENSATION EXTENSION

JULY 2, 1992.—Ordered to be printed

Mr. ROSTENKOWSKI, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 5260]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5260), to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unemployment Compensation Amendments of 1992".

TITLE I—EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 101. EXTENSION OF PROGRAM.

(a) GENERAL RULE.—Sections 102(f)(1) and 106(a)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) are each amended by striking "July 4, 1992" and inserting "March 6, 1993".

(b) WEEKS OF BENEFITS AVAILABLE DURING EXTENSION.—Subparagraph (A) of section 102(b)(2) of such Act is amended by striking

clause (ii) and the flush paragraph at the end thereof and inserting the following:

"(ii) REDUCTION FOR WEEKS AFTER JUNE 13, 1992.—In the case of weeks beginning after June 13, 1992—

"(I) clause (i) of this subparagraph shall be applied by substituting '26' for '33', and by substituting '20' for '26', and

"(II) subparagraph (A) of paragraph (1) shall be applied by substituting '100 percent' for '130 percent'.

"(iii) REDUCTION FOR WEEKS IN 7-PERCENT PERIOD.—In the case of weeks beginning in a 7-percent period—

"(I) clause (ii) of this subparagraph shall not apply,

"(II) clause (i) of this subparagraph shall be applied by substituting '15' for '33', and by substituting '10' for '26', and

"(III) subparagraph (A) of paragraph (1) shall be applied by substituting '60 percent' for '130 percent'.

"(iv) REDUCTION FOR WEEKS IN 6.8-PERCENT PERIOD.—In the case of weeks beginning in a 6.8-percent period—

"(I) clauses (ii) and (iii) of this subparagraph shall not apply,

"(II) clause (i) of this subparagraph shall be applied by substituting '13' for '33', and by substituting '7' for '26', and

"(III) subparagraph (A) of paragraph (1) shall be applied by substituting '50 percent' for '130 percent'.

"(v) 7-PERCENT PERIOD; 6.8-PERCENT PERIOD.—For purposes of this subparagraph—

"(I) A 7-percent period means a period which begins with the second week after the first week for which the requirements of subclause (II) are met and a 6.8 percent period means a period which begins with the second week after the first week for which the requirements of subclause (III) are met.

"(II) The requirements of this subclause are met for any week if the average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 2-calendar month period (for which data are published before the close of such week) is at least 6.8 percent, but less than 7 percent.

"(III) The requirements of this subclause are met for any week if the average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 2-calendar month period (for which data are published before the close of such week) is less than 6.8 percent.

In no event shall a 7-percent period occur after a 6.8-percent period occurs and a 6.8-percent period, once

begun, shall continue in effect for all weeks for which benefits are provided under this Act.

"(vi) LIMITATIONS ON REDUCTIONS.—In the case of an individual who is receiving emergency unemployment compensation for a week preceding the first week for which a reduction applies under clause (ii), (iii), or (iv) of this subparagraph, such reduction shall not apply to such individual for the first week of such reduction or any week thereafter for which the individual meets the eligibility requirements of this Act."

(c) MODIFICATION TO FINAL PHASE-OUT.—Paragraph (2) of section 102(f) of such Act is amended to read as follows:

"(2) TRANSITION.—In the case of an individual who is receiving emergency unemployment compensation for a week prior to or including March 6, 1993, emergency unemployment compensation shall continue to be payable to such individual for any week thereafter for which the individual meets the eligibility requirements of this Act. No compensation shall be payable by reason of the preceding sentence for any week beginning after June 19, 1993."

(d) CONFORMING AMENDMENT.—

(1) Subparagraph (B) of section 102(b)(2) of such Act is amended by striking "subparagraph (A)(ii)" and inserting "clauses (ii), (iii), and (iv) of subparagraph (A)".

(2) Section 101(e) of such Act is amended—

(A) by striking "(e) ELECTION.—Notwithstanding" and inserting:

"(e) ELECTION BY STATES; WEEKS OF BENEFITS DURING PHASE-OUT.—

"(1) ELECTION BY STATES.—Notwithstanding",

(B) by adding at the end of paragraph (1), as redesignated by subparagraph (A), the following new sentence: "The preceding sentence shall not be applicable with respect to any extended compensation period which begins after March 6, 1993, nor shall the special rule in section 203(b)(1)(B) of the Federal-State Extended Unemployment Compensation Act of 1970 (or the similar provision in any State law) operate to preclude the beginning of an extended compensation period after March 6, 1993, because of the ending of an earlier extended compensation period under the preceding sentence.", and

(C) by adding at the end thereof the following new paragraph:

"(2) WEEKS OF BENEFITS DURING PHASE-OUT.—Notwithstanding subsection (b)(1)(B) or any other provision of law, whenever an extended compensation period is beginning in a State (and is not triggered off under paragraph (1)) an individual, who is entitled to extended compensation in the new extended compensation period (whether or not the individual applies therefor) and also has remaining entitlement to emergency unemployment compensation under this Act, shall be entitled to compensation under the program in which the individual's monetary entitlement (as of the beginning of the first week of the extended compensation period) is the greater."

(e) EFFECTIVE DATE.—The amendments made by this section apply to weeks of unemployment beginning after June 13, 1992.

SEC. 102. MODIFICATION TO ELIGIBILITY REQUIREMENTS.

(a) INDIVIDUAL NOT INELIGIBLE BY REASON OF SUBSEQUENT ENTITLEMENT TO REGULAR BENEFITS.—Section 101 of such Act is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN RIGHTS TO REGULAR COMPENSATION DISREGARDED.—If an individual exhausted his rights to regular compensation for any benefit year, such individual's eligibility to receive emergency unemployment compensation under this Act in respect of such benefit year shall be determined without regard to any rights to regular compensation for a subsequent benefit year if such individual does not file a claim for regular compensation for such subsequent benefit year."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

(2) TRANSITION RULES.—

(A) WAIVER OF RECOVERY OF CERTAIN OVERPAYMENTS.—On and after the date of the enactment of this Act, no repayment of any emergency unemployment compensation shall be required under section 105 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) if the individual would have been entitled to receive such compensation had the amendment made by subsection (a) applied to all weeks beginning on or before the date of the enactment of this Act.

(B) WAIVER OF RIGHTS TO CERTAIN REGULAR BENEFITS.—If—

(i) before the date of the enactment of this Act, an individual exhausted his rights to regular compensation for any benefit year, and

(ii) after such exhaustion, such individual was not eligible to receive emergency unemployment compensation by reason of being entitled to regular compensation for a subsequent benefit year,

such individual may elect to defer his rights to regular compensation for such subsequent benefit year with respect to weeks beginning after such date of enactment until such individual has exhausted his rights to emergency unemployment compensation in respect of the benefit year referred to in clause (i), and such individual shall be entitled to receive emergency unemployment compensation for such weeks in the same manner as if he had not been entitled to the regular compensation to which the election applies.

SEC. 103. TECHNICAL MODIFICATION FOR REIMBURSABLE EMPLOYERS.

(a) GENERAL RULE.—Subsection (d) of section 104 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) is amended by striking "as may be necessary" and inserting "as the Secretary estimates to be necessary".

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

SEC. 104. TREATMENT OF PERSIAN GULF CRISIS RESERVISTS.

If—

(1) an individual who was a member of a reserve component of the Armed Forces was called for active duty after August 2, 1990, and before March 1, 1991,

(2) such individual was receiving regular compensation, extended compensation, or a trade readjustment allowance for the week in which he was so called,

(3) such individual served on such active duty for at least 90 consecutive days, and

(4) such individual was entitled to regular compensation on the basis of his services on such active duty, but the weekly benefit amount was less than the benefit amount he received for the week referred to in paragraph (2),

such individual's weekly benefit amount under the Emergency Unemployment Compensation Act of 1991 for any week beginning after the date of the enactment of this Act shall be not less than the benefit amount he received for the week referred to in paragraph (2).

SEC. 105. TREATMENT OF RAILROAD WORKERS.

(a) EXTENSION OF PROGRAM.—

(1) IN GENERAL.—Sections 501(b) (1) and (2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) are each amended by striking "July 4, 1992", and inserting "March 6, 1993".

(2) CONFORMING AMENDMENTS.—

(A) Section 501(a) of such Act is amended by striking "July 1992" and inserting "March 1993".

(B) Paragraph (2) of section 501(d) of such Act is amended to read as follows:

"(2) PHASE-OUT.—

"(A) BENEFITS ON OR AFTER JUNE 14, 1992.—Effective on and after June 14, 1992, paragraph (1) of this section shall be applied by substituting '100' for '130' each place it appears, and by substituting '10' for '13' each place it appears.

"(B) REDUCTIONS UNDER EMERGENCY COMPENSATION EXTENSION PROVISIONS.—

"(i) Effective on and after the date on which a reduction in benefits is imposed under section 102(b)(2)(A)(iii), subparagraph (A) of this paragraph and subparagraphs (B) and (C) of paragraph (1) shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting '50' for '130'.

"(ii) Effective on and after the date on which a reduction in benefits is imposed under section 102(b)(2)(A)(iv), subparagraph (A) of this paragraph and subparagraphs (B) and (C) of paragraph (1) shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting '35' for '130'.

"(C) LIMITATIONS ON REDUCTIONS.—Notwithstanding subparagraphs (A) and (B), in the case of an individual who is receiving extended benefits under section 2(c) of the Railroad Unemployment Insurance Act for persons with 10 or more but less than 15 years of service, or extended benefits

by reason of this section, for any day during a week which precedes a period for which a reduction under this paragraph takes effect, such reduction shall not apply for purposes of determining the amount of benefits payable to such individual for any day thereafter for which the individual meets the eligibility requirements of this section and the Railroad Unemployment Insurance Act."

(b) TERMINATION OF BENEFITS.—Section 501 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) is amended by adding at the end the following new subsection:

"(e) TERMINATION OF BENEFITS.—In the case of an individual who is receiving extended benefits by reason of this section on March 6, 1993, such benefits shall not continue to be payable to such individual after June 19, 1993."

SEC. 106. EFFECT OF CERTAIN MILITARY SERVICE ON TRADE ADJUSTMENT ASSISTANCE.

(a) TRADE ADJUSTMENT ASSISTANCE.—Paragraph (2) of section 231(a) of the Trade Act of 1974 (19 U.S.C. 2291(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by inserting "or" at the end of subparagraph (C),

(3) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided such active duty is 'Federal service' as defined in 5 U.S.C. 8521(a)(1),", and

(4) by striking "paragraph (A) or (C), or both," and inserting "subparagraph (A) or (C), or both (and not more than 26 weeks, in the case of weeks described in subparagraph (B) or (D)),".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to weeks beginning after August 1, 1990.

SEC. 107. FINANCING PROVISIONS.

Section 104 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) is amended by adding at the end thereof the following new subsection:

"(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

"(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as are necessary to make payments to States under this Act by reason of the amendments made by sections 101 and 102 of the Unemployment Compensation Amendments of 1992, and

"(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as may be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments made by sections 101, 102, 201, and 202 of the Unemployment Compensation Amendments of 1992.

There is hereby appropriated from such accounts the sums referred to in the preceding sentence and such sums shall not be required to be repaid."

TITLE II—MODIFICATIONS TO EXTENDED BENEFITS PROGRAM

SEC. 201. MODIFICATION OF TRIGGER PROVISIONS.

(a) IN GENERAL.—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new subsection:

"ALTERNATIVE TRIGGER

"(f)(1) Effective with respect to compensation for weeks of unemployment beginning after March 6, 1993, the State may by law provide that for purposes of beginning or ending any extended benefit period under this section—

"(A) there is a State 'on' indicator for a week if—

"(i) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published before the close of such week equals or exceeds 6.5 percent, and

"(ii) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period referred to in clause (i) equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and

"(B) there is a State 'off' indicator for a week if either the requirements of clause (i) or clause (ii) of subparagraph (A) are not satisfied.

Notwithstanding the provision of any State law described in this paragraph, any week for which there would otherwise be a State 'on' indicator shall continue to be such a week and shall not be determined to be a week for which there is a State 'off' indicator.

"(2) For purposes of this subsection, determinations of the rate of total unemployment in any State for any period (and of any seasonal adjustment) shall be made by the Secretary."

(b) ADDITIONAL WEEKS OF BENEFITS AVAILABLE DURING PERIODS OF HIGH UNEMPLOYMENT.—Subsection (b) of section 202 of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Effective with respect to weeks beginning in a high unemployment period, paragraph (1) shall be applied by substituting—

"(i) '80 per centum' for '50 per centum' in subparagraph (A),

"(ii) 'twenty' for 'thirteen' in subparagraph (B), and

"(iii) 'forty-six' for 'thirty-nine' in subparagraph (C).

"(B) For purposes of subparagraph (A), the term 'high unemployment period' means any period during which an extended benefit period would be in effect if section 203(f)(1)(A)(i) were applied by substituting '8 percent' for '6.5 percent'."

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 204(c) of such Act is amended by inserting ", forty-six in any case where section 202(b)(3)(A) applies" after "thirty-nine".

SEC. 202. MODIFICATION OF ELIGIBILITY REQUIREMENTS FOR UNEMPLOYMENT BENEFITS.

(a) EARNINGS TEST.—

(1) In general.—Paragraph (5) of section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking "which one of the foregoing methods" and inserting "which one or more of the foregoing methods".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the amendment made by paragraph (1) shall apply for purposes of extended unemployment compensation and emergency unemployment compensation to weeks of unemployment beginning on or after the date of the enactment of this Act.

(B) WAIVER OF RECOVERY OF CERTAIN OVERPAYMENTS.—On and after the date of the enactment of this Act, no repayment of any emergency unemployment compensation shall be required under section 105 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) if the individual would have been entitled to receive such compensation had the amendment made by paragraph (1) applied to all weeks beginning before the date of the enactment of this Act.

(b) SUSPENSION OF CERTAIN ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Section 202(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(7) Paragraphs (3) and (4) shall not apply to weeks of unemployment beginning after March 6, 1993, and before January 1, 1995, and no provision of State law in conformity with such paragraphs shall apply during such period."

(2) STUDY.—The Federal Advisory Council established under section 908 of the Social Security Act shall conduct a study of the provisions suspended by the amendment made by paragraph (1). Not later than February 1, 1994, such Council shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report of its recommendations on such suspended provisions (including whether such provisions should be repealed or revised).

TITLE III—MODIFICATIONS TO FEDERAL UNEMPLOYMENT TAX

SEC. 301. INFORMATION REQUIRED WITH RESPECT TO TAXATION OF UNEMPLOYMENT BENEFITS.

(a) INFORMATION ON UNEMPLOYMENT BENEFITS.—

(1) GENERAL RULE.—The State agency in each State shall provide to an individual filing a claim for compensation under the State unemployment compensation law a written explanation of the Federal and State income taxation of unemployment benefits and of the requirements to make payments of estimated Federal and State income taxes.

(2) STATE AGENCY.—For purposes of this subsection, the term "State agency" has the meaning given such term by section 3306(e) of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 302. MAILING OF CERTAIN INFORMATION PERMITTED.

(a) GENERAL RULE.—Section 302 of the Social Security Act (42 U.S.C. 502) is amended by adding at the end thereof the following new subsection:

"(c) No portion of the cost of mailing a statement under section 6050B(b) of the Internal Revenue Code of 1986 (relating to unemployment compensation) shall be treated as not being a cost for the proper and efficient administration of the State unemployment compensation law by reason of including with such statement information about the earned income credit provided by section 32 of the Internal Revenue Code of 1986. The preceding sentence shall not apply if the inclusion of such information increases the postage required to mail such statement."

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

SEC. 303. EXTENSION OF EXISTING TREATMENT OF CERTAIN AGRICULTURAL WORKERS.

(a) GENERAL RULE.—Subparagraph (B) of section 3306(c)(1) of the Internal Revenue Code of 1986 is amended by striking "January 1, 1993" and inserting "January 1, 1995".

(b) REPORT.—Not later than February 1, 1994, the Advisory Council on Unemployment Compensation shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on its recommendations with respect to the treatment of agricultural labor performed by aliens.

SEC. 304. EXTENSION OF PERIOD FOR REPAYMENT OF FEDERAL LOANS TO STATE UNEMPLOYMENT FUNDS.

(a) GENERAL RULE.—If the Secretary of Labor determines that a State meets the requirements of subsection (b), paragraph (2) of section 3302(c) of the Internal Revenue Code of 1986 shall be applied with respect to such State for taxable years after 1991—

(1) by substituting "third" for "second" in subparagraph (A)(i),

(2) by substituting "fourth or fifth" for "third or fourth" in subparagraph (B), and

(3) by substituting "sixth" for "fifth" in subparagraph (C).

(b) REQUIREMENTS.—A State meets the requirements of this subsection if, during calendar year 1992 or 1993, the State amended its unemployment compensation law to increase estimated contributions required under such law by at least 25 percent.

(c) SPECIAL RULE.—This section shall not apply to any taxable year after 1994 unless—

(1) such taxable year is in a series of consecutive taxable years as of the beginning of each of which there was a balance referred to in section 3302(c)(2) of such Code, and

(2) such series includes a taxable year beginning in 1992, 1993, or 1994.

TITLE IV—MODIFICATION TO REGULAR STATE UNEMPLOYMENT COMPENSATION PROGRAMS

SEC. 401. TREATMENT OF SHORT-TIME UNEMPLOYMENT COMPENSATION PROGRAMS.

(a) AUTHORIZATION OF PROGRAMS.—

(1) Paragraph (4) of section 3304(a) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D) and by adding at the end thereof the following new subparagraph:

"(E) amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor;"

(2) Subsection (f) of section 3306 of such Code is amended by striking "and" at the end of paragraph (2) by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(4) amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor."

(3) Section 303(a)(5) of the Social Security Act is amended by inserting before "; and" the following ": Provided further, That amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor".

(b) ASSISTANCE IN IMPLEMENTING PROGRAMS.—In order to assist States in establishing and implementing short-time compensation programs—

(1) the Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall develop model legislative language which may be used by States in developing and enacting short-time compensation programs and shall propose such revisions of such legislative language as may be appropriate, and

(2) the Secretary shall provide technical assistance and guidance in developing, enacting, and implementing such programs.

The initial model legislative language referred to in paragraph (1) shall be developed not later than January 1, 1993.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than January 1, 1995, the Secretary shall submit to the Congress a report on the implementation of this section. Such report shall include an evaluation of short-time compensation programs and shall contain such recommendations as the Secretary may deem advisable.

(2) SUBSEQUENT REPORTS.—After the submission of the report under paragraph (1), the Secretary shall submit such additional reports on the implementation of short-time compensation programs as the Secretary deems appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) SHORT-TIME COMPENSATION PROGRAM.—The term "short-time compensation program" means a program under which—

(A) individuals whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation;

(B) the amount of unemployment compensation payable to any such individual is a pro rata portion of the unemployment compensation which would be payable to the individual if the individual were totally unemployed;

(C) eligible employees are not required to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek;

(D) eligible employees may participate in an employer-sponsored training program to enhance job skills if such program has been approved by the State agency; and

(E) there is a reduction in the number of hours worked by employees in lieu of imposing temporary layoffs.

(2) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

TITLE V—REVENUE PROVISIONS

SEC. 501. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Extension of Phaseout of Personal Exemptions; Corporate Estimated Tax Provisions

SEC. 511. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTIONS.

Subparagraph (E) of section 151(d)(3) (relating to termination of phaseout) is amended by striking "December 31, 1995" and inserting "December 31, 1996".

SEC. 512. CORPORATE ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(1) by striking "90 percent" each place it appears in paragraph (1)(B)(i) and inserting "91 percent",

(2) by striking "90 PERCENT" in the heading of paragraph (2) and inserting "91 PERCENT", and

(3) by striking paragraph (3) and inserting the following new paragraph:

"(3) TEMPORARY INCREASE IN AMOUNT OF INSTALLMENT BASED ON CURRENT YEAR TAX.—In the case of any taxable year beginning after June 30, 1992, and before 1997—

"(A) paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting '97 percent' for '91 percent' each place it appears, and

"(B) the table contained in subsection (e)(2)(B)(ii) shall be applied by substituting '24.25', '48.50', '72.75', and '97' for '22.75', '45.50', '68.25', and '91.00', respectively."

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	The applicable percentage is:
1st	22.75
2nd	45.50
3rd	68.25
4th	91.00."

(2) Clause (i) of section 6655(e)(3)(A) is amended by striking "90 percent" and inserting "91 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after June 30, 1992.

Subtitle B—Pension Distributions

SEC. 521. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.

(a) IN GENERAL.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) TAXABILITY OF BENEFICIARY OF EXEMPT TRUST.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(b) TAXABILITY OF BENEFICIARY OF NONEXEMPT TRUST.—

"(1) CONTRIBUTIONS.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends with or within a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) DISTRIBUTIONS.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amounts not received as annuities).

"(3) GRANTOR TRUSTS.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any por-

tion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) FAILURE TO MEET REQUIREMENTS OF SECTION 410(b).—

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under paragraph (1) or (2) include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), paragraphs (1) and (2) shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) RULES APPLICABLE TO ROLLOVERS FROM EXEMPT TRUSTS.—

"(1) EXCLUSION FROM INCOME.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any eligible rollover distribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)).

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

"(A) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made—

"(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or

"(ii) for a specified period of 10 years or more, and

"(B) any distribution to the extent such distribution is required under section 401(a)(9).

"(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) resulting in any portion of a distribution being excluded from gross income under paragraph (1) shall be treated as a rollover contribution described in section 408(d)(3).

"(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

"(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money—

"(i) the portion of the money or other property which is to be treated as attributable to amounts not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis unless the taxpayer designates otherwise. Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) NONRECOGNITION OF GAIN OR LOSS.—No gain or loss shall be recognized on any sale described in subparagraph (A) to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (1).

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

"(10) DENIAL OF AVERAGING FOR SUBSEQUENT DISTRIBUTIONS.—If paragraph (1) applies to any distribution paid to any employee, paragraphs (1) and (3) of subsection (d) shall not apply to any distribution (paid after such distribution) of the balance to the credit of the employee under the plan under which the preceding distribution was made (or under any other plan which, under subsection (d)(4)(C), would be aggregated with such plan).

"(d) TAX ON LUMP SUM DISTRIBUTIONS.—

"(1) IMPOSITION OF SEPARATE TAX ON LUMP SUM DISTRIBUTIONS.—

"(A) SEPARATE TAX.—There is hereby imposed a tax (in the amount determined under subparagraph (B)) on a lump sum distribution.

"(B) AMOUNT OF TAX.—The amount of tax imposed by subparagraph (A) for any taxable year is an amount equal to 5 times the tax which would be imposed by subsection (c) of section 1 if the recipient were an individual referred to in such subsection and the taxable income were an amount equal to ⅕ of the excess of—

"(i) the total taxable amount of the lump sum distribution for the taxable year, over

"(ii) the minimum distribution allowance.

"(C) MINIMUM DISTRIBUTION ALLOWANCE.—For purposes of this paragraph, the minimum distribution allowance for any taxable year is an amount equal to—

"(i) the lesser of $10,000 or one-half of the total taxable amount of the lump sum distribution for the taxable year, reduced (but not below zero) by

"(ii) 20 percent of the amount (if any) by which such total taxable amount exceeds $20,000.

"(D) LIABILITY FOR TAX.—The recipient shall be liable for the tax imposed by this paragraph.

"(2) DISTRIBUTIONS OF ANNUITY CONTRACTS.—

"(A) IN GENERAL.—In the case of any recipient of a lump sum distribution for any taxable year, if the distribution (or any part thereof) is an annuity contract, the total taxable amount of the distribution shall be aggregated for purposes of computing the tax imposed by paragraph (1)(A), except that the amount of tax so computed shall be reduced (but not below zero) by that portion of the tax on the aggregate total taxable amount which is attributable to annuity contracts.

"(B) BENEFICIARIES.—For purposes of this paragraph, a beneficiary of a trust to which a lump sum distribution is made shall be treated as the recipient of such distribution if the beneficiary is an employee (including an employee within the meaning of section 401(c)(1)) with respect to the plan under which the distribution is made or if the beneficiary is treated as the owner of such trust for purposes of subpart E of part I of subchapter J.

"(C) ANNUITY CONTRACTS.—For purposes of this paragraph, in the case of the distribution of an annuity contract, the taxable amount of such distribution shall be deemed to be the current actuarial value of the contract, determined on the date of such distribution.

"(D) TRUSTS.—In the case of a lump sum distribution with respect to any individual which is made only to 2 or more trusts, the tax imposed by paragraph (1)(A) shall be computed as if such distribution was made to a single trust, but the liability for such tax shall be apportioned among such trusts according to the relative amounts received by each.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.

"(3) ALLOWANCE OF DEDUCTION.—The total taxable amount of a lump sum distribution for any taxable year shall be allowed as a deduction from gross income for such taxable year, but only to the extent included in the taxpayer's gross income for such taxable year.

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) LUMP SUM DISTRIBUTION.—For purposes of this section and section 403, the term 'lump sum distribution'

means the distribution or payment within 1 taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(i) on account of the employee's death,

"(ii) after the employee attains age 59½,

"(iii) on account of the employee's separation from the service, or

"(iv) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Clause (iii) of this subparagraph shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and clause (iv) shall be applied only with respect to an employee within the meaning of section 401(c)(1). A distribution of an annuity contract from a trust or annuity plan referred to in the first sentence of this subparagraph shall be treated as a lump sum distribution. For purposes of this subparagraph, a distribution to 2 or more trusts shall be treated as a distribution to 1 recipient. For purposes of this subsection, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(B) AVERAGING TO APPLY TO 1 LUMP SUM DISTRIBUTION AFTER AGE 59½.—Paragraph (1) shall apply to a lump sum distribution with respect to an employee under subparagraph (A) only if—

"(i) such amount is received on or after the date on which the employee has attained age 59½, and

"(ii) the taxpayer elects for the taxable year to have all such amounts received during such taxable year so treated.

Not more than 1 election may be made under this subparagraph by any taxpayer with respect to any employee. No election may be made under this subparagraph by any taxpayer other than an individual, an estate, or a trust. In the case of a lump sum distribution made with respect to an employee to 2 or more trusts, the election under this subparagraph shall be made by the personal representative of the taxpayer.

"(C) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under subparagraph (A)—

"(i) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(ii) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy

the requirements of section 404(a)(2) shall not be taken into account.

"(D) TOTAL TAXABLE AMOUNT.—For purposes of this section and section 403, the term 'total taxable amount' means, with respect to a lump sum distribution, the amount of such distribution which exceeds the sum of—

"(i) the amounts considered contributed by the employee (determined by applying section 72(f)), reduced by any amounts previously distributed which were not includible in gross income, and

"(ii) the net unrealized appreciation attributable to that part of the distribution which consists of the securities of the employer corporation so distributed.

"(E) COMMUNITY PROPERTY LAWS.—The provisions of this subsection, other than paragraph (3), shall be applied without regard to community property laws.

"(F) MINIMUM PERIOD OF SERVICE.—For purposes of this subsection, no amount distributed to an employee from or under a plan may be treated as a lump sum distribution under subparagraph (A) unless the employee has been a participant in the plan for 5 or more taxable years before the taxable year in which such amounts are distributed.

"(G) AMOUNTS SUBJECT TO PENALTY.—This subsection shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(H) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this subsection, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(I) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this subsection, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(J) LUMP SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump sum distribution, then, for purposes of this subsection, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump sum distribution. For purposes of this subparagraph, the balance to the credit of the alternate payee shall not include any amount payable to the employee.

"(K) TREATMENT OF PORTION NOT ROLLED OVER.—If any portion of a lump sum distribution is transferred in a transfer to which subsection (c) applies, paragraphs (1) and (3) shall not apply with respect to the distribution.

"(L) SECURITIES.—For purposes of this subsection, the terms 'securities' and 'securities of the employer corporation' have the respective meanings provided by subsection (e)(4)(E).

"(5) SPECIAL RULE WHERE PORTIONS OF LUMP SUM DISTRIBUTION ATTRIBUTABLE TO ROLLOVER OF BOND PURCHASED UNDER QUALIFIED BOND PURCHASE PLAN.—If any portion of a lump sum distribution is attributable to a transfer described in section 405(d)(3)(A)(ii) (as in effect before its repeal by the Tax Reform Act of 1984), paragraphs (1) and (3) of this subsection shall not apply to such portion.

"(6) TREATMENT OF POTENTIAL FUTURE VESTING.—

"(A) IN GENERAL.—For purposes of determining whether any distribution which becomes payable to the recipient on account of the employee's separation from service is a lump sum distribution, the balance to the credit of the employee shall be determined without regard to any increase in vesting which may occur if the employee is reemployed by the employer.

"(B) RECAPTURE IN CERTAIN CASES.—If—

"(i) an amount is treated as a lump sum distribution by reason of subparagraph (A),

"(ii) special lump sum treatment applies to such distribution,

"(iii) the employee is subsequently reemployed by the employer, and

"(iv) as a result of services performed after being so reemployed, there is an increase in the employee's vesting for benefits accrued before the separation referred to in subparagraph (A),

under regulations prescribed by the Secretary, the tax imposed by this chapter for the taxable year (in which the increase in vesting first occurs) shall be increased by the reduction in tax which resulted from the special lump sum treatment (and any election under paragraph (4)(B) shall not be taken into account for purposes of determining whether the employee may make another election under paragraph (4)(B)).

"(C) SPECIAL LUMP SUM TREATMENT.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution is taxed under the subsection by reason of an election under paragraph (4)(B).

"(D) VESTING.—For purposes of this paragraph, the term 'vesting' means the portion of the accrued benefits derived from employer contributions to which the participant has a nonforfeitable right.

"(7) COORDINATION WITH FOREIGN TAX CREDIT LIMITATIONS.—Subsections (a), (b), and (c) of section 904 shall be applied separately with respect to any lump sum distribution on which tax is imposed under paragraph (1), and the amount of such distribution shall be treated as the taxable income for purposes of such separate application.

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(4) NET UNREALIZED APPRECIATION.—

"(A) AMOUNTS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—For purposes of subsection (a) and section 72, in the case of a distribution other than a lump sum distribution, the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any net unrealized appreciation in securities of the employer corporation attributable to amounts contributed by the employee (other than deductible employee contributions within the meaning of section 72(o)(5)). This subparagraph shall not apply to a distribution to which subsection (c) applies.

"(B) AMOUNTS ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—For purposes of subsection (a) and section 72, in the case of any lump sum distribution which includes securities of the employer corporation, there shall be excluded

from gross income the net unrealized appreciation attributable to that part of the distribution which consists of securities of the employer corporation. In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a lump sum distribution is required to be included, not to have this subparagraph apply to such distribution.

"(C) DETERMINATION OF AMOUNTS AND ADJUSTMENTS.—For purposes of subparagraphs (A) and (B), net unrealized appreciation and the resulting adjustments to basis shall be determined in accordance with regulations prescribed by the Secretary.

"(D) LUMP SUM DISTRIBUTION.—For purposes of this paragraph, the term 'lump sum distribution' has the meaning given such term by subsection (d)(4)(A) (without regard to subsection (d)(4)(F)).

"(E) DEFINITIONS RELATING TO SECURITIES.—For purposes of this paragraph—

"(i) SECURITIES.—The term 'securities' means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.

"(ii) SECURITIES OF THE EMPLOYER.—The term 'securities of the employer corporation' includes securities of a parent or subsidiary corporation (as defined in subsections (e) and (f) of section 424) of the employer corporation.

"(5) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, within a reasonable period of time before making an eligible rollover distribution from an eligible retirement plan, provide a written explanation to the recipient—

"(A) of the provisions under which the recipient may have the distribution directly transferred to another eligible retirement plan,

"(B) of the provision which requires the withholding of tax on the distribution if it is not directly transferred to another eligible retirement plan,

"(C) of the provisions under which the distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution, and

"(D) if applicable, of the provisions of subsections (d) and (e) of this section.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when

used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(8)(B)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 55(c) is amended by striking "section 402(e)" and inserting "section 402(d)".

(2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is amended by striking "402(e)" in the text and heading and inserting "402(d)".

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(4) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(5) Paragraph (20) of section 401(a) is amended—

(A) by striking "a qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "1 or more distributions within 1 taxable year to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan", and

(B) by adding at the end the following new sentence: "For purposes of this paragraph, rules similar to the rules of section 402(a)(6)(B) (as in effect before its repeal by section 211 of the Unemployment Compensation Amendments of 1992) shall apply."

(6) Clause (v) of section 401(a)(28)(B) (relating to coordination with distribution rules) is amended to read as follows:

"(v) COORDINATION WITH DISTRIBUTION RULES.—Any distribution required by this subparagraph shall not be taken into account in determining whether a subsequent distribution is a lump sum distribution under section 402(d)(4)(A) or in determining whether section 402(c)(10) applies."

(7) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(8) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended—

(A) by striking "section 402(e)(4)" and inserting "section 402(d)(4)", and

(B) by striking "subparagraph (H)" and inserting "subparagraph (F)".

(9) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(10) Section 402(i) is amended by striking "subsection (e)(4)" and inserting "subsection (d)(4)".

(11) Subsection (j) of section 402 is amended by striking "(a)(1) or (e)(4)(J)" and inserting "(e)(4)".

(12)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

> *"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."*

(13)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

> *"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."*

(14) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is amended by striking "section 402(e)" and inserting "section 402(d)".

(15) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is amended by striking "section 402(e)" and inserting "section 402(d)".

(16) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(17) Clause (ii) of section 408(d)(3)(A) is amended to read as follows:

> *"(ii) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution (as defined in section 402) from an employee's trust described in section 401(a) which is exempt from tax under section 501(a) or from an annuity plan described in section 403(a) (and any earnings on such contribution), and the entire amount received (including property and other money) is paid (for the benefit of such individual) into another such trust or annuity plan not later than the 60th day on which the individual receives the payment or the distribution; or".*

(18) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(19) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(20) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(21) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(22) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(23) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(24) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(26) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

(27) Section 691(c) (relating to coordination with section 402(e)) is amended by striking "402(e)" in the text and heading and inserting "402(d)".

(28) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(29) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "402(e)(1)" and inserting "402(d)(1)".

(30) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

(31) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "402(e)(1)" and inserting "402(d)(1)".

(32) Subsection (b) of section 1441 (relating to income items) is amended by striking "402(a)(2), 403(a)(2), or".

(33) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "402(a)(2), 403(a)(2), or".

(34) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(35) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(36) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—".

(37) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(38) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(39) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than securities of the employer corporation) received in the distribution. No amount shall be required to be withheld under this section in the case of any designated distribution which consists only of securities of the employer corporation and cash (not in excess of $200) in lieu of financial shares. For purposes of this paragraph, the term 'securities of the employer corporation' has the meaning given such term by section 402(e)(4)(E)."

(40) Subparagraph (A) of section 3405(d)(13) is amended by striking "(b)(3)" and inserting "(b)(2)".

(41) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(42) Paragraph (4) of section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended by striking "section 402(e)(4)(B)" and inserting "section 402(d)(4)(B)".

(43) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)"

(44) Section 411(d)(3) is amended by adding at the end the following new sentence: "For purposes of this paragraph, in the case of the complete discontinuance of contributions under a profit-sharing or stock bonus plan, such plan shall be treated as having terminated on the day on which the plan administrator notifies the Secretary (in accordance with regulations) of the discontinuance."

(d) MODEL EXPLANATION.—The Secretary of the Treasury or his delegate shall develop a model explanation which a plan administrator may provide to a recipient in order to meet the requirements of section 402(f) of the Internal Revenue Code of 1986.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after December 31, 1992.

(2) SPECIAL RULE FOR PARTIAL DISTRIBUTIONS.—For purposes of section 402(a)(5)(D)(i)(II) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this section), a distribution before January 1, 1993, which is made before or at the same time as a series of periodic payments shall not be treated as one of such series if it is not substantially equal in amount to other payments in such series.

SEC. 522. REQUIREMENT THAT QUALIFIED PLANS INCLUDE OPTIONAL TRUSTEE-TO-TRUSTEE TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(a) OPTIONAL TRANSFERS.—

(1) QUALIFIED PLANS.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (30) the following new paragraph:

"(31) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that if the distributee of any eligible rollover distribution—

"(i) elects to have such distribution paid directly to an eligible retirement plan, and

"(ii) specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe),

such distribution shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan so specified.

"(B) LIMITATION.—Subparagraph (A) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided in

subparagraph (A) (determined without regard to sections 402(c) and 403(a)(4)).

"(C) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this paragraph, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).

"(D) ELIGIBLE RETIREMENT PLAN.—For purposes of this paragraph, the term 'eligible retirement plan' has the meaning given such term by section 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions."

(2) EMPLOYEE'S ANNUITIES.—Paragraph (2) of section 404(a) (relating to employee's annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

(3) ANNUITIES PURCHASED BY CHARITIES AND PUBLIC SCHOOLS.—Paragraph (10) of section 403(b) (relating to distribution requirements) is amended by striking "section 401(a)(9)" and inserting "sections 401(a)(9) and 401(a)(31)".

(b) WITHHOLDING ON ELIGIBLE ROLLOVER DISTRIBUTIONS WHICH ARE NOT ROLLED OVER.—

(1) IN GENERAL.—Section 3405 (relating to special rules for pensions, annuities, and certain other deferred income) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f) and by inserting after subsection (b) the following new subsection:

"(c) ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(1) IN GENERAL.—In the case of any designated distribution which is an eligible rollover distribution—

"(A) subsections (a) and (b) shall not apply, and

"(B) the payor of such distribution shall withhold from such distribution an amount equal to 20 percent of such distribution.

"(2) EXCEPTION.—Paragraph (1)(B) shall not apply to any distribution if the distributee elects under section 401(a)(31)(A) to have such distribution paid directly to an eligible retirement plan.

"(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A) (or in the case of an annuity contract under section 403(b), a distribution from such contract described in section 402(f)(2)(A))."

(2) CONFORMING AMENDMENTS.—

(A) Section 3405(a)(1) is amended by striking "subsection (d)(2)" and inserting "subsection (e)(2)".

(B) Section 3405(b)(1) is amended by striking "subsection (d)(3)" and inserting "subsection (e)(3)".

(C) Section 3405(d)(1) (as redesignated by paragraph (1)) is amended by striking "subsection (d)(1)" and inserting "subsection (e)(1)".

(D) Sections 3402(o)(6) and 6047(d)(1) are each amended by striking "section 3405(d)(1)" and inserting "section 3405(e)(1)".

(E) Section 6047(d)(1)(A) is amended by striking "section 3405(d)(1)" and inserting "section 3405(d)(3)".

(F) Section 6652(h) is amended by striking "section 3405(d)(10)(B)" and inserting "section 3405(e)(10)(B)".

(c) EXCLUSION FROM INCOME.—

(1) QUALIFIED TRUSTS.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 521, is amended by adding at the end the following new paragraph:

"(6) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(2) EMPLOYEE ANNUITIES.—Subsection (a) of section 403 is amended by adding at the end the following new paragraph:

"(5) DIRECT TRUSTEE-TO-TRUSTEE TRANSFER.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(3) ANNUITY CONTRACTS PURCHASED BY CHARITIES AND PUBLIC SCHOOLS.—Section 403(b)(10) is amended by adding at the end the following new sentence: "Any amount transferred in an direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of the transfer."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions after December 31, 1992.

(2) TRANSITION RULE FOR CERTAIN ANNUITY CONTRACTS.—If, as of July 1, 1992, a State law prohibits a direct trustee-to-trustee transfer from an annuity contract described in section 403(b) of the Internal Revenue Code of 1986 which was purchased for an employee by an employer which is a State or a political subdivision thereof (or an agency or instrumentality of any 1 or more of either), the amendments made by this section shall not apply to distributions before the earlier of—

(A) 90 days after the first day after July 1, 1992, on which such transfer is allowed under State law, or

(B) January 1, 1994.

SEC. 523. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1994, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Other Provisions

SEC. 531. MODIFICATIONS TO FEDERAL UNEMPLOYMENT ACCOUNTS.

(a) MODIFICATIONS TO EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.—

(1) TRANSFERS TO ACCOUNT.—Paragraph (1) of section 905(b) of the Social Security Act is amended to read as follows—

"(b)(1) Except as provided in paragraph (3), the Secretary of the Treasury shall transfer (as of the close of each month), from the employment security administration account to the extended unemployment compensation account established by subsection (a), an amount determined by him to be equal to the sum of—

"(A) 100 percent of the transfers to the employment security administration account pursuant to section 901(b)(2) during such month on account of liabilities referred to in section 901(b)(1)(B), plus

"(B) 20 percent of the excess of the transfers to such account pursuant to section 901(b)(2) during such month on account of amounts referred to in section 901(b)(1)(A) over the payments during such month from the employment security administration account pursuant to section 901 (b)(3) and (d).

If for any such month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (B), proper adjustments shall be made in the amounts subsequently transferred."

(2) INCREASE IN CEILING.—Subparagraph (B) of section 905(b)(2) of such Act is amended by striking "three-eighths of 1 percent" and inserting "0.5 percent".

(b) REDUCTION OF CEILING ON FEDERAL UNEMPLOYMENT ACCOUNT.—Paragraph (2) of section 902(a) of such Act is amended by striking "five-eighths of 1 percent" and inserting "0.25 percent".

(c) BORROWING BETWEEN FEDERAL ACCOUNTS.—Title IX of such Act is amended by adding at the end the following new section:

"BORROWING BETWEEN FEDERAL ACCOUNTS

"SEC. 910. (a) IN GENERAL.—Whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that—

"(1) the amount in the employment security administration account, Federal unemployment account, or extended unemployment compensation account, is insufficient to meet the anticipated payments from the account,

"(2) such insufficiency may cause such account to borrow from the general fund of the Treasury, and

"(3) the amount in any other such account exceeds the amount necessary to meet the anticipated payments from such other account,

the Secretary shall transfer to the account referred to in paragraph (1) from the account referred to paragraph (3) an amount equal to the insufficiency determined under paragraph (1) (or, if less, the excess determined under paragraph (3)).

"(b) TREATMENT OF ADVANCE.—Any amount transferred under subsection (a)—

"(1) shall be treated as a noninterest-bearing repayable advance, and

"(2) shall not be considered in computing the amount in any account for purposes of the application of sections 901(f)(2), 902(b), and 905(b).

"(c) REPAYMENT.—Whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that the amount in the account to which an advance is made under subsection (a) exceeds the amount necessary to meet the anticipated payments from the account, the Secretary shall transfer from the account to the account from which the advance was made an amount equal to the lesser of the amount so advanced or such excess."

(d) REPEAL OF EXPIRED PROVISIONS.—

(1) Paragraph (2) of section 901(f) of such Act is amended—

(A) by striking "(A) Except as provided in subparagraph (B), the" and inserting "The", and

(B) by striking subparagraph (B).

(2) Section 901 of such Act is amended by striking subsection (g).

(3) Subsection (g) of section 904 is amended by striking all of such subsection that follows the 1st sentence.

(e) EFFECTIVE DATES.—

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

(2) CHANGES IN CEILING AMOUNTS.—The amendments made by subsection (a)(2) and (b) shall apply to fiscal years beginning after September 30, 1993.

SEC. 532. REQUIREMENT OF DEPOSITS BY FEDERAL AGENCIES FOR UNEMPLOYMENT BENEFITS.

(a) GENERAL RULE.—Subsection (c) of section 8509 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) If any Federal agency does not deposit in the Federal Employees Compensation Account any amount before the date 30 days after the date on which the Secretary of Labor has notified such agency that it is required to so deposit such amount, the Secretary of Labor shall notify the Secretary of the Treasury of the failure to make such deposit and the Secretary of the Treasury shall transfer such amount to the Federal Employees Compensation Account from amounts otherwise appropriated to such Federal agency."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures outstanding on the date of the enactment of this Act or at any time thereafter.

SEC. 533. REPORT ON ALLOCATION OF ADMINISTRATIVE FUNDS.

Subsection (a) of section 304 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) is amended by striking "within the 12-month period beginning on the date of the enactment of this Act" and inserting "before December 31, 1994".

SEC. 534. EXTENSION OF COMMISSION ON INTERSTATE CHILD SUPPORT.

(a) IN GENERAL.—Section 126 of the Family Support Act of 1988 (42 U.S.C. 666 note; 102 Stat. 2355) is amended—

(1) in subsection (d)(2), by striking "May" and inserting "August"; and

(2) in subsection (f)(1), by striking "July 1" and inserting "September 30".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 30, 1992.

And the Senate agree to the same.

From the Committee on Ways and Means, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
HAROLD FORD,
THOMAS J. DOWNEY,
BARBARA B. KENNELLY,
MICHAEL A. ANDREWS,
GUY VANDER JAGT,
E. CLAY SHAW, Jr.,

As additional conferees from the Committee on Energy and Commerce, for consideration of section 105 of the House bill, and section 104 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,
JIM SLATTERY,
GERRY SIKORSKI,
NORMAN F. LENT,
DON RITTER,
MATTHEW J. RINALDO,

As additional conferees, from the Committee on Government Operations, for consideration of title VI of the House bill, and modifications committed to conference:

JOHN CONYERS,
BARBARA BOXER,
TOM LANTOS,
BOB WISE,
MIKE SYNAR,
Managers on the Part of the House.

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BOB PACKWOOD,
BOB DOLE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5260) to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

I. Extension of Emergency Unemployment Compensation Program

1. EXTENSION OF PROGRAM

Present law.—The Federal Emergency Unemployment Compensation (EUC) program was first enacted in November 1991 and amended most recently in February 1992. Under the amendments enacted in February and before June 14, 1992 the EUC program provides 26 or 33 weeks of benefits for most workers who exhaust their regular State benefits depending on unemployment in their States.

States with adjusted insured unemployment rates (AIURs) of at least 5 percent or total unemployment rates (6-month moving average) of at least 9 percent are eligible to pay 33 weeks of benefits. All other States are eligible to pay 26 weeks of benefits. In determining the adjusted insured unemployment rate, the Secretary of Labor is directed to take into account individuals who have exhausted their rights to regular State compensation during the most recent 3 calendar months for which data are available.

House bill.—This provision extends the EUC program and provides 20 or 26 weeks of benefits from June 14, 1992 or the week beginning after the week in which the bill is enacted, whichever is later, until the earlier of: (1) January 1, 1993; or (2) the month after the month in which the National unemployment rate (3-month moving average) falls below 6.5 percent. When either one of these conditions is met, the program begins a three-month phaseout in which the number of weeks available to new claimants falls to 10 or 13 weeks of benefits. At the end of this phase-out period, regular State program exhaustees cannot file new EUC claims.

Senate amendment.—The schedule of benefits enacted in February (33 weeks for workers in high unemployment States and 26 weeks in all other States) will be continued for so long as the seasonally-adjusted national unemployment rate remains at 7 percent or higher. However, if for two consecutive months the national unemployment rate falls below 7 percent, the number of weeks of

benefits will be reduced to 15 and 10. The number of weeks of benefits will be further reduced (to 13 and 7 weeks) if, for two consecutive months the national unemployment rate falls below 6.8 percent. The EUC program expires on March 6, 1993. Workers who exhaust regular State benefits after that date will be ineligible for EUC benefits.

Conference agreement.—The conference agreement follows the Senate amendment except the number of weeks of benefits available initially would be 20 and 26 instead of 26 and 33, respectively.

2. PHASEOUT OF PROGRAM

Present law.—After June 13, 1992, States are eligible to pay 20 or 13 weeks of benefits. Exhaustees of regular State program benefits after July 4, 1992 are not eligible for EUC benefits. Claimants already receiving benefits for the week ending June 13, 1992 may continue on the program as long as there is no break in their receipt of benefits. If they do not receive benefits in a given week after the week ending June 13, 1992, they may receive no more EUC benefits.

House bill.—Claimants receiving EUC benefits during the last week of March 1993 would have three months in which to receive their remaining benefits. They would not be required to claim the benefits for each consecutive week. After this three-month period, the program would end and no more benefits would be paid.

Senate amendment.—Individuals who began receiving EUC benefits on or before March 6 would be entitled to the full number of weeks of benefits for which they were found eligible. They would not be required to claim the benefits for each consecutive week. No benefits would be payable after June 19, 1993.

If for any week beginning after March 6, 1993, an extended benefit period is activated in a State, individuals claiming benefits for such week and any following weeks are eligible to receive benefits under the EUC or extended benefits program, whichever is greater.

Conference agreement.—The conference agreement follows the Senate amendment. Claimants who were disqualified from receiving further EUC benefits because they did not claim benefits in a week between June 13, 1992 and July 5, 1992 would be able to resume receiving EUC benefits they were eligible otherwise.

3. SOURCE OF FUNDS FOR EUC PROGRAM

Present law.—Benefits are fully Federally-funded out of the Extended Unemployment Compensation Account, except for benefits for employees of non-profit and governmental entities, which are paid out of general revenue.

House bill.—Continues present law.

Senate amendment.—The new EUC benefits would be paid out of general revenues. The Secretary of Treasury is required to transfer from the general fund to the extended unemployment account such sums as are necessary to pay these new benefits.

Conference agreement.—The conference agreement follows the Senate amendment, modified to also require a transfer of funds to pay for all administrative costs resulting from the enactment of the

bill. For budgetary purposes, these administrative costs are classified as direct spending and not discretionary spending.

4. MODIFICATION TO ELIGIBILITY REQUIREMENTS

Present law.—(a) The eligibility requirements of the Extended Benefits (EB) program are used in the EUC program. Under the EB program, to be eligible an unemployed worker in his base year (the first four of the last five completed calendar quarters in 47 of the 53 State programs) must have either: (1) worked 20 weeks; (2) earned 40 times his weekly benefit amount; or (3) earned 1.5 times his wages in the quarter in his base year in which he earned the most wages (the "high quarter"). The State is required to provide by law which one of the three foregoing methods of measuring employment and earnings will be used for determining eligibility of all claimants.

(b) If EUC claimants' regular State benefit years expire, they must file new claims for regular State benefits even though they have EUC entitlements remaining under the EUC program.

(c) States are required to collect overpayments of EUC benefits, except if the claimant was without fault and such collection would be contrary to equity and good conscience.

House bill.—(a) The provision changes the conditions under which claimants qualify for EUC from those under the Federal-State Extended Benefits (EB) program to the conditions under the regular State programs. If still unemployed, claimants who were ineligible for EUC under the EB requirements can re-apply for benefits payable for weeks of unemployment on or after the date of enactment.

(b) Effective upon enactment, the provision allows EUC claimants who have exhausted their State benefits years while receiving EUC to choose between continuing on EUC or filing a new claim for regular State benefits.

Those claimants who were required to apply for regular State benefits already may go back to EUC benefits as if they had not been required to re-apply for regular State benefits by the EUC program.

(c) Repayment of overpayments, mistakenly made by some States in violation of the EB employment/wage requirements or the requirement that claimants must file for regular benefits again when their regular State benefit year expires, is waived.

Senate amendment.—(a) In determining EUC and EB eligibility, States may use one or more of the three eligibility criteria that are specified in the Federal EB statute, rather than being required to choose one of the three.

Conference agreement.—The conference agreement follows the House bill except for the "20-weeks of work" requirement. It includes the Senate amendment which allows States to use all of the three criteria in determining claimant eligibility.

5. TECHNICAL MODIFICATION FOR REIMBURSABLE EMPLOYERS

Present law.—The EUC program authorizes to be appropriated from the general fund such sums as may be necessary to cover the

costs of EUC benefits paid to former employees of nonprofit organizations and State-local governments.

House bill.—The provisions explicitly requires the Secretary of Labor to estimate the amount of benefits paid in each State to former employees of nonprofit organizations and State-local governments that must be charged to the Federal general fund. This would relieve States of the current costly administrative burden of maintaining an accounting of the type of employment on which these benefits were earned.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

6. TREATMENT OF PERSIAN GULF RESERVISTS

Present law.—Reservists receive wage credits under the unemployment compensation program for ex-military personnel if they serve 90 continuous days on active duty.

House bill.—The provision adds a special rule which states that if: (1) an individual was receiving regular State benefits, Extended Benefits, or Trade Readjustment Allowances the week in which he was called to active duty in the military reserves; (2) the individual served in response to the Persian Gulf crisis for at least 90 consecutive days; (3) the individual's regular State benefit year expired after he returned from that service; and (4) the individual received regular State benefits at a reduced weekly benefit amount after he returned from that service compared to what he received before he was ordered to active duty; then the individual shall receive a weekly benefit amount from the EUC program equal to what he received during the week in which he was called to active duty in the military reserves.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

7. EUC FOR CERTAIN RAILROAD WORKERS

Present law.—Workers in the railroad industry are eligible for a separate unemployment compensation program that provides benefits basically equivalent to those provided under the regular State unemployment compensation programs. Under current law, railroad employees with less than 10 years of service in the railroad industry are not eligible for any extended benefits due to a statutory flaw in the trigger mechanism. However, the unemployment legislation enacted previously to provide emergency unemployment benefits to other workers also provided additional weeks of extended benefits for qualifying railroad workers (P.L. 102-164, P.L. 102-182, P.L. 101-244). These special benefits for railroad workers expire July 4, 1992.

House bill.—Eligible railroad workers may continue to receive benefits through the life of the EUC program.

Senate amendment.—Same as House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate agreement.

8. MODIFY WORK SEARCH RULES FOR AREAS OF HIGH UNEMPLOYMENT

Present law.—Federal rules enacted in 1980 to apply to the Extended Benefits program, and which also apply to EUC, require "systematic and sustained" work search by individuals who are receiving extended benefits. As a result of these rules, workers are frequently required to make repeated contacts with employers each week, even in areas where unemployment is very high and there are very few employers.

House bill.—No provision.

Senate amendment.—The Governor of a State would be allowed to waive the Federal work search rules (and apply State rules instead) in an area that the Governor designates as an area of exceptionally high unemployment. The Secretary of Labor would be authorized to issue regulations providing guidelines for determining the circumstances under which waivers could be granted.

Conference agreement.—The conference agreement does not include the Senate provision.

II. MODIFICATIONS TO EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

Unemployed workers are paid up to 26 weeks of regular unemployment benefits financed by State unemployment taxes on employers. In States with high insured unemployment rates, the Extended Benefits (EB) program pays up to 13 weeks of additional benefits to workers who have exhausted their regular State benefits. The EB program is a joint Federal-State program, half of which is financed by Federal unemployment taxes on employers and half by State unemployment taxes.

1. MODIFICATION OF TRIGGER PROVISIONS

Present law.—Currently, the Federal-State Extended Benefits (EB) program is activated to provide up to 13 weeks of benefits in a State when its insured unemployment rate (13-week moving average) is at least 5 percent and 20 percent higher than the average for the corresponding period in the prior two years, or, at State option, is at least 6 percent. Twelve States have not adopted the 6 percent option.

House bill.—The provision revises the EB trigger so that the 13 weeks of EB is activated in a State when its seasonally adjusted total unemployment rate (TUR) (3-month moving average) is at least 6 percent and 10 percent higher than the TUR for the same 3-month period in the first or second preceding year. In addition, 7 more weeks would be available in States with TURs of at least 8 percent that are 10 percent higher than the TUR for the same 3-month period in the first or second preceding year.

In addition, the Committee report on the bill directs the Advisory Council on Unemployment Compensation to study the efficiency and equity of activating the counter-cyclical EB program on the basis of State unemployment rates. In particular, the Committee was concerned that out-migration from an economically distressed State might make its unemployment rate so low that the EB program would not activate in the State. On the other hand, the Com-

mittee also was concerned that the EB program activate in high unemployment States were unemployed workers might have migrated. The Advisory Council should study whether migration patterns should be factored into the trigger mechanism of the EB program and make recommendations when it submits its first report to Congress.

Effective date: October 1, 1993. In the case of any State legislature which has not been in session for at least 30 days between the date of enactment and October 1, 1993, the provision will not be a requirement of the State law before 30 days after the first day on which the State's legislature is in session on or after October 1, 1993.

Senate amendment.—Effective March 7, 1993, States would have the option of using an additional alternative trigger. Under this option, EB benefits would be paid when: (1) the State seasonally adjusted total unemployment rate (TUR) for the most recent 3 months for which data for all States are published is at least 6.5 percent, and that rate is at least 10 percent higher than the State's TUR for the same 3-month period in the first or second preceding year.

Conference agreement.—The conference agreement follows the Senate amendment except that, at State option, an additional 7 weeks of benefits may be provided in States with total unemployment rates of at least 8 percent and which meet the 110 percent requirement.

2. REPEAL OF SPECIAL ELIGIBILITY REQUIREMENTS

Present law.—In general, States require regular program claimants to be able to work, to be available for work, and to seek suitable work actively. State administrators have flexibility in administering these requirements, however, to take into account special circumstances. For example, a claimant in a rural community with only one large employer is not likely to be required to re-apply for a job with that employer every week.

Under the Extended Benefits program (EB), benefits may not be paid to an individual in any week of unemployment if: (a) he fails to accept an offer of "suitable work" or he fails to apply for suitable work to which he was referred by the State agency; or (b) he fails to actively seek work, unless: (1) he was issued a summons to appear for jury duty before any court of the United States or any State, or (2) he was hospitalized for treatment of any emergency or a life-threatening condition if such exemptions apply to claimants of regular State benefits and the State chooses to apply them to claimants of EB.

If a claimant is ineligible because of either (a) or (b) above, the claimant is disqualified for the week following the week in which the violation occurred and for each subsequent week until he has been employed for at least 4 weeks and earned at least 4 times his weekly benefit amount.

The term "suitable work" means any work within the claimant's capabilities, except that if the individual furnishes evidence that his prospects for obtaining work in his customary occupation

within a reasonably short time period are good, the definition of "suitable work" conforms to State law.

EB may not be denied to a claimant for failure to apply for or accept a suitable job if: (a) the gross pay does not exceed the claimant's weekly benefit amount plus any supplemental benefits payable to him; (b) the position was not offered in writing and was not listed with the State employment service; (c) such failure would not result in a denial of regular State benefits as long as other conditions of the EB program are met; or (d) the job pays wages less than the higher of: (1) the Federal minimum wage, or (2) the applicable State or local minimum wage.

The claimant is treated as actively seeking work if: (a) he has engaged in a systematic and sustained effort to obtain work; and (b) he provides tangible evidence to the State agency that he has engaged in such effort.

The State must provide for referring applicants for EB to any suitable work to which these provisions apply.

No provision of State law which terminates a disqualification of a claimant for regular State benefits because of voluntarily leaving a job, being discharged for misconduct, or refusing suitable work applies to the EB program unless such termination is based on subsequent employment.

Under the EB program, to be eligible an unemployed worker in his base year (the first four of the last five completed calendar quarters in 47 of the 53 State programs) must have either: (1) worked 20 weeks; (2) earned 40 times his weekly benefit amount; or (3) earned 1.5 times his wages in the quarter in this base year in which he earned the most wages (the "high quarter"). The State law must provide which one of the three above methods of measuring employment and earnings shall be used.

House bill.—The provision repeals Federal EB qualification, suitable work, job search, and re-employment requirements. States may apply State requirements instead.

Effective date: October 1, 1993. In the case of any State legislature which has not been in session for at least 30 days between the date of enactment and October 1, 1993, the provision will not be a requirement of the State law before 30 days after the first day on which the State's legislature is in session on or after October 1, 1993.

Senate amendment.—The Governor of a State would be allowed to waive the Federal work search rules (and apply State rules instead) in an area that the Governor designates as an area of exceptionally high unemployment. The Secretary of Labor would be authorized to issue regulations providing guidelines for determining the circumstances under which waivers could be granted.

States may use one or more of the three eligibility criteria that are specified in the Federal EB statute, rather than being required to choose one of the three.

Effective date: Date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment which allows States to use one or more of the three criteria in determining claimant eligibility under the "20-weeks of work" requirement. It suspends Federal EB suitable work, job search, and re-employment requirements until January 1, 1995.

It requires the Federal Advisory Council on Unemployment Compensation to study and make recommendations to the House Committee on Ways and Means and Senate Committee on Finance with respect to whether the suspended provisions should be repealed or revised (including recommendations as to the nature of any such revisions). The report is due prior to February 1, 1994.

3. INCREASE IN AMOUNT OF FEDERAL REIMBURSEMENT

Present law.—The Federal matching rate under the EB program is 50 percent.

House bill.—The provision increases the Federal matching rate to 75 percent.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

III. Modifications to Federal Unemployment Tax

1. MODIFICATIONS TO FEDERAL UNEMPLOYMENT TAX

Present law.—The Federal Unemployment Tax Act (FUTA) currently imposes a 6.2 percent gross tax rate on the first $7,000 paid annually by covered employers to each employee. Employers in States with programs approved by the Federal government and with no delinquent Federal loans may credit 5.4 percentage points against the 6.2 percent tax rate, making the minimum net tax rate 0.8 percent. Of the 0.8 percent tax rate, 0.6 percentage point is permanent and 0.2 percentage point is a surtax scheduled to expire at the end of 1996.

In order for employers in a State to be eligible for the full 5.4 percentage point credit, a State also must have a State taxable wage base of at least $7,000. If a State had a lower taxable wage base, its employers would lose the benefit of the 5.4 percentage point credit on the excess of the $7,000 over the State taxable wage base. No State has a taxable wage base set lower than $7,000. As of the beginning of 1992, 38 of the 53 State programs had taxable wage bases exceeding $7,000.

House bill.—The bill reduces the 0.8 percent Federal unemployment tax rate to 0.3 percent in 1995 through 1996 and to 0.25 percent in 1997 and thereafter. The $7,000 Federal unemployment taxable wage base increases in 1995 to the average annual covered wage, estimated by the Congressional Budget Office to be $28,200 in 1995. The taxable wage base would change each year thereafter as the estimate of the average annual covered wage changed.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

2. INFORMATION REQUIRED WITH RESPECT TO TAXATION OF UNEMPLOYMENT BENEFITS

Present law.—Under the Tax Reform Act of 1986, all unemployment compensation is subject to Federal personal income taxation.

House bill.—The provision requires States to provide information on the taxation of unemployment compensation and the payment of estimated individual income taxes.

Senate amendment.—Same as House bill except for technical differences.

Conference agreement.—The conference agreement follows the Senate amendment.

3. MAILING OF CERTAIN INFORMATION PERMITTED

Present law.—Office of Management and Budget (OMB) Circular A-87 requires States to share in the cost of postage if they add material to mailings concerning unemployment compensation even if the mailings do not add to the total cost of the postage.

House bill.—The provision would allow States to include information on the Earned Income Credit (EIC) in their Form 1099-G mailings to workers who have received unemployment benefits at no cost as long as the additional information does not increase the postage cost of the mailing.

Senate amendment.—Same as House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

4. EXTENSION OF EXISTING TREATMENT OF CERTAIN AGRICULTURAL WORKERS

Present law.—Agricultural labor performed before January 1, 1993 by an individual who is an alien admitted to the United States to perform agricultural labor under sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act is excluded from coverage under the Federal Unemployment Tax Act.

House bill.—The provision would extend current law for two years until January 1, 1995 and require the Federal Advisory Council on Unemployment Compensation to study the impact of the provision and report to the House Committee on Ways and Means and the Senate Committee on Finance by February 1, 1994.

Senate amendment.—The provision extends the present law treatment of certain Agricultural workers permanently.

Conference agreement.—The conference agreement follows the House bill.

5. EXTENSION OF PERIOD FOR REPAYMENT OF FEDERAL LOANS TO STATE UNEMPLOYMENT FUNDS

Present law.—Employers in States with overdue Federal loans are subject to increases in their Federal unemployment tax rate stemming from automatic decreases in their Federal unemployment tax credit of 5.4 percentage points against the current gross tax rate of 6.2 percent. Interest is charged on loans that are not repaid by the end of the fiscal year in which they are obtained.

States with outstanding unemployment loans from the Federal government must repay them fully by November 10 of the calendar year in which the second consecutive January first passes with the State still having an outstanding loan. This means that the State has about a two- to three-year grace period to repay the loan without penalty taxes, depending on when it obtained the loan. If it

does not repay fully by the appropriate November 10, employers in the State are subject to annual credit decreases beginning with the preceding January 1 until the loan is repaid fully. Employers must pay the additional taxes resulting from the credit decrease no later than January 31 of the next calendar year.

The credit reduction is at least 0.3 percentage point per year beginning with the calendar year in which the second consecutive January first passes during which the loan is outstanding. There are two potential additional credit decreases during ensuing calendar years in which a State has an outstanding advance: (1) in the calendar years after the third and fourth consecutive January firsts pass, the employers in the State face a decrease by the amount that 2.7 percent exceeds the State's average tax rate on taxable wages in the calendar year to which the decrease applies; (2) in the calendar years in which the fifth through ninth consecutive January firsts pass, the employers face a decrease equal to the higher of the amount in (1) or the amount that the State's 5-year benefit cost rate exceeds the State's average tax rate on taxable wages in the calendar year to which the decrease applies. The 5-year benefit-cost rate is one-fifth of the unemployment benefits paid in the first 5 of the last 6 completed calendar years preceding the calendar year to which the credit decrease applies divided by taxable wages in the last calendar year.

House bill.—The provision extends by one year the grace period for Federal unemployment penalty taxes on employers in States with overdue unemployment loans from the Federal government if the State amended its unemployment insurance law in 1992 or 1993 to increase estimated revenues by at least 25 percent in the first year after enactment of the State legislation.

Effective date: Date of enactment.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

IV. Modification to Regular State Unemployment Compensation Programs

1. Treatment of short-time unemployment compensation programs

Present law.—All funds withdrawn from the unemployment trust fund of a State must be used solely in payment of unemployment compensation, exclusive of administrative expenses and refunds of erroneously paid sums except: (1) certain authorized disability payments; (2) certain "Reed Act" expenses; (3) authorized health insurance costs; and (4) repayments of overpayments. Short-time compensation is not mentioned explicitly.

A provision enacted in 1982 authorizing such programs has expired. (Short-time compensation programs are programs under which States may pay pro rata benefits to individuals who are working less than full time because their employer has a plan approved by the State agency that provides for a reduction in work hours for employees rather than temporary layoffs.)

House bill.—Clarifies that States may continue to pay short-time compensation.

The provision also requires the Secretary of Labor to develop model State legislation, to update it periodically, to provide technical assistance to the States, and to report to Congress on implementation of short-time compensation.

Senate amendment.—Similar to House bill.

Conference agreement.—The conference agreement follows the House bill and Senate amendment. Also, language is added providing that eligible employees may participate in employer-sponsored training programs to enhance job skills if such programs have been approved by the State agency.

2. BENEFIT INFORMATION REQUIREMENTS

Present law.—No provision.

House bill.—The provision requires employers to give each worker whose employment relationship with the employer is terminated such written information on unemployment insurance eligibility and benefits as is provided by the State agency. Employers must post at places readily accessible to employees such printed statements regarding benefit rights as prescribed by the State agency.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

V. Financing Provisions

1. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTIONS

Present law.—Present law permits a personal exemption deduction from gross income for an individual, the individual's spouse, and each dependent. For 1992, the amount of this deduction is $2,300 for each exemption claimed. This exemption amount is adjusted for inflation. The deduction for personal exemptions is phased out for taxpayers with adjusted gross income (AGI) above a threshold amount (indexed for inflation), which is based on filing status. For 1992, the threshold amounts are $157,900 for married taxpayers filing joint returns, $78,950 for married taxpayers filing separate returns, $131,550 for unmarried taxpayers filing as head of household, and $105,250 for unmarried taxpayers filing as single.

The total amount of exemptions which may be claimed by a taxpayer is reduced by 2 percent for each $2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable threshold (the phaseout rate is 4 percent for married taxpayers filing separate returns). Thus, the personal exemptions claimed are phased out over a $122,500 range, beginning at the applicable threshold.

This provision does not apply to taxable years beginning after December 31, 1995.

House bill.—The bill delays the expiration date for the personal exemption phaseout applicable to higher-income individuals for two years. Under this provision, the phaseout of personal exemptions will not apply to taxable years beginning after December 31, 1997.

Effective date: The provision is effective for taxable years beginning in 1996 and 1997.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill with the modification that the expiration of the personal exemption phaseout is delayed for one year. Under the conference agreement, the phaseout of personal exemptions will not apply to taxable years beginning after December 31, 1996.

2. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000

Present law.—Under present law, a deduction is allowed in computing Federal income tax liability for ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered.

House bill.—For purposes of the regular income tax and the alternative minimum tax, the otherwise allowable deduction for compensation with respect to a covered employee is limited to no more than $1 million per year. A covered employee means any employee of the taxpayer who is an officer of the taxpayer, other than an employee-owner of a personal service corporation.

For purposes of the provision, whether an individual is an officer is determined upon the basis of all the facts. The provision does not apply to payments to partners in a partnership because they are not employees. The provision also does not apply to payments to independent contractors.

The deduction limitation generally applies to all remuneration for services, including cash and the cash value of all remuneration (including benefits) paid in a medium other than cash. The limit does not apply to fringe benefits excludable from income under section 132, meals and lodging furnished on the business premises of the employer that are excludable under section 119, or any payment made to, or on behalf of, an employee or beneficiary (1) from or to a qualified pension, profit-sharing, or annuity plan, or (2) under a simplified employee pension (SEP) or tax-sheltered annuity (other than elective deferrals to such a plan or annuity).

The deduction limitation applies at the time the deduction would otherwise be taken, whether or not the remuneration to which the deduction relates is for service performed during the taxable year.

Effective date: The provision is effective for taxable years beginning on or after January 1, 1992.

For taxable years beginning before the date of enactment of the provision, no additional penalty tax is imposed on a corporation with respect to any underpayment of estimated tax to the extent such underpayment was created or increased by the provision.

Senate amendment—No provision.

Conference agreement.—The conference agreement does not include the House bill provision.

3. ROLLOVER AND WITHHOLDING ON NONPERIODIC PENSION DISTRIBUTIONS

Present law.—Distributions from tax-qualified pension plans (sec. 401(a)), qualified annuity plant (sec. 403(a)), and tax-sheltered annuities (sec. 403(b)) generally are included in gross income in the year paid or distributed under the rules relating to the taxation of an-

nuities. A total or partial distribution of the balance to the credit of an employee may, under certain circumstances, be rolled over tax free to another plan or annuity or to an individual retirement arrangement (IRA).

For purposes of the rule denying rollover treatment in the case of certain periodic payments, payments made before, with, or after the commencement of the periodic payments are not treated as part of the series of periodic payments.

Income tax withholding on pension distributions is required unless the payee elects not to have withholding apply. If not election is made, tax is withheld from nonperiodic payments at a 10-percent rate, unless the payments are part of a qualified total distribution, in which case tables published by the Internal Revenue Service are used to determine the withholding rate. A qualified total distribution generally is a payment within one year of the entire interest in a plan.

House bill.—No provision.

Senate amendment.—Under the Senate amendment, any part of the taxable portion of a distribution form a qualified pension or annuity plan or a tax-sheltered annuity (other than a minimum required distribution) can be rolled over tax free to an IRA or another qualified plan or annuity, unless the distribution is one of a series of substantially equal payments made (1) over the life (or joint life expectancies) of the participant and his or her beneficiary, or (2) over a specified period of 10 years or more.

For purposes of the rule denying rollover treatment in the case of certain periodic payments, a single-sum payment that is not substantially equal to the period payments that is made before, with, or after the commencement of the periodic payments is not treated as one of the series of periodic payments. For example, if an employee receives 30 percent of his or her accrued benefit in the form of single-sum distribution upon retirement with the balance payable in annuity form, the amount of the single-sum distribution can be rolled over.

A qualified retirement or annuity plan must permit participants to elect to have any distribution that is eligible for rollover treatment transferred directly to an eligible transferee plan specified by the participant.

Withholding is imposed at a rate of 20 percent on any distribution that is eligible to be rolled over but that is not transferred directly to an eligible transferee plan. Payees cannot elect to forego withholding with respect to such distributions.

Plan amendments required under the provision do not have to be made before the first plan year beginning on or after January 1, 1994, if the plan is operated in accordance with the provision and the amendment applies retroactively.

Effective date: The provision is effective for distributions after December 31, 1992.

Conference agreement.—The conference agreement follows the Senate amendment, with modifications.

The conference agreement provides that the plan administrator must provide a written explanation to a recipient of his or her distribution options (including the direct trustee-to-trustee transfer option) within a reasonable period of time before making an eligi-

ble rollover distribution. The Secretary of the Treasury is directed to develop a model notice.

The administrator may require that a recipient electing a direct trustee-to-trustee transfer provide adequate information in a timely manner regarding the eligible retirement plan to which the transfer is to be made. The transferor plan and its administrator will not be subject to penalties or liability because of reasonable reliance on such information provided by a recipient, and is not required to independently verify such information. As under the Senate amendment and present law, a qualified retirement plan is not required to accept a direct trustee-to-trustee transfer.

The direct trustee-to-trustee transfer option is considered a distribution option, so that spousal consent and other similar participant and beneficiary protection rules apply. Because a direct transfer generally is considered a distribution from the transferor plan, rights and options available under the transferor plan need not be preserved under the transferee plan.

The conference agreement clarifies that the explicit exclusion from gross income of amounts transferred in a direct trustee-to-trustee transfer in accordance with the provision is not intended to affect the treatment of direct transfers under other provisions of the Code.

Under the conference agreement, in the case of section 403(b) tax-sheltered annuity plans maintained by State and local governments which are prohibited under State law from making direct trustee-to-trustee transfers, the provisions relating to trustee-to-trustee transfers and withholding do not apply to distributions before the earlier of (1) January 1, 1994, or (2) 90 days after the date on which the State law is amended to permit such transfers.

4. MODIFY ESTIMATED TAX PAYMENT RULES FOR LARGE CORPORATIONS

Present law.—A corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning in 1993, 1994, 1995, and 1996, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 95 percent of the tax liability shown on the return for the current taxable year. In addition, a corporation may annualize its taxable income and make estimated tax payments based on 95 percent of the tax liability attributable to such annualized income.

For taxable years beginning in 1992, the 95-percent requirement is a 93-percent requirement; the 95-percent requirement becomes a 90-percent requirement for taxable years beginning in 1997 and thereafter.

House bill.—No provision.

Senate amendment.—For taxable years beginning after June 30, 1992, and before 1997, the bill requires a large corporation to base its estimated tax payments on 96 percent (rather than 93 or 95 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis. For taxable years beginning after 1996, the bill requires a large corporation to base its estimated tax payments on 91 percent (rather than 90 percent) of its current year tax liability.

The amendment does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

Conference agreement.—The conference agreement follows the Senate amendment with the following modification. For taxable years beginning after June 30, 1992, and before 1997, the conference agreement requires a large corporation to base its estimated tax payments on 97 percent (rather 96 percent as under the Senate amendment) of its current year tax liability, whether such liability is determined on an actual or annualized basis.

5. TAXABLE YEAR ELECTION FOR PARTNERSHIPS, S CORPORATIONS, AND PERSONAL SERVICE CORPORATIONS

Present law.—A partnership is generally required for Federal income tax purposes to use the taxable year that is used by a majority of its partners. An S corporation or a personal service corporation is generally required for Federal income tax purposes to use the calendar year as its taxable year.

A partnership, S corporation, or personal service corporation, however, may elect to use a taxable year other than the required taxable year. In the case of a partnership, S Corporation, or personal service corporation that is adopting a taxable year or changing a taxable year, the taxable year that may be elected generally may not result in a deferral period of more than three months.

House bill.—No provision.

Senate amendment.—A partnership, S corporation, or personal service corporation is allowed to elect any taxable year without regard to the length of the deferral period of the taxable year elected if the annual financial statements (if any) of the entity used for credit purposes or provided to the partners, shareholders, or other proprietors of the entity cover the same period as the taxable year elected.

The provision increases the amount of the required payment that must be made by a partnership or S corporation that elects a taxable year other than the required taxable year (including any partnership or S corporation that has an election in effect on the date of enactment of the provision) and requires an additional required payment for any taxable year that a partnership or S corporation first makes a taxable year election or changes a taxable year election to increase the deferral period.

The provision also increases the minimum distribution requirement that must be satisfied by a personal service corporation that elects a taxable year other than the required taxable year (including a personal service corporation that has an election in effect on the date of enactment of the provision).

Effective date: The provision applies to taxable years beginning after December 31, 1991.

Conference agreement.—The conference agreement does not include the Senate provision.

6. MARK-TO-MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES

Present law.—A taxpayer that is a dealer in securities is required for Federal income tax purposes to maintain an inventory of secu-

rities held for sale to customers. A dealer in securities is allowed for Federal income tax purposes to determine (or value) the inventory of securities held for sale based on: (1) the cost of the securities; (2) the lower of the cost or market value of the securities; or (3) the market value of the securities.

For financial accounting purposes, the inventory of securities generally is determined based in market value.

House bill.—No provision.

Senate amendment.—The provision requires certain securities that are held by a dealer in securities to be marked to market for Federal income tax purposes.

For these purposes, a dealer in securities is defined as any taxpayer that either (1) regularly purchases securities from, or sells securities to, customers in the ordinary course of a trade or business, or (2) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

A security is defined as: (1) any share of stock in a corporation; (2) any partnership or beneficial ownership interest in a widely held or publicly trade partnership or trust; (3) any note, bond, debenture, or other evidence of indebtedness; (4) any interest rate, currency, or equity notional principal contract; and (5) any evidence of an interest in, or any derivative financial instrument in, a security described in (1) through (4) above or any currency, including any option, forward contract, short position, or any similar financial instrument in such a security or currency.

In addition, a security is defined to include any position if: (1) the position is not a security described in the preceding paragraph; (2) the position is a hedge with respect to a security described in the preceding paragraph; and (3) before the close of the day on which the position was acquired (or entered into or such other time as the Treasury Department may specify in regulations), the position is clearly identified in the dealer's records as a hedge with respect to a security described in the preceding paragraph. A security, however, does not include a contract to which section 1256(a) of the Code applies.

Notwithstanding the definition of security, the mark-to-market rules generally do not apply to: (1) any security that is held for investment: (2) any evidence of indebtedness that is acquired (including originated) by a dealer in the ordinary course of a trade or business of the dealer but only if the evidence of indebtedness is not held for sale; (3) any security acquired by a floor specialist (as defined in section 1236(d)(2) in connection with the floor specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange; (4) any security which is a hedge with respect to a security that is not subject to the mark-to-market rules; and (5) any security which is a hedge with respect to a position, right to income, or a liability that is not a security in the hands of the taxpayer.

These exceptions to the mark-to-market rules do not apply unless before the close of the day on which the security is acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations), the security is clearly identified

in the dealer's records as being described in one of the exceptions listed in the preceding paragraph.

Effective date: The provision applies to taxable years ending on or after December 31, 1992. The net amount of the section 481(a) adjustment is taken into account ratably over a 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992, to the extent that such amount does not exceed the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992.

Conference agreement.—The conference agreement does not include the Senate provision.

7. TAX TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE

Present law.—A taxpayer may claim a deduction for a loss on the sale or other disposition of property only to the extend that the taxpayer's adjusted basis for the property exceeds the amount realized on the disposition and the loss is not compensated for by insurance or otherwise (sec. 165 of the Code). A similar rule applies for purposes of accounting for bad debts.

A special statutory tax rule, enacted in 1981, excluded from a thrift institution's income financial assistance received from the Federal Savings and Loan Insurance Corporation (FSLIC), and prohibited a reduction in the tax basis of the thrift institution's assets on account of the receipt of the assistance. Under the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), taxpayers generally were required to reduce certain tax attributes by one-half the amount of financial assistance received from the FSLIC pursuant to certain acquisitions of financially troubled thrift institutions occurring after December 31, 1988. These special rules were repealed by FIRREA, but still apply to transactions that occurred before May 10, 1989.

Prior to the enactment of FIRREA, the FSLIC entered into a number of assistance agreements in which it agreed to provide loss protection to acquirers of troubled thrift institutions by compensating them for the difference between the book value and sales proceeds of "covered assets."

As of March 4, 1991, Treasury Department report ("Treasury report") on tax issues relating to the 1988/89 FSLIC transactions concluded that deductions should not be allowed for losses that are reimbursed with exempt FSLIC assistance. The Treasury report states that the Treasury view is expected to be challenged in the courts and recommended that Congress enact clarifying legislation disallowing these deductions.

House bill.—No provision.

Senate amendment.—General rule: Any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of an asset would be taken into account as compensation for such loss for purposes of section 165 of the Code. Any FSLIC assistance with respect to any debt would be taken into account for purposes of determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts.

Financial assistance to which the FIRREA amendments apply: The proposal would not apply to any financial assistance to which the amendments made by section 1401(a)(3) of FIRREA apply.

No inference: No inference would be intended as to prior law or as to the treatment of any item to which this proposal does not apply.

Conference agreement.—The conference agreement does not include the Senate provision.

8. TRANSFER OF INCOME TAXES ON UNEMPLOYMENT BENEFITS TO UNEMPLOYMENT TRUST FUND

Present law.—Under present law, all unemployment benefits received are included in a taxpayer's gross income. Tax revenues generated by this provision are deposited, along with almost all individual income tax receipts, in the General Fund of the Treasury.

A portion of social security and tier I railroad retirement benefits is includible in gross income. An individual is required to include in gross income the lesser of: (1) 50 percent of the individual's social security or tier I railroad retirement benefits; or (2) 50 percent of the individual's modified adjusted gross income above a specified threshold. Modified adjusted gross income is defined as the sum of 50 percent of the individual's social security or tier I railroad retirement benefits plus otherwise calculated adjusted gross income plus certain tax-exempt interest. The threshold amounts are $32,000 for married taxpayers filing joint returns and $25,000 for unmarried taxpayers.

The Secretary of the Treasury is required to estimate the individual income tax liabilities attributable to the payment of social security and tier I railroad retirement benefits. These proceeds are transferred (credited) quarterly to the Old-Age and Survivors Insurance Trust Fund, the Disability Insurance Trust Fund, or the Railroad Retirement Trust Fund, as appropriate.

House bill.—The bill requires the Secretary of Treasury to estimate the individual income tax liabilities attributable to the receipt of unemployment compensation benefits and transfer the proceeds into the Extended Unemployment Compensation Account of the Unemployment Trust Fund.

Effective date: The provision is effective for all unemployment compensation benefits paid after December 31, 1990.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House bill provision.

9. MODIFICATIONS TO FEDERAL UNEMPLOYMENT ACCOUNTS

Present law.—Ninety percent of Federal unemployment tax revenue flows into the Employment Security Administration Account (ESAA), which funds the administration of the unemployment insurance and employment services. Ten percent flows into the Extended Unemployment Compensation Account (EUCA), which funds the Extended Benefits (EB) and Emergency Unemployment Compensation (EUC) programs. Each account has a ceiling. The excess over the ceilings flow into the Federal Unemployment Account, which provides loans to insolvent State programs. If all

three accounts overflow, the excess flows to the State accounts in proportion to their share of total wages paid Nationwide.

House bill.—The provision changes the flow of Federal unemployment tax revenue into the three Federal accounts such that the administration account receives 80 percent and the Extended Unemployment Compensation Account (EUCA) receives 20 percent of the annual revenue. Also, it: authorizes interest-free borrowing between accounts; lowers the ceiling in the loan account from 0.625 percent to 0.125 percent of total annual wages; raises the ceiling on the Extended Unemployment Compensation Account (EUCA) from 0.375 percent to 0.625 percent of total annual wages; makes the ceiling changes effective in fiscal year 1994; and retains the current law provision that when all three accounts are full, the excess revenue flows back to the States in proportion to their share of total wages Nationwide.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill with technical changes in the operations of the trust fund accounts. The ceiling in the EUCA would be 0.5 percent and the ceiling in the FUA would be 0.25 percent.

10. REQUIREMENT OF DEPOSITS BY FEDERAL AGENCIES FOR UNEMPLOYMENT BENEFITS

Present law.—No provision.

House bill.—The provision authorizes the Secretary of the Treasury to transfer amounts owed to the Federal Employees Compensation Account from amounts otherwise appropriated to such Federal agency if 30 days have passed since the date on which the Secretary of Labor notified the agency that it was required to deposit such amount.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

11. REPORT ON ALLOCATION OF ADMINISTRATIVE FUNDS

Present law.—The Emergency Unemployment Compensation Act of 1991 authorized a study of the basic method of allocating funds among States for administration of unemployment insurance. The report is due no later than November 17, 1992.

House bill.—The provision changes the due date of the report to December 31, 1994.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

VI. Budgetary Treatment

1. TREATMENT UNDER PAY-AS-YOU-GO PROCEDURES

Present law.—New entitlement spending for benefits from the unemployment trust fund is subject to the pay-as-you-go requirements of the Balanced Budget and Deficit Control Act of 1985, as amended. Spending for administration is treated as discretionary

spending, and is subject to the domestic discretionary spending caps in the Budget Act.

House bill.—The provision states that any new budget authority, outlays or receipts under its provisions shall not be considered for any purpose under the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

2. EXEMPTION FROM SEQUESTRATION

Present law.—The Federal half of Federal-State Extended Benefits is subject to sequestration.

House bill.—The provision exempts Emergency Unemployment Compensation from sequestration. The Federal share of Extended Benefits would continue to be subject to sequestration.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

VII. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Present law.—Workers certified for Trade Adjustment Assistance must have had at least 26 weeks of adversely affected employment in the 52 weeks preceding their layoff in order to qualify for weekly Trade Readjustment Allowances (i.e., cash benefit extension of unemployment compensation). Up to 7 weeks of inactive military duty or active duty military service for training are among the types of non-employment which qualify toward the 26-week minimum.

House bill.—No provision.

Senate amendment.—The provision designates up to 26 weeks of active duty in reserve status to be "weeks of adversely affected employment" for Trade Readjustment Allowance purposes, effective as of August 1990.

Conference agreement.—The conference agreement follows the Senate amendment.

VIII. Extend the U.S. Commission on Interstate Child Support

Present law.—The report of the Commission on Interstate Child Support is due on May 1, 1992, and the Commission is scheduled to expire on July 1, 1992.

Conference agreement.—The conference agreement extends the date for the Commission's report to August 1, 1992, and the date of expiration of the Commission to September 30, 1992.