

**DESCRIPTION OF CHAIRMAN'S MODIFICATION TO THE
"ECONOMIC RECOVERY AND ASSISTANCE FOR
AMERICAN WORKERS ACT OF 2001"**

Scheduled for Markup
By the
SENATE COMMITTEE ON FINANCE
on November 8, 2001

Prepared by
the Staff of the
JOINT COMMITTEE ON TAXATION



November 8, 2001
JCX-78-01

CONTENTS

	<u>Page</u>
INTRODUCTION.....	1
I. MODIFICATIONS TO THE CHAIRMAN’S MARK.....	2
A. Expansion of Work Opportunity Tax Credit Targeted Categories to Include Certain Employees in New York City.....	2
B. Andean Trade Preference Initiative	2
C. State Fiscal Relief - Temporary Increase in Federal Medicaid Matching Rate	2
D. Crop Disaster Assistance	2
E. Rural Development Loan and Grant Applications.....	2
1. Rural Community Advancement Program.....	3
2. Rural telecommunications loans	3
3. Distance learning/telemedicine/broadband loans	3
4. Environmental Quality Incentives Program (EQIP)	3
5. Agricultural land protection.....	3
F. Commodity Purchases.....	3
II. ADDITIONAL PROPOSALS.....	4
A. Tax-Credit Bonds for the National Railroad Passenger Corporation ("Amtrak")	4
B. Broadband Internet Access Tax Credit.....	8
C. Expansion of Period for Reinvestment of Converted Citrus Tree Property and Ratable Income Inclusion for Citrus Canker Tree Payments	11
D. Provision of Form 1099 Electronically.....	12
E. Expand Exemption from Aviation Fuels Excise Taxes for Aerial Applicators.....	13
F. Recovery Period for Certain Wireless Telecommunications Equipment	14
G. Native American Breast and Cervical Cancer Prevention and Treatment Act Technical Amendment.....	15
H. Emergency Spending	16

INTRODUCTION

This document,¹ provides a description of the Chairman's Modification to the "Economic Recovery and Assistance for American Workers Act of 2001," scheduled for a markup on November 8, 2001, by the Senate Committee on Finance.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman's Modification to the "Economic Recovery and Assistance for American Workers Act of 2001"* (JCX-78-01), November 8, 2001.

I. MODIFICATIONS TO THE CHAIRMAN'S MARK

The following modifications would be made to the Chairman's mark:

A. Expansion of Work Opportunity Tax Credit Targeted Categories to Include Certain Employees in New York City

The modification clarifies that the limitation on the number of qualified employees for the new Work Opportunity Tax Credit targeted group (i.e., the number of each business' employees in the New York Recovery Zone on September 11, 2001) only applies to qualified businesses that relocated in New York City due to the destruction or damage of their workplaces within the New York Recovery Zone. Other qualified businesses (e.g., businesses that operate in the New York Recovery Zone both on and after Sept. 11, 2001 and businesses that move into the New York Recovery Zone after September 11, 2001) would not be subject to that limitation.

B. Andean Trade Preference Initiative

The proposal to extend the trade benefits available under the Andean Trade Preference Act would extend such benefits through June 4, 2002.

C. State Fiscal Relief - Temporary Increase in Federal Medicaid Matching Rate

The Chairman's mark would provide temporary financial assistance to states to help them meet the temporary rise in Medicaid costs that will result from the recent economic downturn. States in which the federal Medicaid matching rate is falling in FY 2002 would be "held harmless" and retain their FY 2001 matching rate. States in which the rates are rising would shift to the FY 2002 rate. Under the modification, all states would receive a federal Medicaid matching rate increase of 1.5 percent, and states with higher than average unemployment rates over the past three months would receive an additional 1.5 percent increase – bringing their total matching rate increase to 3.0 percent. The modification represents a .5 percent increase in the rate paid to all states, and a .5 percent increase over the rate paid to states with high unemployment rates. In exchange for these increases, states would maintain current eligibility levels.

The proposal would be effective for FY 2002 only.

D. Crop Disaster Assistance

The modification to the Chairman's mark authorizes the Secretary to establish a sugar beet disaster program of up to \$25 million for marketing year 2001 for economic disasters not covered by the natural disaster program.

E. Rural Development Loan and Grant Applications

The following clarifications would be made to the Chairman's mark, describing the particular programs on which the \$3 billion of Rural Development expenditures would be made.

1. Rural Community Advancement Program

The modification to the Chairman's mark clarifies that the bill would provide \$1.273 billion in funding to support additional loans and grants under the Rural Community Advancement Program. These funds would support approximately \$1 billion in grants and \$1.9 billion in direct loans to establish, expand or modernize water treatment and waste disposal facilities. Funds will also support approximately \$340 million in loans and grants to construct and improve community facilities, including health care, child care, fire and emergency services and other facilities.

2. Rural telecommunications loans

The modification to the Chairman's mark clarifies that the bill would provide \$40 million in funding to support \$1.74 billion in additional loans to improve the telecommunications infrastructure in rural America.

3. Distance learning/telemedicine/broadband loans

The modification to the Chairman's mark clarifies that the bill would provide \$5 million in funding to support an additional \$400 million in loans to finance installation of enhanced services, such as high speed modems, Internet access to rural communities and advanced telecommunications that provide educational and health care benefits to rural Americans.

4. Environmental Quality Incentives Program (EQIP)

The modification to the Chairman's Mark clarifies that the bill provides \$1.4 billion to the Environmental Quality Incentives Program (EQIP). The program has a backlog of approximately 200,000 applications covering 67 million acres nationally.

5. Agricultural land protection

The modification to the Chairman's mark clarifies that the bill would provide \$150 million for the preservation of agricultural lands. Funds will support acquisition of conservation easements or other interest in order to limit the conversion of agricultural lands to nonagricultural uses. Benefits would include protection of prime, unique, or other productive soil and preservation of open spaces.

F. Commodity Purchases

The modification to the Chairman's mark expands the commodities eligible for purchase under the commodity purchase program to include the following: apples, apricots, asparagus, bell peppers, bison meat, black beans, blackeyed peas, blueberries (wild and cultivated), cabbage, cantaloupe, cauliflower, chickpeas, cranberries, cucumbers, dried plums, dry peas, eggplants, lemons, lentils, melons, onions, peaches (including freestone), pears, potatoes (summer or fall), pumpkins, raisins, raspberries, red tart cherries, snap beans, spinach, strawberries, sweet corn, tomatoes, and watermelons.

II. ADDITIONAL PROPOSALS

A. Tax-Credit Bonds for the National Railroad Passenger Corporation ("Amtrak")

Present Law

Present law does not authorize the issuance by any private, for-profit corporation of bonds the interest on which is tax-exempt or eligible for an income tax credit. Tax-exempt bonds may be issued by States or local governments to finance their governmental activities or to finance certain capital expenditures of private businesses or loans to individuals. Additionally, States or local governments may issue tax-credit bonds to finance the operation of "qualified zone academies."

Tax-exempt bonds

Interest on bonds issued by States or local governments to finance direct activities of those governmental units is excluded from tax (sec. 103). In addition, interest on certain bonds ("private activity bonds") issued by States or local governments acting as conduits to provide financing for private businesses or individuals is excluded from income if the purpose of the borrowing is specifically approved in the Code (sec. 141). Examples of approved private activities for which States or local governments may provide tax-exempt financing include transportation facilities (airports, ports, mass commuting facilities, and certain high speed intercity rail facilities); public works facilities such as water, sewer, and solid waste disposal; and certain social welfare programs such as low-income rental housing, student loans, and mortgage loans to certain first-time homebuyers. High speed intercity rail facilities eligible for tax-exempt financing include land, rail, and stations (but not rolling stock) for fixed guideway rail transportation of passengers and their baggage using vehicles that are reasonably expected to operate at speeds in excess of 150 miles per hour between scheduled stops.

Issuance of most private activity bonds is subject to annual State volume limits of \$62.50 per resident (\$187.5 million if greater). These volume limits are scheduled to increase to \$75 per resident (\$225 million if greater) in calendar year 2002; after 2002, the limits will be indexed annually for inflation.

Investment earnings on all tax-exempt bonds, including earnings on invested sinking funds associated with such bonds is restricted by the Code to prevent the issuance of bonds earlier or in a greater amount than necessary for the purpose of the borrowing. In general, all profits on investment of such proceeds must be rebated to the Federal Government. Interest on bonds associated with invested sinking funds is taxable.

Tax-credit bonds for qualified zone academies

As an alternative to traditional tax-exempt bonds, certain States or local governments are given authority to issue "qualified zone academy bonds." A total of \$400 million of qualified zone academy bonds is authorized to be issued in each year of 1998 through 2001. The \$400 million is allocated to States according to their respective populations of individuals below the poverty line.

Qualified zone academy bonds are taxable bonds with respect to which the investor receives an income tax credit equal to an assumed interest rate set by the Treasury Department to allow issuance of the bonds without discount and without interest cost to the issuer. The bonds may be used for renovating, providing equipment to, developing course materials for, or training teachers in eligible schools. Eligible schools are elementary and secondary schools with respect to which private entities make contributions equaling at least 10 percent of the bond proceeds.

Only financial institutions are eligible to claim the credits on qualified zone academy bonds. The amount of the credit is taken into income. The credit may be claimed against both regular income tax and AMT liability.

There are no arbitrage restrictions applicable to investment earnings on qualified zone academy bond proceeds.

Tax treatment of certain contributions to the capital of a corporation

Section 118(a) provides that gross income of a corporation does not include a contribution to its capital. In general, section 118(b) provides that a contribution to the capital of a corporation does not include any contribution in aid of construction or any other contribution as a customer or potential customer and, as such, is includible in gross income of the corporation.

Description of Proposal

Tax-credit bond authority

The provision would authorize the National Railroad Passenger Corporation ("Amtrak") to issue an aggregate amount of \$7 billion of tax-credit bonds to finance its capital projects during calendar year 2002. In addition to this \$7 billion for capital expenditures generally, \$2 billion of tax-credit bonds could be issued to finance construction of a new Hudson River rail tunnel. Unused bond authority could be carried forward for up to two years under rules similar to those that apply to carryforward of authority to issue qualified zone academy bonds.

Projects eligible for tax-credit bond financing would be defined as the acquisition or construction of equipment or rolling stock, and other capital improvements for (1) the northeast rail corridor between Washington, D.C. and Boston, Massachusetts; (2) high-speed rail corridors designated under section 104(d)(2) of Title 23 of the United States Code; and (3) non-designated high-speed rail corridors, including station rehabilitation or construction, track or signal improvements, or grade crossing elimination. Limits would be imposed on the portion of the \$7 billion in bond authority that could be issued to finance projects in any one State or on any one rail corridor. Additionally, 15 percent of that amount would be required to be set-aside for use in non-Federally designated high speed rail corridors.

As with qualified zone academy bonds, the interest rate on Amtrak tax-credit bonds would be set to allow issuance of the bonds at par, i.e., without any interest cost to Amtrak. In general, proceeds of Amtrak tax-credit bonds would have to be spent within 36 months after the bonds are issued. As of the date the bonds were issued, Amtrak would be required to certify that it reasonably expected –

- (1) to incur a binding obligation with a third party to spend at least 10 percent of the bond proceeds within six months (or in the case of self-constructed property, to have commenced construction within six months);
- (2) to spend the bond proceeds with due diligence; and
- (3) to spend at least 95 percent of the proceeds for qualifying capital costs within three years.

Failure to satisfy these requirements would trigger special rules at the conclusion of the three-year period.

Amtrak tax credit bonds may only be issued for projects that are approved by the Department of Transportation and with respect to which the issuing railroad had received matching contributions of at least 20 percent of the project cost from one or more States in which the projects would be located. This approval would be conditioned on Amtrak agreeing to spend certain amounts of the bond proceeds for other passenger rail carriers (including the Alaska Railroad). The State matching contributions, along with earnings on investment of the tax-credit bond proceeds would be required to be invested in a trust account (i.e., an sinking fund) and used along with earnings on the trust account for repayment of the principal amount of the bonds.

Amtrak tax-credit bonds could be owned (and income tax credits claimed) by any taxpayer. The amount of the credit would be included in the bondholder's income.

The required State matching contribution could not be derived from Federal monies. Any Federal Highway Trust Fund monies transferred to the States would be treated as Federal monies for this purpose. During the period when tax-credit bonds were authorized, Amtrak would not be allowed to receive any Highway Trust Fund monies other than those authorized (both amount and purpose) on the date of the provision's enactment. Violation of this restriction (including pursuant to subsequently enacted legislation) would result in (1) termination of deposit to the Highway Trust Fund of all Federal highway excise tax revenues and (2) inability of Amtrak to issue additional tax-credit bonds (until such time as the Secretary of the Treasury and the Secretary of Transportation certified that Amtrak had repaid the amounts received from the Highway Trust Fund).

Amtrak would be required annually to submit a five-year capital plan to Congress, and to satisfy independent oversight requirements with respect to the management of tax-credit bond-financed projects. Finally, the Treasury Department would be required to certify annually that funds deposited in the escrow accounts for repayment of tax-credit bonds (with actual and projected earnings thereon) are sufficient to ensure full repayment of the bond principal.

Tax treatment of improvements to property owned by freight railroads

The proposal would provide that any contribution by Amtrak of personal or real property funded by the proceeds of Amtrak tax-credit bonds would be considered a contribution to the capital of a corporation. Thus, such contributions would not be taxable to the recipient. Contributed property would have a zero basis in the hands of the recipient.

Effective Date

The provision would be effective on the date of enactment.

B. Broadband Internet Access Tax Credit

Present Law

Present law does not provide a credit for investments in telecommunications infrastructure.

Description of Proposal

In general

The proposal would provide a 10 percent credit of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which the taxpayer offers “current generation” broadband services to potential subscribers in rural and underserved areas. In addition, the proposal would provide a 20 percent credit of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which the taxpayer offers “next generation” broadband services to potential business subscribers in rural areas, underserved areas, and to any potential residential subscriber. The credit would be part of the general business credit and the taxpayer’s basis in qualified equipment would be reduced by any credit allowed.

Definition of “current generation broadband” and “next generation broadband”

Current generation broadband services would be defined as the transmission of signals at a rate of at least one million bits per second to the subscriber and at a rate of at least 128,000 bits per second from the subscriber. Next generation broadband services would be defined as the transmission of signals at a rate of at least 22 million bits per second to the subscriber and at a rate of at least 5 million bits per second from the subscriber.

Qualifying expenditures and equipment

Qualified expenditures would be those amounts otherwise chargeable to the capital account with respect to the purchase and installation of qualified equipment for which depreciation is allowable under section 168. Qualified expenditures would be those that are incurred by the taxpayer after December 31, 2001, and before January 1, 2003. The expenditures would be taken into account for purposes of claiming the credit in the taxable year in which the taxpayer places the qualifying equipment in service.² In the case of a taxpayer who incurs expenditures for equipment capable of serving both subscribers in qualifying areas and other areas, qualifying expenditures are determined by multiplying otherwise qualifying expenditures by the ratio of the number of potential qualifying subscribers to all potential subscribers the qualifying equipment would be capable of serving.

² For this purpose property placed in service by a taxpayer and which is subsequently sold and leased back by the taxpayer within three months of the date on which the property was originally placed in service will be deemed to be placed in service not earlier than the date on which such property is used under the leaseback.

Not all equipment capable of providing current generation or next generation broadband service would qualify for the credit. Qualifying equipment must be capable of providing broadband services a majority of the time during periods of maximum demand to each subscriber who is utilizing such services and in a manner substantially the same as like services are provided by the service provider to subscribers utilizing equipment on which no credit is allowed. In addition, services provided utilizing otherwise qualifying equipment must be offered to potential subscribers at prices deemed comparable, under Treasury regulations, to similar services offered elsewhere by the service provider in order for the equipment to be qualifying equipment.

Additional restrictions apply to qualifying equipment depending upon the equipment's place in the architecture of the broadband system. In the case of a telecommunications provider, qualifying equipment is only that equipment that extends from the last point of switching to the outside of the building in which the subscriber is located. In the case of a commercial mobile service carrier, qualifying equipment is only that equipment that extends from the customer side of a mobile telephone switching office to a transmission/reception antenna (including the antenna) of the subscriber. In the case of a cable operator or open video system operator, qualifying equipment is only that equipment that extends from the customer side of the headend to the outside of the building in which the subscriber is located. In the case of a satellite carrier or other wireless carrier (other than a telecommunications carrier), qualifying equipment is only that equipment that extends from a transmission/reception antenna (including the antenna) to a transmission/reception antenna on the outside of the building used by the subscriber. Any packet switching equipment deployed in connection with other qualifying equipment would be qualifying equipment, regardless of location, provided that it is the last such equipment in a series as part of transmission of a signal to a subscriber or the first in a series in the transmission of a signal from a subscriber. Multiplexing and demultiplexing equipment exploited in connection with other qualifying equipment would be qualifying equipment only to the extent such equipment is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptations, but only if such equipment is located between the last in the series of packet switches (as described above) and a building in which a subscriber is located.

Qualifying geographic areas

In general, qualifying expenditures must be for qualifying equipment placed in service in rural or underserved areas in the case of the credit for current generation broadband investments. In the case of the credit for next generation broadband investments, expenditures for qualifying equipment to serve potential residential subscribers, wherever located, would qualify.³

A rural area would be any census tract which is not within 10 miles of any incorporated or census designated place with a population of more than 25,000 and which is not within a county with a population density of more than 500 people per square mile. An underserved area would be any census tract that is located in an empowerment zone, enterprise community,

³ Treasury regulations would provide for the allocation of credit in the case of qualifying equipment providing next generation broadband services to home offices.

renewal community, the District of Columbia Enterprise Zone, or any geographic area designated as a “low-income community” for purposes of the “new markets tax credit” (sec. 45D(e)). However, if under regulation the Secretary determines that certain rural and underserved areas are “saturated markets,” taxpayers would not be permitted to claim the credit for current generation broadband investments related to expenditures for otherwise qualifying equipment placed in service in such areas. A saturated market would be a census tract in which one or more service providers offer current generation broadband service to 85 percent or more of individuals that reside within the census tract and that such service offered is available a majority of the time during periods of maximum demand to each subscriber who is utilizing such services and in a manner substantially the same as like services are provided by the service provider to subscribers utilizing equipment on which no credit is allowed.

Treasury regulations

The proposal directs the Secretary to designate and publish within 90 days of the date of enactment all areas that qualify as “rural,” “underserved,” and “saturated markets.” The proposal would direct the Secretary to prescribe regulations related to qualified expenditures such that competitive neutrality is maintained in the provision of broadband services and such that there are incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for potential subscribers in rural and low income areas and to all potential residential customers. The proposal would further provide that, until the Secretary prescribes regulations, taxpayers may make a reasonable determination for purpose of claiming credit so long as the taxpayer’s determination is consistent with maintaining competitive neutrality in the provision of broadband services and increasing the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for potential subscribers in rural and low income areas and to all potential residential subscribers.

Effective Date

The proposal would be effective for expenditures incurred after December 31, 2001.

C. Expansion of Period for Reinvestment of Converted Citrus Tree Property and Ratable Income Inclusion for Citrus Canker Tree Payments

Present Law

Generally, a taxpayer recognizes gain to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property. The recognized gain is subject to current income tax unless the gain is deferred or not recognized under a special tax provision.

Under section 1033, gain realized by a taxpayer from an involuntary conversion of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within the applicable period. The taxpayer's basis in the replacement property generally is the same as the taxpayer's basis in the converted property, decreased by the amount of any money or loss recognized on the conversion, and increased by the amount of any gain recognized on the conversion. The applicable period for the taxpayer to replace the converted property begins with the date of the disposition of the converted property (or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is earlier) and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized.

Description of Proposal

The proposal would permit a taxpayer to elect to treat any realized gain by reason of receiving a citrus canker tree payment ratably over a 10-year period beginning with the taxable year in which such payment is received or accrued by the taxpayer. The proposal would define a citrus canker tree payment as a payment made to an owner of a commercial citrus grove to recover income that was lost as a result of the removal of commercial citrus trees to control canker under the amendments to the citrus canker regulations made by the final rule published in the Federal Register by the Secretary of the Agriculture on June 18, 2001. An election under the proposal would be made by attaching a statement to that effect in the taxpayer's return for the taxable year in which the payment is received or accrued in the manner as the Secretary shall prescribe. The election would be binding for that taxable year and all subsequent taxable years.

The proposal also would extend the applicable period under section 1033 for a taxpayer to replace commercial citrus trees which are involuntarily converted under a public order as a result of citrus tree canker to four years after the close of the taxable year in which a State or Federal plant health authority determines that the land on which such trees grew is free from the bacteria that causes citrus tree canker.

Effective Date

The proposal would be effective for taxable years beginning before, on, or after the date of enactment.

D. Provision of Form 1099 Electronically

Present Law

Temporary regulations allow Form W-2 to be furnished electronically on a voluntary basis. Under Temp. Treas. Reg. Sec. 31.6051-1T(j), a recipient must have affirmatively consented to receive the statement electronically and must not have withdrawn that consent before the statement is furnished.

Description of Proposal

The proposal would allow IRS Form 1099 to be provided to taxpayers electronically, if they so consent. The authority would be granted for forms due for taxable years ending before January 1, 2003.

Effective Date

The proposal would be effective on date of enactment.

E. Expand Exemption from Aviation Fuels Excise Taxes for Aerial Applicators

Present Law

Excise taxes are imposed on aviation gasoline (19.4 cents per gallon) and jet fuel (21.9 cents per gallon) (secs. 4081 and 4091). All but 0.1 cent per gallon of the revenues from these taxes are dedicated to the Airport and Airway Trust Fund. The remaining 0.1-cent-per-gallon rate is imposed for the Leaking Underground Storage Tank Trust Fund.

Fuel used on a farm for farming purposes is exempt from tax. Aerial applicators (crop dusters) are allowed to claim the exemption on behalf of farm owners and operators, e.g., in the case of aviation gasoline if the owners or operators give written consent to the aerial applicators. This exemption applies only to fuel consumed in the airplane while operating over the farm, i.e., fuel consumed traveling to and from the farm is not exempt.

A further exemption applies to fuel used in helicopters engaged in oil, gas, and hard mineral exploration and timber operations when the helicopters are not using the Federally funded airport and airway services.

Description of Proposal

Three modifications would be made to the exemptions for aviation fuel consumed by aerial applicators. First, the direct exemption beneficiary would be changed to the aerial applicator in all cases. Second, the exemption would be expanded to include fuels consumed when flying between the farm where chemicals are applied and the airport where the airplane takes off and lands. Third, the present exemption for helicopters engaged in timber operations would be expanded to include fixed-wing aircraft.

Effective Date

The proposal would be effective for fuels consumed during calendar year 2002.

F. Recovery Period for Certain Wireless Telecommunications Equipment

Present Law

Depreciation allowances for property used in a trade or business generally are determined under the modified Accelerated Cost Recovery System (“MACRS”) of section 168. Under MACRS, qualified technological equipment is depreciated for regular tax purposes over a 5-year recovery period using the 200-percent declining balance method. Qualified technological equipment includes any computer or peripheral equipment, any high technology station equipment installed on the customer’s premises, and any high technology medical equipment.

Description of Proposal

The proposal would define qualified technological equipment to include wireless telecommunications equipment for property placed in service after September 10, 2001, and before September 11, 2002. Wireless telecommunications equipment would be defined as equipment used in the transmission, reception, coordination, or switching of wireless telecommunications service. Wireless telecommunications equipment would not include towers, buildings, T-1 lines and other cabling connecting cell sites to mobile switching centers. For this purpose, wireless telecommunications service includes any commercial mobile radio service as defined in title 47 of the Code of Federal Regulations.

Effective Date

The proposal would apply to wireless telecommunications equipment placed in service after September 10, 2001, and before September 11, 2002.⁴

⁴ No inference is intended as to the proper treatment of wireless telecommunication equipment under present law.

G. Native American Breast and Cervical Cancer Prevention and Treatment Act Technical Amendment

Present Law

The “Breast and Cervical Cancer Prevention and Treatment Act of 2000” (Pub. L. 106-354) gives states the option to extend coverage for the treatment of breast and cervical cancer through the Medicaid program to certain women who have been screened by programs operating under Title XV of the Public Health Service Act (the National Breast and Cervical Cancer Early Detection program) and who do not have “creditable coverage,” as defined by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

In referencing the HIPAA definition of “creditable coverage,” the bill language effectively precludes coverage to Native American women who have access to medical care under the Indian Health Service (“HIS”), which runs counter to all other Medicaid law that recognizes Native Americans as citizens of their individual states for the purpose of qualifying for Medicaid coverage.

Description of Proposal

The Chairman’s Modification would make a technical change to the “Breast and Cervical Cancer Prevention and Treatment Act” (Pub. L. 106-354) by clarifying that American Indian and Alaska Native women should not be excluded from receiving coverage through Medicaid for breast and cervical cancer treatment through the end of fiscal year 2002.

Effective Date

The proposal would be effective for fiscal year 2002 only.

H. Emergency Spending

This provision would designate much of the Chairman's mark as an emergency.