

EXECUTIVE COMMITTEE MEETING

BUDGET RECONCILIATION LEGISLATION

THURSDAY, OCTOBER 19, 1995

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

The meeting was convened, pursuant to recess, at 9:12 a.m., in Room SD-215, Dirksen Senate Office Building, Hon. William V. Roth, Jr., Chairman of the Committee, presiding.

Also present: Senators Dole, Chafee, Grassley, Hatch, Simpson, Pressler, D'Amato, Murkowski, Nickles, Gramm, Moynihan, Baucus, Bradley, Pryor, Rockefeller, Breaux, Conrad, Graham, and Moseley-Braun.

Also present: Lindy Paull, Staff Director and Chief Counsel; Joseph Gale, Minority Staff Director and Chief of Staff; Leslie Samuels, Assistant Secretary for Tax Policy, Department of the Treasury; Ken Kies, Staff Director, Joint Tax Committee; Mark Prater, Chief Tax Counsel; Thomas J. Roesser, Tax Counsel; Doug Fisher, Tax Counsel; and Jon Talisman, Chief Counsel, Minority.

1 The Chairman. Good morning. Senator Moynihan and I
2 discussed and agreed upon last night. We have, of
3 course, completed the walk-through of the tax provisions
4 in the Chairman's mark. And we will now open the floor
5 up for amendment.

6 It has been agreed that there will be a maximum of
7 seven hours of work on amendments. At the conclusion of
8 the seven hours, there will be a vote on final passage.
9 I think that was the agreement we had reached, Senator
10 Moynihan.

11 Senator Moynihan. Yes, Mr. Chairman.

12 The Chairman. Now, I would hope that we can make
13 consideration of the amendments in orderly process. I
14 believe that has been discussed with the minority side.
15 And we are all in agreement.

16 And in that regard, I would ask our ranking member,
17 Pat Moynihan, that it would be greatly appreciated if we
18 could line up four to five amendments at a time to enable
19 the hearing Clerk to make sure copies are available for
20 members and staff.

21 I understand that there will be a few votes later on
22 this morning, but I expect to work through those votes.
23 The Senate comes in at 10:00 a.m. today. So if there is
24 an objection, and I hope that there is not to our
25 meeting, we would have to recess at noon.

1 I certainly hope that there will not be an objection,
2 as I say, to finish up our marks so that we can finish at
3 a reasonable time late this afternoon or early evening.

4 I would say, Senator Moynihan, that the staff has
5 worked overnight to review the list of amendments. And I
6 can accept two amendments: Senator Baucus' amendment,
7 number one, to preserve the tax favor treatment for
8 annuities sponsored by Indian tribes; and, two, your
9 amendment to require that notice be given to pension plan
10 participants of a pension reverse.

11 Senator Moynihan. Thank you, Mr. Chairman.

12 The Chairman. So I now turn to you, sir, for any
13 comments you may care to make.

14 Senator Moynihan. Mr. Chairman, first, to thank you
15 for your courtesy and patience with us as we worked out
16 our necessary complicated plans for the day.

17 We will commence now. And we will get through the
18 day. I think there is nothing to say beyond that I am
19 ready to offer the first of the two amendments which I
20 will offer.

21 Is it your view, sir, that we should have 10 minutes
22 equally divided?

23 The Chairman. Whatever. Normally, that is the
24 case. We do have a 7 hour limitation.

25 Senator Moynihan. Yes. We don't use it every time,

1 but sometimes you may let it spill over.

2 The Chairman. Okay.

3 Senator Breaux. Mr. Chairman.

4 The Chairman. Yes.

5 Senator Breaux. I was just kind of curious as to
6 whether we are going to have any of your Republican
7 colleagues here to listen to Senator Moynihan's arguments
8 in order to determine how they are going to vote.

9 The Chairman. I had been delegated the
10 responsibility of listing very carefully.

11 Senator Breaux. And also the responsibility.

12 The Chairman. Senator Moynihan.

13 Senator Moynihan. Mr. Chairman, this is the first
14 of two amendments which I will offer essentially for the
15 Democratic side, which will take proceeds, if you will,
16 from our statement yesterday that we feel the deficit is
17 our most important problem.

18 The health care programs are surely the most
19 important priority at this point, and that we feel that a
20 tax cut is simply not in order.

21 There is no need for a tax cut. We are at full
22 employment or very near there. We have an economy moving
23 very well, inflation perhaps as low as 2 percentage
24 points. This is without equal in the long postwar ----
25 well, in the long half century in American history.

1 If we can have order, Mr. Chairman, I would like to
2 make a point. In the course of the debate over the
3 consideration of the health care measures, Senator
4 Rockefeller and I offered a proposal to restore most of
5 the reductions in Medicare, in the growth of Medicare to
6 conform with the President's analysis that \$113 billion
7 would be acceptable and manageable. \$270 billion, we
8 feel is too much.

9 And accordingly, this amendment proposes that we do
10 not have a tax cut, that we use the money to reduce the
11 reduction in the growth of Medicare. I apologize for
12 that necessary term "reduce the reduction in the growth
13 of," but I think by now we know what we mean.

14 To restore \$13 billion to the earned income tax
15 credit so that it drops from \$43 billion to \$30 billion.
16 That is the reduction.

17 And I may, sir, that overnight, the Treasury has
18 heroically produced a table showing the distribution by
19 the income class of the reductions in taxes and the
20 increases in taxes.

21 And precisely as the joint tax committee, the Joint
22 Committee on Taxation did yesterday, the Treasury this
23 morning tells us that taxes will be increased under the
24 present proposal for all taxpayers with incomes under
25 \$30,000. It will be increased. After that, they are

1 decreased.

2 This is a pattern I think we now have heard it from
3 the Joint Tax and we have heard it from Treasury. We can
4 accept it as settled. We think this is inappropriate.

5 It is not tax cut indeed for perhaps half the
6 population. It is a tax increase.

7 We would use the remainder of the monies saved by not
8 having a tax cut for deficit reduction. So we combine
9 our two views.

10 One is that the maintenance of the health care system
11 is a first priority for America at this point or the ones
12 that we are concerned about in this regard, and that
13 deficit reduction is our largest national priority.

14 And other Senators may wish to say something. Sir, I
15 don't want to use all of my time. I yield the balance of
16 my time to whomsoever.

17 The Chairman. Senator Rockefeller.

18 Senator Rockefeller. Mr. Chairman, I can't imagine
19 a more fundamental and defining amendment, as between the
20 two sides of the aisle, so to speak, as represented in
21 this committee.

22 And I just think that Senator Moynihan has put
23 forward the second most critical amendment of the day.

24 The Chairman. Any further? Senator Conrad, please.

25 Senator Conrad. This is, Mr. Chairman, I think one

1 of the most important things we can bring to our
2 colleagues and the attention of the American people.

3 The fact is we are going to add \$1.3 trillion to the
4 debt during the seven years of this so-called balanced
5 budget plan.

6 First of all, I think it is important for people to
7 understand there is no balanced budget here. If you read
8 the budget transmittal document, it says very clearly in
9 the year 2002, there is going to be a \$108 billion
10 deficit.

11 The only way anybody can claim that this balances the
12 budget is by taking every penny of Social Security
13 surplus over the next seven years, throwing that into the
14 pot, and calling that a balanced budget.

15 By our own law, that is not a balanced budget. We
16 have specifically provided by a vote of the members of
17 the Congress that that is not the definition of a
18 balanced budget.

19 And yet, we keep on with this charade that we are
20 balancing the budget. Number one, we are not balancing
21 the budget. Number two, we are adding \$1.3 trillion to
22 the national debt during this period.

23 And by having a tax cut of \$224 billion, we are
24 simply adding to the national debt.

25 The people of my State have told me overwhelmingly,

1 they think that is a mistake. They think we should
2 balance the budget before any tax cut. As I said
3 yesterday, it is a lot like kids eating dessert before
4 their dinner.

5 So I strongly support the amendment of the Senator
6 from New York. It is not good fiscal policy. It is not
7 responsible fiscal policy. It is added to the debt of
8 the country.

9 We certainly should not do that when we are already
10 \$5 trillion in debt.

11 Senator Moynihan. \$5 trillion I would say which \$4
12 trillion have been added in the last 12 years.

13 The Chairman. Senator Breaux.

14 Senator Breaux. Mr. Chairman, I support Senator
15 Moynihan's recommendation. It is not going to pass, but
16 I think it clearly makes a real point that needs to be
17 made.

18 We had a lot of talk from members of this committee
19 about courage and how we on this particular committee
20 have to have the courage to do what is right.

21 We have to have the courage to fix Medicare. We have
22 to have the courage to balance the budget. We have to
23 have the courage to fix the entitlement problem.

24 And all of this is absolutely correct, but let me
25 tell you what does not take courage. It does not take

1 courage for politicians to pass tax cuts.

2 That is real easy. It is generally very popular. It
3 does not take any courage to pass tax cuts. It only takes
4 politics.

5 I was impressed by the statements that I think were
6 statements of courage by our Republican colleagues on
7 this very issue before we got to the mark-up and before
8 we had a packaged delivered that was written and hatched
9 and conceived in the other body and sent to us with huge
10 massive tax cuts.

11 Those were the real words of courage that were
12 uttered by our colleagues before they got a message from
13 the other body to fall in line and to follow what the
14 House has done almost as a direct order to the Senate.

15 I talked with the friends on the other side and
16 members of this committee. So did D'Amato. And I am
17 sorry he is not here. And I would be happy to let him
18 respond when he gets here.

19 We talked about Medicare. He said Medicare is a
20 flawed system, but it can be fixed, quote, without this
21 business of tax cuts.

22 Good friend Senator Simpson who is here, I have never
23 been for a tax cut for the rich or anyone else. I don't
24 see how we can get there. Senator Hatch, the same
25 statement.

1 Those really were statements of courage because to
2 say that with a country that has almost a \$5 trillion
3 long-term debt that we should not be embarking on a \$245
4 billion tax cut at this time I think were words of
5 courage.

6 It does not take courage to do what we are going to
7 do today. So I commend Senator Moynihan for his
8 amendment. And I support it.

9 The Chairman. Senator Simpson.

10 Senator Simpson. Speaking of courage, I cannot
11 understand how under this amendment you can come up with
12 extending Medicare part B premiums at 25 percent.

13 Now, that is a flight from reality because if you
14 will recall, and many of you on this panel do, the
15 original part B premium of Medicare was to be paid 50
16 percent by the beneficiary and 50 percent by the Federal
17 Government.

18 Now, it is at 31 percent. And so as I have said many
19 times, Joe Six Pack is paying 70 percent of the premium
20 for a Paul Mellon. And if that isn't the stupidest thing
21 I can imagine.

22 So let's have a little courage and put this back to
23 50 percent. That would be a wonderful amendment that I
24 would make and will not make it here to help clean up the
25 wreckage.

1 Senator Moynihan. I will co-sponsor.

2 Senator Simpson. Ah, that is a dandy thing. Well,
3 there is two. Put the premium back where it was when we
4 started which is 50 percent.

5 And do you know how it got by under 31? By lack of
6 courage. You simply came to the floor. And you said,
7 what a terrible thing we are doing.

8 Why should the dear old beneficiary have to pay 50
9 percent? So we will let the beneficiary pay, I think it
10 first went to, 44 percent that they should pay and then
11 40 if I recall some of that, then 31.

12 And so regardless of your net worth or your net
13 income, Jose Six Pack is paying 70 percent of the premium
14 for Paul Mellon. Now, that is absurd. And you know it.
15 And I know it.

16 So we will do a little courage on that one later.
17 And it is good to know there will be some that will help
18 me put that back up to 50 percent. I will not do it here
19 in this panel.

20 And then, if you really want to do some courage then,
21 I hope you will all wade in with me on the Social
22 Security system without falling forward into your
23 microphones.

24 Social Security will go broke, absolutely flat broke
25 in the year 2029. And thanks to the ranking member of

1 this committee, Senator Moynihan, who follow with great
2 respect and admiration, he and a blue-ribbon commission,
3 including Senator Dole with that same degree of respect
4 that we have and admiration, put together a package that
5 would save Social Security until the year 2063.

6 Guess what? That was in the early 1980s. And now,
7 Social Security will go broke in the year 2029. We have
8 moved up the doomsday date, five, six, seven years at a
9 crack.

10 So I hope that, as we are talking about courage,
11 someone will lift from the tattered pile of rubbish the
12 Social Security system which is \$360 billion a year,
13 which is going to people.

14 And they are receiving all of their benefits back
15 plus interest in the first six and a half years of the
16 benefit period.

17 If they are my age of 64 and were self-employed, then
18 between the years 54 and 78, they never put in over \$864
19 a year ever. Get it? \$864 a year. And they are going
20 to get out \$1,100 a month.

21 So let's have a little courage. And let's take a
22 good look at a good bipartisan effort by Senator Robert
23 Kerrey of Nebraska and Alan K. Simpson of Wyoming which
24 restores solvency to Social Security finally.

25 It talks about COLAs. It talks about personal

1 investment accounts. Instead of putting the whole thing
2 of 6 1/2 percent into the system, you put 4 1/2 percent
3 in. And the other 2 percent goes to a personal
4 investment plan.

5 You do something about a cost-of-living allowance.
6 We just saw a cost-of-living allowance go to Social
7 Security recipients. I believe it was 2.6 percent. That
8 costs you billions of bucks.

9 So if you want to get in and help the poor and the
10 wretched, the BLS came out with the COLAs number for next
11 year, 2.6.

12 That means the average the Social Security benefit
13 will increase \$18 from \$702 to \$720. This will go into
14 effect January 3, 1996. And it is billions.

15 And I am not complaining about it all, except one
16 thing. Those COLAs should be means tested. Forty
17 percent of those COLAs go to people who would be
18 described in any other country as rich.

19 So every time we throw up the red badge of courage, I
20 will throw it right back because there isn't a soul in
21 this room who shows up when we are working on something
22 which is \$360 billion a year and sucking the guts out of
23 America. And you know it. And I know it.

24 So when I hold those hearings with Senator Kerrey and
25 others who are interested saving the system instead of

1 just babbling about it, I hope that many will show up.
2 And we will certainly give you some instructional
3 material as to how you can help do something for
4 grandchildren and children in society. We hear so much
5 about that.

6 So there are other little notes and tattered
7 documents floating around. So if you really want to get
8 to some big bucks, let's start with the biggest, the
9 biggest macedon in the jungle. It is still dead.

10 Senator Conrad. Mr. Chairman.

11 The Chairman. Senator Conrad.

12 Senator Conrad. The statement of my good friend
13 Senator Simpson reminds me of that old saw: the louder
14 they boast of their honor, the faster I count my spoons.

15 I find it remarkable. We are not dealing with that
16 part of the budget here today that he is talking about.
17 I frankly share his views on that part of it.

18 I wish he shared my views on the other side of the
19 ledger because what we are doing here is rating every
20 penny of Social Security trust fund surplus over the next
21 seven years. That is the budget that he is signing up
22 to. That is the plan that he is voting for.

23 We are going to take over the next seven years \$636
24 billion of Social Security trust fund surpluses and throw
25 those into the pot and claim we are balancing the budget.

1 I just hope the American people understand the
2 enormous transfer of wealth that is going on here because
3 it is an enormous fraud what is occurring here.

4 What we are doing is taking money from people on
5 their payroll taxes, a regressive tax. Seventy-three
6 percent of the people in this country pay more money in
7 payroll taxes than they pay in income taxes.

8 And what is going on here? We are taking money from
9 them on their payroll taxes. We are generating a surplus
10 supposedly to prepare for when the baby boom generation
11 retires. We are not doing that.

12 We are spending every penny. And in fact, part of
13 that money, a third of it, we are flushing back out in a
14 tax cut 48 percent of the benefit of which goes to people
15 earning over \$100,000 a year.

16 So in effect what is happening here is you are taking
17 money on a payroll tax from Joe Six Pack, as we have
18 heard referred to him. We are taking money from him.
19 And we are turning a surplus that as a result generated
20 and flushing it back out to people and giving 48 percent
21 of the benefit to people earning over \$100,000 a year.
22 And then, we are saying we are helping the American
23 family.

24 Well, I tell you, the American family that is getting
25 help is the wealthy American family at the expense of the

1 lower income, middle income working family. That is what
2 the tax tables show. So let the shell game begin.

3 Senator Hatch. Mr. Chairman.

4 The Chairman. I would like to ask Mr. Kies, who
5 gets the benefit of our tax proposal?

6 Mr. Kies. Mr. Chairman, as indicated in the
7 distributional analysis that was provided to you and to
8 other members of the committee, the benefit is spread
9 throughout the income classes with the substantial
10 portion of it landing in the \$20,000 to \$75,000 range.

11 By way of example, in 1996, there is a ----

12 Senator Moynihan. Mr. Kies, you cannot say spread
13 throughout. The income of persons below \$30,000, there
14 is a tax increase in both your table and the Treasury
15 table.

16 Mr. Samuels, pay attention.

17 Mr. Kies. Senator Moynihan, as I indicated, I am
18 responding to Senator Roth's question about the proposal
19 before the committee today. The proposal before the
20 committee today provides tax cuts from the lowest to the
21 highest income ranges.

22 You are quite correct. The analysis provided to you
23 which incorporated changes in outlay spending under the
24 EITC and revenue spending under the EITC does show a
25 slightly different distribution.

1 But the tax benefits even under the proposals,
2 including the effects of the revenue piece of the EITC
3 are basically spread from the \$30,000 income range up to
4 primarily the \$75,000 income range.

5 Again, by way of example, for 1996, there is a \$26
6 billion tax cut. \$256 million of that goes to the over
7 \$200,000 income class. \$2.2 billion to \$100,000 to
8 \$200,000 income class. All the rest is below that.

9 So of the \$26 billion, approximately \$23 billion goes
10 to those below \$100,000 in income class.

11 It does change as you go along because the effects of
12 capital gains do have an impact in the outer years.

13 But if you go to year 2000, the total tax cut is \$39
14 billion. Of that, approximately \$33 billion is in the
15 under \$100,000 income class. And approximately \$28
16 billion is in the under \$75,000.

17 Senator Moynihan. Mr. Chairman, could we ask the
18 Assistant Secretary Samuels to comment?

19 The Chairman. Yes, brief comments.

20 Mr. Samuels. Senator Moynihan, the Treasury has
21 completed its distributional analysis. This is in the
22 format and methodology that is essentially the same as we
23 have been using since 1990.

24 It shows that those who have incomes up to \$30,000
25 will have a tax increase and that 48 percent of the tax

1 change will accrue to, this is a tax cut, those making
2 more than \$100,000.

3 Senator Moynihan. That was Senator Conrad's figure.

4 Mr. Samuels. Correct.

5 Senator Moynihan. Forty-eight percent accrues to
6 families with incomes of \$100,000 or more.

7 Mr. Samuels. Correct.

8 The Chairman. I just want to emphasize the point
9 that EITC is a welfare program, a social welfare program
10 exactly the same as AFDC. It just happens to be
11 administered by the IRS.

12 It is not a tax cut as far as they are concerned.
13 But it is just as much as a social program as AFDC or
14 food stamps or whatever. And I think it is important to
15 understand that.

16 But let me just make a couple of observations. I was
17 interested in the morning paper, the Washington Times
18 where it says, Clinton's tax confession spurs
19 consternation in both parties.

20 And what does the President of the United States have
21 to say? He says that the tax increase last year or two
22 years ago was too high, was too much. And with that I
23 firmly agree.

24 Now, I want to point out what has happened. The
25 Republicans made four pledges. They said they were going

1 to save Medicare.

2 It was the President's own board of trustees who
3 strongly indicated that if we didn't do something about
4 Medicare it would be bankrupt by the year 2002.

5 We said we were going to reform welfare. We have
6 kept that promise. And we said we were going to balance
7 the budget. And we have balanced the budget.

8 I would just point out that the Congressional Budget
9 Office in a letter October 18th, and I quote exactly what
10 it says: Based on those estimates using the economic and
11 technical assumptions underlying the budget resolution
12 and assuming the level of discretionary specified in that
13 resolution, CBO projects that enactment of the
14 reconciliation legislation submitted to the Budget
15 Committee would produce a small budget surplus in 2002.

16 Senator Conrad. Would the Chairman yield for a
17 question?

18 The Chairman. No. I will not.

19 As I said, if we kept those four promises, then it
20 was agreed that there would be a tax cut. And that is
21 what we are addressing today.

22 And let me just make a point. All we seem to be
23 interested in talking about is income redistribution.
24 That is not the answer to the problem of this country.

25 What is we want is growth, opportunities, and jobs.

1 And that is what we seek to do by our tax cuts.

2 First of all, most of it goes to the family to help
3 ensure family life has a future in this country. I think
4 it is something like 64 percent of the tax cut is family
5 tax relief: \$500 child credit permanent, adoption
6 credit, up to \$5,000.

7 We eliminate the marriage penalty for literally
8 millions of American. And we provide up to \$500 student
9 loans. These all help the family.

10 But let me say as important as they are, they are no
11 more important than savings and investment because if we
12 are going to have a future, if we are going to have
13 upward mobility, then we have to have the kind of
14 policies that are going to create growth.

15 And I am proud of the fact that we are here talking
16 about a tax cut because I agree with what the President
17 said. And let me just say again the tax cut was far too
18 high, even though my distinguished friend and colleague
19 does not agree with me.

20 Senator Bradley. Mr. Chairman, could I see that
21 newspaper? Could you bring it a little closer?

22 Senator Moynihan. There is no need in waving it
23 around that much.

24 [Laughter]

25 Senator Hatch. Mr. Chairman.

1 The Chairman. Senator Hatch.

2 Senator Hatch. Well, you know, I get a little tired
3 of some of these hysterical comments coming from the
4 other side. Of course, I would not accuse anybody on
5 this committee of that, although it comes close.

6 The fact of the matter is that we have become a
7 redistributational State. The fact of the matter is people
8 on welfare, and you add up all the transfer payments that
9 are being paid, are doing much better in many States than
10 people who work. The incentives are there.

11 Why there are even some who are so crass who would
12 say that the Democrats have been in control of Congress
13 for most of the last 60 years, who are they to complain
14 now that we have to try and balance the budget? And we
15 are going to have to do something about the high taxes on
16 the American people.

17 If you look at it, Mr. Chairman, all of this talk
18 about tax cuts going mostly to the rich is pure bunk.
19 You've just outlined the middle class tax cuts in this
20 bill, things that are long overdue.

21 In every year, between 1996 and the year 2002, the
22 share of income taxes paid by those making over \$100,000
23 goes up, not down under this bill.

24 If you use this distributional fix ---- chart, those
25 making \$100,000 to \$200,000 pay 17.1 percent in Federal

1 taxes today under present law. Those over \$200,000,
2 18.9.

3 If you go under this proposal, those making \$100,000
4 to \$200,000 go up to 17.3 percent. Over \$200,000 from
5 18.9 to 19.3 percent.

6 The fact of the matter is that the vast majority of
7 these tax cuts are going to benefit the middle class
8 which is what we are trying to do here. And they are
9 long overdue.

10 But having made that point, let me just make another
11 point that I think is valid. We have gotten ---- just
12 let's just take the 10 top States in this country. When
13 you add up all the transfer payments, food stamps,
14 welfare, AFDC, EITC, there is \$13 billion in my dear
15 friend's amendment here.

16 Senator Moynihan. That is correct, sir.

17 Senator Hatch. Restored to EITC, the earned income
18 tax credit.

19 Senator Moynihan. Yes, sir.

20 Senator Hatch. Now, I happen to be a supporter of
21 the EITC, but I think it ought to be for those who are
22 really on the lowest level and need the help, not for the
23 vast numbers of people who are taking advantage of it.
24 It has gone up 1,200 percent in 10 years.

25 1,200 percent, am I wrong on that, Mr. Kies?

1 Mr. Kies. No. That is correct, Senator Hatch.

2 Senator Hatch. I mean, that is clearly out of
3 control. And yet, we are going to have \$13 billion more.
4 Let me make this point. You add up all the transfer
5 payments that really have to be called welfare.

6 And according to a recent study by the Kato
7 Institute, whether you agree or disagree, it is still
8 worthwhile debating. The top State is Hawaii. The
9 welfare benefits if you add them all together, people on
10 welfare get \$27,736. They have that potential.

11 You would have to have a pre-tax ---- that is all tax
12 free, by the way. You would have to have a pre-tax
13 equivalent, \$28,400.

14 Now, if you go to the 10th State, New Hampshire, they
15 give ---- and that goes to Alaska giving welfare transfer
16 payments of \$26,849, Connecticut \$24,474. These are all
17 nontaxable benefits, right, Mr. Kies?

18 Mr. Kies. That is correct.

19 Senator Hatch. Okay. Massachusetts, \$24,176. The
20 District of Columbia, \$22,745. New York, \$22,124 right
21 on down to New Hampshire at \$19,964. You would have to
22 have \$22,800 in taxable income to compete with what they
23 are getting on welfare.

24 In other words, in many of these States ---- and you
25 can go right down to the top 25, \$17,000. Wisconsin is

1 the 25th, \$17,389 on welfare transfer payments. You
2 would have to have \$19,400 in taxable income to pay for
3 it ---- I mean, to have an equivalent.

4 What we are saying is we are paying to some people on
5 welfare in these States than we do for beginning
6 teachers.

7 And it is because of this welfare mentality, this
8 redistributionist mentality that we are going to take of
9 the poor. We are not taking care of the poor. We are
10 ensuring that they are poor.

11 I saw a cartoon not too long ago where one of our
12 leading Democrats in a very cartoon type way caricature
13 was saying to another Senator, we Democrats love the
14 poor. And we aim to keep them that way.

15 The fact of the matter is why would anybody not want
16 to be on welfare getting \$27,000 a year nontaxable when
17 you would have to have \$38,400 in taxable as an
18 equivalent?

19 We are paying more on welfare to some of these
20 families than we are to teachers, beginning teachers. We
21 are paying more on welfare to some of these families than
22 we are to beginning computer programmers.

23 Now, all we hear from some on the other side is how
24 the poor and how we've got to do more for the poor and
25 how we are not doing what is right by the poor and how we

1 can't have taxes for the middle class that is paying all
2 this freight.

3 Well, I agree with the Chairman. It is time to get
4 some sense into this system. It is time to benefit the
5 middle class. And frankly, I am disappointed in this
6 Administration for not being at the forefront of trying
7 to cut taxes in ways that will stimulate the economy and
8 benefit the economy.

9 And frankly, for a new Democrat, I thought President
10 Clinton was going to do that. But all we get are the
11 same redistributionist sentiments and from some of our
12 colleagues even on this committee.

13 As bright as they are all and as good friends as they
14 all are, we are getting nothing but we are not taking
15 care of the poor.

16 Listen, this country does take care of the poor
17 better than any country in the world.

18 Senator Bradley. Mr. Chairman.

19 Senator Hatch. And we are doing it to the point of
20 outrageous cost to the middle class.

21 Senator Bradley. Mr. Chairman.

22 The Chairman. Senator Bradley.

23 Senator Bradley. I don't know which vote is the
24 vote of the other side, whether it is the Chairman's or
25 whether it is Senator Hatch.

1 I mean, the Chairman says the EITC is welfare more
2 than the welfare program.

3 Senator Hatch. That is what it is.

4 Senator Bradley. And Senator Hatch said you liked
5 it.

6 Senator Hatch. I would like to have it used
7 appropriately and kept within spending bounds. I would
8 support it on that basis.

9 Senator Bradley. As a welfare program?

10 Senator Hatch. It is running out of control. As a
11 welfare program. Sure. I don't fail to support welfare,
12 I just think it ought to be reasonable. And I don't
13 think it should balloon the middle class and everybody
14 else to death.

15 Senator Bradley. Well ----

16 Senator Hatch. And I don't think we ought to pay
17 more to ----

18 Senator Bradley. Right. Well, this is another one
19 of these red herrings that comes out here that we are
20 going to look at. It is irrelevant to the issue.

21 Senator Hatch. All right.

22 Senator Bradley. The question is this is an
23 amendment to restore the earned income tax credit. Now,
24 the Chairman reiterates that the earned income tax credit
25 is nothing but a welfare program.

1 Now, about \$10 billion of the \$42 billion is a
2 reduction in income tax that working people pay. These
3 are the people that Senator Hatch and others say are
4 pulling the freight.

5 These are not people on welfare. These are people
6 who are working. They pay income tax like 106 other
7 million Americans.

8 The earned income tax credit gives them a credit for
9 the income tax that they pay.

10 Senator Hatch. At a cost of \$32 billion.

11 Senator Bradley. No, no. That is \$10 billion.

12 That is what it costs. We are restoring. We are saying
13 those working people deserve a tax cut as much as anybody
14 else, an income tax cut.

15 They are working. They are paying income tax. It is
16 not a welfare program.

17 And the Treasury and the Joint Tax will confirm that
18 \$10 billion is a tax ---- income tax cut.

19 Now, these recipients who are working in addition to
20 paying income tax pay Social Security tax. You've got to
21 work. You pay Social Security tax.

22 \$20 billion of the \$42 billion goes to offset the
23 Social Security taxes. So 75 percent of this earned
24 income tax credit goes to offset taxes that working
25 Americans are paying, \$10 billion in income tax, \$20

1 billion in Social Security tax.

2 If the distinguished Chairman and the Senator from
3 Utah were saying we should trim this back \$10 billion and
4 only offset the taxes that people pay, that would make
5 sense maybe.

6 I mean, I wouldn't necessarily agree with it, but it
7 might make sense. But that is not what they are saying.
8 And that is not what their proposal did.

9 Their proposal said increase taxes. And that is what
10 we are trying to offset. So let's make no mistake. This
11 is not a welfare program. For 75 percent of the benefit,
12 it offsets taxes that working people pay.

13 And the Senator says, well, if we kept it under
14 \$22,000, that would be great. My response to that is
15 what is the matter with giving a tax cut to somebody
16 making \$27,000 a year?

17 Why do we want to raise taxes on people making
18 \$27,000 or \$24,000 or \$25,000?

19 Senator Hatch. Mr. Chairman.

20 Senator Bradley. And so, Mr. Chairman, I would
21 suggest that this amendment is, well, it is a chance to
22 make the point that we do not want to increase taxes on
23 people making under \$28,000 a year which is what the
24 Chairman's mark does.

25 Senator Hatch. Mr. Chairman.

1 The Chairman. Senator Hatch.

2 Senator Hatch. I am going to answer that. Mr.
3 Kies, isn't it true that even under the Republican
4 proposal here that the earned income tax credit is going
5 to go up every year over the next seven years?

6 Mr. Kies. Senator Hatch, that is correct. It
7 will ----

8 Senator Hatch. We are not talking about cutting it,
9 are we? It is going to go up every year, right?

10 Mr. Kies. That is correct.

11 Senator Hatch. Do you know approximately the
12 percentage it will go up?

13 Mr. Kies. I don't know the exact percentage, but it
14 does ----

15 Senator Hatch. But it definitely goes up each and
16 every year from here on end. It is not going to go up
17 1,200 percent over the next 10 years?

18 Mr. Kies. That is correct.

19 Senator Hatch. Which is what happened over the last
20 10 years, right?

21 Mr. Kies. Correct.

22 Senator Hatch. As everybody and their dog started
23 to jump into this, right? What is the recognized or at
24 least suggested fraud rate that that 1,200 percent growth
25 on EITC?

1 Mr. Kies. In the past, there has been substantial.
2 It has been as high as 28 to 30 percent.

3 Senator Bradley. I don't agree. I don't think that
4 balances with the facts.

5 Mr. Samuels. That is not right.

6 Senator Bradley. That is not a fact, Mr. Kies.
7 Again, this is misrepresented.

8 Mr. Kies. Let me finish.

9 Senator Bradley. You show me a document.

10 Senator Moynihan. May we have order?

11 The Chairman. Senator Hatch has the floor.

12 Mr. Kies. I would be happy to share those documents
13 with you.

14 Senator Moynihan. May we have order?

15 Senator Bradley. To the committee.

16 Senator Hatch. If I could just continue my
17 questions. There is no reason to get excited here. I
18 mean, we are just talking about the poor taxpayers'
19 money.

20 And, you know, we can distribute those any way we
21 want to. And over the last 60 years, we distributed them
22 to such a degree that people in welfare get more than
23 beginning teachers in a lot of these States. Now, maybe
24 that says something about our ---- even the approach
25 towards education.

1 But I think it is the time to stop it and to start
2 recognizing that we are not failing to take care of the
3 poor in this society. And we do it to a pretty high
4 degree.

5 From the lowest State, 51, Mississippi, \$13,033 on up
6 to the highest, \$27,000, almost \$28,000 in Hawaii. A
7 number of these States pay more in welfare for people on
8 welfare than beginning teachers or beginning computer
9 programs or beginning laborers or beginning people who
10 learned a trade like I did and work their guts out every
11 day when you consider what they got to make from a
12 taxable standpoint.

13 Senator Bradley. Would the Senator yield?

14 Senator Hatch. If I just finish and then I would be
15 happy to.

16 And EITC has gone up 1,200 percent in the last 10
17 years, right?

18 Mr. Kies. That is correct.

19 Senator Hatch. I don't think anybody can justify
20 that. I have heard that the fraud rate is as high as 40
21 percent. Now, whether that is so or not, I may --

22 Senator Bradley. Show us the document. Don't cast
23 numbers on the floor. Show us the document.

24 Senator Hatch. Let's say it is 10 percent. I have
25 seen 40 percent.

1 Senator Bradley. Show us. Where is it in black and
2 white?

3 The Chairman. Senator Hatch has the floor.

4 Senator Rockefeller. He has had for about 15
5 minutes.

6 Senator Hatch. I think anything is up 1,200 percent
7 in 10 years, you are going to find some fraud.

8 Senator Gramm. Mr. Chairman.

9 The Chairman. Before I turn to Senator Gramm ----

10 Senator Hatch. If I could just finish. All I want
11 to do is ask this. Have I misstated this welfare
12 situation?

13 Mr. Kies. Senator Hatch, I believe that the
14 decisions that committee made in the course of the
15 Medicare mark-up were intended to try and identify those
16 individuals who are viewed as being in need of the EITC.

17 Senator Hatch. Right.

18 Mr. Kies. As compared to those who had other
19 economic resources that under current law, a significant
20 portion of the EITC does represent a direct payment from
21 the Federal Government.

22 There is a philosophical debate over whether or not
23 that is intended to offset FICA taxes or not. When the
24 program was originally established, it may have had that
25 intent.

1 The program from when it was established in 1975 when
2 it provided a benefit of \$314 has increased dramatically,
3 in particular since 1990. So the program has changed in
4 character over that time period.

5 Senator Hatch. Be that as it may, it is still a
6 transfer payment, isn't it?

7 Mr. Kies. Many would view it as being a transfer
8 payment. For budget purposes, 85 percent of it is scored
9 as an outlay.

10 Senator Bradley. What is the other 15?

11 Mr. Kies. That is ----

12 Senator Hatch. The most recent taxpayer ---

13 Senator Bradley. Can you repeat that?

14 Senator Hatch. If I could just read one last thing.
15 This is the IRS. The source is IRS data. It says the
16 most recent taxpayer ----

17 Senator Bradley. What is the date of that
18 publication?

19 Senator Hatch. Oh, let me take a look. This is
20 March 31st, 1995. I admit it is getting stale, I'm sure.

21 The most recent taxpayer ---- quote, The most recent
22 taxpayer compliance measurement program from 1988 showed
23 that about 42 percent of EIC recipients received too
24 large a credit and about 32 percent were not able to show
25 they were entitled to any credit. About \$1.9 billion, 34

1 percent of the total EIC paid up was awarded erroneously.
2 Unquote.

3 Senator Bradley. Would the Senator yield on that
4 point?

5 Senator Hatch. It also says this.

6 The Chairman. The Chair wants to make an
7 observation. I am going to insist that we give everybody
8 equal opportunity. And we are going to be fair to both
9 sides.

10 Now, I cut off Leslie Samuels earlier because he had
11 not been recognized. I want to give him an opportunity.
12 I ask that he keep it brief, but I want to give him an
13 opportunity. And then, we are going to go back and forth
14 so that everybody has an opportunity.

15 Senator Conrad. Mr. Chairman, might I make an
16 observation? I mean, of the first hour here, your side
17 has had 40 minutes. And this side has had 20 minutes.

18 The Chairman. Well ----

19 Senator Conrad. So if we are going to have some
20 fair kind of debate here, it is pretty hard to debate
21 when the other side gets all the time to talk.

22 The Chairman. Let me point out that the opening
23 debate was entirely on your side.

24 Senator Rockefeller. Mr. Chairman, it has been 40
25 minutes on your side and 20 minutes on our side.

1 Senator Moynihan. We are going to have equal time.
2 And I hope we can hear from Mr. Samuels.

3 The Chairman. Mr. Samuels.

4 Mr. Samuels. Mr. Chairman, this debate to me ---- I
5 mean, some of the comments on the earned income tax
6 credit are very disturbing. This is a program for
7 working Americans. It has had bipartisan support.

8 As Senator Bradley said, 75 percent approximately of
9 the amounts that are paid represent reimbursements of
10 income taxes and payroll taxes. And the last time I
11 checked, payroll taxes were taxes.

12 And so this is not a welfare program. It is only
13 going to people who work. We have had problems with
14 error rates. There is no doubt about it.

15 The data that Senator Hatch was referring to is from
16 1988.

17 It is an old story. We have been making changes.
18 And we have had hearings. Everybody knows the changes
19 the Treasury has analyzed.

20 We have proposed since 1993, 17 changes to try to
21 deal with the error rate problem. And we have reduced
22 the error rate problem.

23 And that is why the CBO in their mid-session review
24 this summer reduced the ITC outlays by about \$18 billion
25 over seven years. And they said one of the reasons that

1 they were reducing the outlays was because of the
2 effectiveness of the IRS program of matching Social
3 Security numbers.

4 We are getting this program under control. We are
5 not there yet. WE are going to keep at it. But that is
6 not an excuse to raise taxes on working Americans. We
7 should be focusing on the error rate problem.

8 And this committee ---- and we are pleased that this
9 committee in the EITC package adopted the
10 Administration's compliance proposals, but that is only 5
11 percent of the \$43 billion.

12 Senator Hatch. Could I, Mr. Chairman, bring up the
13 GAO report again?

14 The Chairman. We want to bring this debate to a
15 closure.

16 Senator Moynihan. Mr. Chairman, this is a proposal
17 to reduce the deficit, reduce the reduction in Medicare.
18 I don't know how we got onto these other matters. But in
19 any event, we have 10 minutes to our side. I don't know
20 that we need it all.

21 Senator Hatch. If I could just make this point, Mr.
22 Chairman, because I want to back up Mr. Samuels because
23 what I tried to read but was interrupted was the GAO
24 report does say currently no reliable data exists
25 currently as of March of this year on the extent of

1 noncompliance among all EIC.

2 The Chairman. I ----

3 Senator Hatch. But there is one other thing, on
4 paper returns ---- let me just get this out, Mr.
5 Chairman, because you are talking about \$13 billion.

6 The Chairman. 30 seconds.

7 Senator Hatch. 1994 filing fees and enforcement
8 results, this is current. Paper returns, the extent of
9 the EIC noncompliance, unknown. 400,000 returns stopped
10 in 1994 because they lacked SSN for child. \$500 million
11 in refunds delayed most indefinitely. Paper and
12 electronic returns, 77,781 fraudulent returns in 1984.

13 Senator Bradley. Where does it say fraudulent?

14 Senator Hatch. Right here, right in the GAO report.
15 \$43 million in refunds incorrectly paid out. \$117
16 million in refunds stopped, 91 percent involved in EIC.

17 Now, I think you are making changes. And I commend
18 you for that, but it still is a program that is fraught
19 with fraud. And it is still a transfer program. And it
20 is still welfare.

21 The Chairman. Senator Conrad.

22 Senator Conrad. Thank you, Mr. Chairman. First of
23 all, what a change, what a change from the other side.
24 Former Republican President Ronald Reagan called the
25 earned income tax credit the best pro-family, pro-work --

1 --

2 Senator Hatch. And so do I.

3 Senator Conrad. Anti-welfare ----

4 Senator Hatch. It's got to be under control.

5 Senator Conrad. Could I ---- Mr. Chairman.

6 Senator Hatch. I apologize.

7 The Chairman. Senator Conrad has the floor.

8 Senator Conrad. I mean, we have heard 20 minutes
9 from my colleague, Senator Hatch. Apparently, he wants
10 our time, too.

11 Senator Hatch. Well, I was interrupted a lot, too.

12 The Chairman. Please proceed, Senator Conrad.

13 Senator Conrad. That was President Ronald Reagan:
14 the best pro-family, pro-work, anti-welfare program that
15 has come out of Congress is the earned income tax credit.

16 I find it amazing that my colleagues on the other
17 side talk about income redistribution and accuse us of
18 being in favor of income redistribution.

19 They are engaged in the greatest redistribution that
20 has ever occurred in this country's history. They are
21 engaged in an income redistribution that is going to take
22 from working families because according to the analysis
23 that we just received this morning, 51 percent of
24 American families are going to get a tax cut under the
25 combined effects of the Republican package.

1 Forty-nine percent are going to get a reduction. And
2 48 percent of the benefit is going to go to those earning
3 over \$100,000 a year.

4 Now, maybe the Republicans think that is the middle-
5 income people of this country, but that is not the
6 middle-income people of this country.

7 Everybody earning up to \$30,000 a year is going to
8 get their taxes increased under this proposal. And that
9 is 51 percent of Americans.

10 They are going to get a tax increase so we can go and
11 give a big tax cut to those who are the wealthiest among
12 us.

13 Let's look at what has happened to the share of the
14 wealth. The Senator wants to talk about redistribution.
15 Since 19 ---- the early 1970s, the top 1 percent of all
16 families in this country have gone from 20 percent of the
17 wealth in this country to holding 40 percent of the
18 wealth in this country.

19 How much do they want? How much do the top 1 percent
20 of this country insist on holding of the wealth of
21 America?

22 We wonder why people are angry. It is because
23 middle-class people have been hammered by increases in
24 their payroll taxes. Seventy-three percent of the
25 American people pay more in payroll taxes than they pay

1 in income taxes.

2 And what we are doing here is taking the fruits of
3 those taxes, the Social Security surpluses and flushing
4 them back out in a tax reduction for the wealthiest among
5 us. That is precisely what is going on. And there
6 should be no mistake about it.

7 Now, let's talk about the effectiveness of economic
8 policy. We passed a plan in 1993. Yes, it raised taxes.
9 Yes, it cut spending. And as a result, for the first
10 time, we started reducing deficits instead of increasing
11 them.

12 The deficit in 1992 was \$290 billion. This year, it
13 is going to be \$160 billion, a dramatic reduction in the
14 deficit.

15 And what were the economic results? Our Republican
16 friends said when we passed that package it would crater
17 the economy. They said it would increase unemployment.
18 They said it would stifle economic growth.

19 They were wrong, wrong, wrong. You are wrong on
20 every single charge that you made at the time. The fact
21 is that economic growth has gone up 3.5 percent a year,
22 the best economic growth in 20 years.

23 We have had the strongest increase in business
24 investment in the last 30 years, averaging 14.8 percent a
25 year. We reduced the deficit. We got this country back

1 on track. One million people were lifted out of poverty.
2 Those are the facts.

3 And now, you come with the same old song, take the
4 money from the middle class and give it to the upper
5 classes when they've already got, the top 1 percent in
6 this country already have 40 percent of the wealth.

7 You accuse us of income redistribution. This is a
8 clear case of the pot calling the kettle black.

9 The Chairman. I think we have pretty much evened
10 out the amount of time used on both sides.

11 Senator Simpson. Mr. Chairman, if I may. I realize
12 yesterday, I think that the other side participated for
13 really literally hours on end while this side did not.
14 And I hope that is recognized, too.

15 The Chairman. Well, we are going to ----

16 Senator Simpson. But let me just, please ---- this
17 is ---- we can't let ---- at least let the other sides be
18 presented and give me two minutes.

19 Doesn't anyone understand that these rich 1 percent
20 pay almost 20 percent of the taxes in America? Who is
21 lost in the swamps here?

22 The rich, the top 1 percent of the people in America
23 from the IRS, the top 1 percent pay 19 percent of the
24 taxes, ladies and gentlemen.

25 The top 5 percent pay 45.9 percent of the taxes. In

1 1982, they paid 36 percent. So we have taken them from
2 36 to 45. The top 10 percent were paying 48 percent in
3 1982. And now, they are paying 57.

4 Now, everyone is entitled to their own opinion, but
5 no one is entitled to their own facts.

6 And then, one final word on Social Security so that
7 everybody in America at least hears it correctly. Nobody
8 is talking about stealing the surplus of Social Security,
9 ladies and gentlemen, because you can't do that.

10 The law of Social Security is very simple. It says,
11 if any time there is a surplus ---- and Mr. Samuels can
12 participate here, anyone that wishes can get in this one.

13 That if there is a surplus in Social Security, it is
14 immediately invested in T-bills or things backed by the
15 full faith and credit of the United States. Is that not
16 correct, please?

17 Senator Moynihan. Yes. That is correct.

18 Senator Simpson. That is correct. And therefore,
19 we are not even talking about that. And guess what? The
20 surplus is then invested in T-bills and things backed by
21 the full faith and credit of the United States, bought by
22 you, by banks, by everyone else.

23 And the interest on those documents is paid out of
24 the Federal treasury general fund and not out of some
25 separate Social Security trust fund. Is that correct,

1 the interest, please? That is what I'm talking about.

2 Is that correct?

3 Mr. Kies. That is correct.

4 Senator Simpson. That is correct.

5 Senator Moynihan. The interest accumulates in the
6 trust fund.

7 Senator Simpson. Yes, but the interest is paid from
8 the general treasury.

9 Senator Moynihan. No. It is ----

10 Senator Simpson. This is a switching set of IOUs.

11 Senator Moynihan. It is a bond issued from the ----

12 -

13 Senator Simpson. That is right. It is a bond. And
14 the Senator is correct.

15 Guess what happens in the year 2012? According to
16 the trustees, in the year 2012, the benefits will exceed
17 the revenue. And we will take the IOUs and go and cash
18 the bonds to pay the checks.

19 Senator Moynihan. And therefore, this is not the
20 time to cut taxes.

21 Senator Simpson. The point is that we are not going
22 to have a debate about Social Security, about robbing the
23 surplus when that is not happening. And you know it.
24 And I know it. That is an absolutely fraudulent
25 argument.

1 Senator Graham. Mr. Chairman.

2 Senator Simpson. Long-term solvency is
3 unsustainable. You know it. I know it. So do the
4 trustees.

5 The Chairman. I would ask we give five minutes to
6 the Democratic side. I will ask you, Senator Moynihan.
7 I think we should limit it to the five minutes.

8 Senator Moynihan. Two minutes to Mr. Graham.

9 Senator Baucus. If I might make a suggestion, Mr.
10 Chairman. I think, Mr. Chairman, that this debate is
11 lengthy primarily because it is the first amendment.

12 Senator Moynihan. Yes.

13 Senator Baucus. I strongly suspect that when there
14 are subsequent amendments, a lot of these same arguments
15 are going to be rehashed.

16 Senator Moynihan. We mean to go to 10 minutes.

17 Senator Baucus. Which means that the length of the
18 debate on subsequent will probably not be quite as long.

19 The Chairman. Senator Moynihan, let me. Senator
20 Moynihan and I have agreed that we will limit future
21 amendments to 10 minutes equally divided. We will time
22 them. And we are just trying to work ----

23 Senator Moynihan. Two minutes to Mr. Graham, two
24 minutes to Mr. Baucus, one minute to Mr. Bradley.

25 The Chairman. All right.

1 Senator Graham. Thank you, Mr. Chairman. Mr.
2 Chairman, this has been a wide-ranging and occasionally
3 interesting discussion, but it has been largely off the
4 point. The point is not courage or timidity. The
5 question before us is responsibility or recklessness.

6 Is it appropriate to be granting a \$245 billion tax
7 cut before we have even passed the legislation that would
8 put us on a glide slope towards a balanced budget, much
9 less shown any commitment to its realization?

10 My answer to that question is clearly, no. We have
11 been through this before. In the early 1980s, we made a
12 similar commitment that we would balance the budget, but
13 first we wanted to have a significant tax cut.

14 The result of that was to grow the national debt from
15 less than \$1 trillion, a debt that had accumulated from
16 George Washington to Jimmy Carter to a deficit today of
17 almost \$5 trillion. Do we have to repeat this reckless
18 path once again?

19 And as Senator Moynihan has pointed out, we are
20 facing massive new responsibilities, as we face the
21 generational change of the aging of the baby boom
22 generation. And that is going to impose new obligations.

23 And it is particularly inappropriate to be taking
24 this reckless course of action in the very shadow of
25 those new demographic and economic realities.

1 Mr. Chairman, I would like to comment on one point
2 that was made and passed over. And that was the casual
3 proposal that we ought to go to a 50 percent level of
4 contribution to part B of Medicare.

5 I would just observe that would result today in
6 increasing the premiums of all of the Medicare
7 beneficiaries from \$46.10 to approximately \$75 a month.
8 And under the Medicare plan that this committee I think
9 improvidently passed, we would increase that \$150 by the
10 year 2002.

11 I should also point out that 7 out of 10 ----

12 The Chairman. The Senator's time has expired.

13 Senator Graham. Seven out 10 Medicare beneficiaries
14 have total income of less than \$15,000 a year. I believe
15 that is an inappropriate suggestion.

16 The Chairman. I now recognize Senator Baucus for a
17 few minutes.

18 Senator Simpson. And to suggest that there is some
19 great act of courage in imposing that kind of obligation
20 on some of the poorest and most vulnerable of our people,
21 I think is outrageous.

22 The Chairman. Senator Baucus, two minutes.

23 Senator Baucus. Thank you, Mr. Chairman. Mr.
24 Chairman, I am going, when we finally vote on this bill,
25 vote against the bill because I think the tax cuts are

1 too great.

2 That is, we should not be cutting Medicare \$270
3 billion and \$180 billion and so forth to pay for such a
4 large tax cut.

5 I am also going to vote against this amendment. I am
6 going to do so because the amendment basically I think
7 presents an arbitrary choice.

8 It is an either/or, all or nothing choice. Either we
9 have all the tax cuts or none of the tax cuts. And I
10 think that both are wrong.

11 That is, there should be some tax cuts. And there
12 should be some cuts in Medicare, some cuts in Medicaid,
13 some cuts in all spending programs, but also some tax
14 cuts, just not nearly as much in spending cuts, as this
15 overall resolution contemplates and not as much in tax
16 cuts, as the bill before us contemplates.

17 I later on will be offering an amendment which will
18 redistribute some of the tax cuts and offset some and
19 reduce some of the spending cuts, particularly in
20 Medicare.

21 But I am constrained to vote against this amendment
22 because it does call for a complete elimination of all
23 tax cuts.

24 When all is said and done, Mr. Chairman, I think that
25 we in this Congress along with the President are going to

1 end up with less in spending cuts, but also less in tax
2 cuts. And that is where I think most American people
3 are, too.

4 The American people want balance. They all want to
5 participate in budget deficit reduction. They all want
6 to participate fairly and even handedly. It is my
7 judgment that the resolution before is not evenhanded.
8 It is not balanced. That is why I will be voting against
9 it.

10 On the other hand, this amendment also I think goes
11 too far in the opposite direction by not allowing for any
12 tax cuts. And I will therefore oppose it.

13 But in the final analysis, we are pushing for more
14 balance, constraint in spending even handedly, not as
15 much as contemplated in the reconciliation in some tax
16 cuts, but not as much as contemplated in the -----

17 The Chairman. Senator Bradley, one minute.

18 Senator Bradley. Thank you very much, Mr. Chairman.
19 I am going to make a very simple point. The senior
20 Senator from Utah made a big issue that this was a 1,300
21 percent or a 1,200 percent increase of the earned income
22 tax credit.

23 Well, in 1993, we made a decision. We are going to
24 give a significant tax cut to people making under \$30,000
25 a year. We have given two years of that tax cut. And we

1 are about to give the third.

2 The Republicans do not want to give people earning
3 under \$30,000 that third year of that tax cut.

4 In 1981, of course, when we passed the three-year tax
5 cut, it was the reverse. We said, gee, we don't want to
6 give the third year of the tax cuts because it benefits
7 the wealthy. That was in 1981, 1982, 1983. It is an old
8 song being sung.

9 So the reason it increases is because we are giving a
10 bigger tax cut to people who make under \$30,000 a year.
11 That is what we believe is the proper thing to do.

12 Why wouldn't it increase? Of course, it would
13 increase. But it is not fraud. It is because we are
14 giving working Americans a bigger tax cut.

15 The Chairman. All time has expired finally. And
16 the ----

17 Senator Moynihan. Mr. Chairman, before we vote, may
18 I simply note, with regret once again, that Senator Carol
19 Moseley-Braun is still ---- that flu will not go away.
20 So she probably won't be here today.

21 The Chairman. The Clerk will call the role.

22 The Clerk. Mr. Dole.

23 The Chairman. Nay, by proxy.

24 The Clerk. Mr. Chafee.

25 Senator Chafee. No.

1 The Clerk. Mr. Grassley.
2 Senator Grassley. No.
3 The Clerk. Mr. Hatch.
4 The Chairman. No, by proxy.
5 The Clerk. Mr. Simpson.
6 Senator Simpson. No.
7 The Clerk. Mr. Pressler.
8 The Chairman. No, by proxy.
9 The Clerk. Mr. D'Amato.
10 The Chairman. No, by proxy.
11 The Clerk. Mr. Murkowski.
12 The Chairman. No, by proxy.
13 The Clerk. Mr. Nickles.
14 The Chairman. No, by proxy.
15 The Clerk. Mr. Gramm.
16 The Chairman. No, by proxy.
17 The Clerk. Mr. Moynihan.
18 Senator Moynihan. Aye.
19 The Clerk. Mr. Baucus.
20 Senator Baucus. No.
21 The Clerk. Mr. Bradley.
22 Senator Bradley. Aye.
23 The Clerk. Mr. Pryor.
24 Senator Pryor. Aye.
25 The Clerk. Mr. Rockefeller.

1 Senator Rockefeller. Aye.

2 The Clerk. Mr. Breaux.

3 Senator Breaux. Aye.

4 The Clerk. Mr. Conrad.

5 Senator Conrad. Aye.

6 The Clerk. Mr. Graham.

7 Senator Graham. Aye.

8 The Clerk. Ms. Moseley-Braun.

9 Senator Moynihan. Aye, by proxy.

10 The Clerk. Mr. Chairman.

11 The Chairman. No.

12 The Clerk. The ayes are eight, the nays 12.

13 The Chairman. The amendment does not carry.

14 Senator Moynihan. Now, Mr. Chairman, I have that
15 second amendment, but I believe this time we might do 10
16 minutes equally divided.

17 The Chairman. Yes. And we will ask the Clerk to
18 record the time.

19 Senator Moynihan. Fine. This amendment is
20 simplicity itself. It says no tax cut, all \$245 billion
21 goes to deficit reduction. As we did in 1993, we brought
22 the deficit down almost by half from \$290 billion to \$160
23 billion, as I believe Senator Conrad just said.

24 May I make a point about, we are getting awfully
25 comfortable with terms like \$245 billion. That \$245

1 billion in 12 years becomes \$.5 trillion. And in another
2 12 years \$8 trillion.

3 And we are bringing stalemate to this society and the
4 consequence of debt. And we think we should stop it.
5 And I will stop right there.

6 Senator Rockefeller, do you want to say something? I
7 know we did not give you as much time as you might have
8 liked.

9 Senator Rockefeller. No, sir. I support the
10 amendment. I had hoped to speak on the previous one.

11 The Chairman. Senator Breaux.

12 Senator Breaux. Mr. Chairman and my colleagues, I
13 want to follow the Republican leadership on the Moynihan
14 amendment in a sense that the first views that they had
15 on this concept were the right views.

16 Many times, the first impression we have of
17 legislation or proposals is generally the gut reaction
18 that we have unencumbered by politics, unencumbered by
19 lobbyists, unencumbered by arm twisting.

20 And I just want to very briefly say what my
21 Republican colleagues told me about this tax cut idea
22 when it first raised its head in the House.

23 Senator Chafee said, "I have never been for the tax
24 cuts. Every time I got a chance, I voted against them.
25 I think it is not good politically. And I don't think it

1 is good fiscally."

2 Senator Simpson, when he first looked at the concept
3 of \$245 billion in tax cuts, was correct when he said, "I
4 have never been for a tax cut for the rich or for anyone
5 else. I don't see how we can get there."

6 Senator Hatch, when he first looked at this proposal,
7 said, "We will not get \$245 billion," said Senator Hatch.

8 Senator D'Amato said, "We should get about the
9 business of fixing of Medicare without this business of
10 tax cuts." That was sound advice then. That is good
11 advice today.

12 I want to follow that lead.

13 Senator Moynihan. Yield the balance of time to
14 Senator Pryor.

15 Senator Pryor. Mr. Chairman, thank you. I am so
16 proud, Senator Moynihan, that you have started talking a
17 little bit about the out-years because there is no
18 discussion around this table or yesterday about the out-
19 years, what is going to happen after the seven-year
20 period or the 10-year period.

21 But what is going to happen, this \$32 billion a year,
22 what it amounts to, a tax cut over seven years, is going
23 to amount to something like \$50 billion beginning about
24 the eighth or ninth or tenth year.

25 And we are going to see this as an exploding cigar.

1 It might be easy now to vote for it, but in the out-
2 years, the future generations are going to reap nothing
3 but havoc as a result of this decision if we pass this
4 bill as reflected in the Chairman's mark. Thank you.

5 Senator Grassley. Mr. Chairman.

6 The Chairman. Senator Grassley.

7 Senator Grassley. I would like to speak about the
8 out-years, too. This program that we have before us
9 includes tax cuts preceded by the changes in budget
10 policy that brings us to ---- that has been done by this
11 committee previously two weeks ago that brings us to a
12 balanced budget by the year 2002 is the only program in
13 town, the only program that has been on the scene here in
14 Washington for the last 30 years that brings us to a
15 balanced budget.

16 And it seems to me that if we are concerned about the
17 out-years, then we compare what the Republican program is
18 doing to balance the budget plus give a tax decrease that
19 is paid for by the year 2002 with that the other program
20 is in town.

21 The other program in town from the White House says
22 that we will balance the budget in 10 years, but the
23 Congressional Budget Office says that as far as that
24 budget can see into the future, we still have \$200
25 billion deficits.

1 So if you believe in a balanced budget, you will be
2 for this program. If you are concerned about the out-
3 years, you will be for this program because it is the
4 only program on the scene that has this generation pay
5 its own way.

6 The people of this country are tired of each living
7 high on the hog and not worrying about who is going to
8 pay for it because our children and grandchildren are
9 paying for it.

10 So this program does express concern about the out-
11 years because we balanced the budget.

12 The Chairman. Senator Simpson.

13 Senator Simpson. No, Mr. Chairman. I thank you.
14 Mr. Chairman, I will just say that the President's so-
15 called budget, and it is repetitive is \$200 to \$300
16 billion in deficits out into eternity. So let's be
17 serious.

18 Senator Nickles. Mr. Chairman.

19 The Chairman. Senator Nickles.

20 Senator Nickles. I will just echo if we have a
21 record, I would like to include a table in the record.
22 It shows that the Clinton's deficit ---- and this is his
23 second budget deficit. It shows the deficit \$175 billion
24 in 1995, \$196 billion in 1996, \$212 billion in 1997, and
25 \$210 billion in 2002. It stays at over \$200 billion in

1 increases.

2 This budget plan that Senator Grassley mentioned, we
3 are, we are pulling it down as scored by CBO, down to a
4 surplus in the year 2002, including the tax cuts.

5 So this is the only proposal that we have before us
6 that really does balance the budget. And so I would urge
7 our colleagues to vote no on the amendment.

8 [The table submitted by Senator Nickles appears in
9 the appendix.]

10 Senator Conrad. Mr. Chairman, do we have time left?

11 Senator Moynihan. Yes. Can I suggest that ---- who
12 wishes to speak? WE have three minutes. And we can have
13 ---- Senator Rockefeller, Senator Breaux? No. Senator
14 Conrad, do you have a minute?

15 Senator Conrad. Well, Mr. Chairman, I would hope
16 that our colleagues who speak boldly about doing
17 something to reduce the deficit take this opportunity.
18 This is a chance to further reduce the deficit.

19 The fact is, we are not balancing the budget. The
20 budget document shows very clearly we are going to have
21 an \$108 billion deficit in the year 2002.

22 The debt is increasing, \$1.3 trillion over this seven
23 years. That is not the time to be giving a tax cut. And
24 the tax cut is contributing \$225 billion to that increase
25 in debt.

1 Forty-eight percent of the benefit is going to people
2 earning over \$100,000. And this morning, we learned 51
3 percent of the people in this country, those earning
4 under \$30,000 a year are going to get a tax increase as a
5 result of this package.

6 That is not a fair package. It is not a balanced
7 package. It is a package that increases the debt of
8 America when we are already \$5 trillion in debt. It
9 makes no sense at all.

10 Senator Grassley. Mr. Chairman, do we have time
11 left on this side?

12 The Chairman. Yes, we do.

13 Senator Grassley. I would like to answer that by
14 saying that this \$500 per child tax credit that we give
15 which is about three-fourths of the total decrease in
16 taxes in this bill entirely eliminates the Federal tax
17 burden for 4 7/10 million working families.

18 Eighty-six percent of all children live in families
19 with incomes below \$75,000. So I think it is very clear
20 where the overwhelming benefit for this tax cut for
21 children is going.

22 Senator Moynihan. Mr. Chairman, I will just wrap up
23 and say, you are not doing those children any favor
24 adding another \$1 trillion to the national debt they will
25 have to pay which is what this amount will be by the time

1 they turn voting age.

2 Fifteen minutes, seconds?

3 Senator Rockefeller. Fifteen seconds.

4 I would just ask Ken Kies from the Joint Tax
5 Committee if it is true that under the Republican tax
6 proposal that 51 percent of those earning \$30,000 or less
7 a year will receive a tax increase under the proposal
8 before us?

9 Mr. Kies. Senator Rockefeller, that absolutely is
10 not true based on what is before you. Those
11 distributional charts were distributed. I believe part
12 of what is being referred to ----

13 Senator Rockefeller. By the year 2000.

14 Mr. Kies. Even by the year 2000. But I believe,
15 Senator, what is being referred to as incorporating the
16 changes in the earned income tax credit that were
17 previously adopted and treating all of those as taxes.

18 And then, by the year 2000 ----

19 Senator Rockefeller. Just reading from your own
20 study. You changed your study. You agree that people
21 earning \$30,000 a year will get a tax increase, 51
22 percent. That is your own joint tax study which you are
23 meant to represent.

24 The Chairman. The Democrats' time is up.

25 Senator Nickles. Mr. Chairman.

1 Senator Simpson. Mr. Chairman, may I have 30
2 seconds?

3 Senator Bradley. A 10-minute rule.

4 Senator Simpson. If we have not exhausted our time.

5 The Chairman. We have one minute left. Thirty
6 seconds to Senator Simpson.

7 Senator Simpson. Let me enter into the record that
8 I misspoke when I was responding to Senator Conrad. The
9 rich, the top percent of the rich pay 27.4 percent of the
10 taxes in America. In 1982, they paid 19 percent. Today,
11 they pay 27.4 percent. The top 5 percent were paying
12 36.1 percent in 1982. Today, they are paying 45.9
13 percent. I asked that this be entered into the record.

14 The Chairman. Without objection.

15 [The information submitted by Senator Simpson appears
16 in the appendix.]

17 Senator Nickles. Mr. Chairman.

18 The Chairman. Senator Nickles.

19 Senator Nickles. If I may ask Mr. Kies. They keep
20 talking about changes that we have already made on the
21 earned income tax credit being a tax increase. Correct
22 me if I'm wrong, but 85 percent of that program is not
23 reducing somebody's taxes. It is a direct cash outlay
24 program. Isn't that correct?

25 Mr. Kies. As we have discussed before ----

1 Senator Bradley. You are coming in late, Senator
2 Nickles.

3 [Laughter]

4 Mr. Kies. No. But, Senator Nickles, 85 percent
5 represents a payment by the Federal Government to
6 recipients.

7 The Chairman. All time has expired. The Clerk will
8 call the roll.

9 The Clerk. Mr. Dole.

10 The Chairman. No, by proxy.

11 The Clerk. Mr. Chafee.

12 Senator Chafee. Aye.

13 The Clerk. Mr. Grassley.

14 Senator Grassley. No.

15 The Clerk. Mr. Hatch.

16 The Chairman. No, by proxy.

17 The Clerk. Mr. Simpson.

18 Senator Simpson. No.

19 The Clerk. Mr. Pressler.

20 The Chairman. No, by proxy.

21 The Clerk. Mr. D'Amato.

22 The Chairman. No, by proxy.

23 The Clerk. Mr. Murkowski.

24 The Chairman. No, by proxy.

25 The Clerk. Mr. Nickles.

1 Senator Nickles. No.
2 The Clerk. Mr. Gramm of Texas.
3 The Chairman. No, by proxy.
4 The Clerk. Mr. Moynihan.
5 Senator Moynihan. Aye.
6 The Clerk. Mr. Baucus.
7 Senator Moynihan. No, by proxy.
8 The Clerk. Mr. Bradley.
9 Senator Bradley. Aye.
10 The Clerk. Mr. Pryor.
11 Senator Pryor. Aye.
12 The Clerk. Mr. Rockefeller.
13 Senator Rockefeller. Aye.
14 The Clerk. Mr. Breaux.
15 Senator Breaux. Aye.
16 The Clerk. Mr. Conrad.
17 Senator Conrad. Aye.
18 The Clerk. Mr. Graham.
19 Senator Graham. Aye.
20 The Clerk. Ms. Moseley-Braun.
21 Senator Moynihan. Aye, by proxy.
22 The Clerk. Mr. Chairman.
23 The Chairman. No.
24 The Clerk. The ayes are nine, the nays 11.
25 The Chairman. The amendment is not agreed to.

1 The floor is open to further amendments.

2 Senator Bradley. Mr. Chairman.

3 The Chairman. Senator Bradley.

4 Senator Moynihan. Mr. Chairman, may I ask? Lindy,
5 did you say it was 9-11?

6 The Clerk. Yes.

7 Senator Moynihan. No. Mr. Baucus voted no, by
8 proxy.

9 The Clerk. Yes. That is what I got.

10 Senator Moynihan. It has to be 12-8, doesn't it?

11 The Clerk. Senator Chafee voted yes.

12 Senator Moynihan. I stand corrected happily so.

13 The Chairman. Senator Bradley.

14 Senator Bradley. Mr. Chairman, what was the vote?

15 What was the total?

16 The Clerk. Do you want me to go through it?

17 Senator Bradley. No, no.

18 Senator Moynihan. The vote was 9-11.

19 Senator Bradley. 9-11.

20 Mr. Chairman, I would like to offer an amendment that
21 really follows on to the earlier two amendments. If you
22 recall, the first amendment was let's not give this tax
23 cut so large. Let's instead use it to not cut Medicare
24 as much and not increase taxes on people making under
25 \$30,000 a year.

1 That amendment was debated a long time. And it
2 failed. The last amendment was an amendment that said,
3 let us take the entire economic dividend and not do a tax
4 cut, but reduce the budget deficit. And that failed.

5 And that then puts me in a position to offer this
6 amendment. I would call the committee's attention to the
7 chart that I have on the other side of the room.

8 The darkened area of the chart is the \$170 billion
9 economic dividend that the CBO projects will come from
10 the deficit reduction package.

11 That is the amount that under the budget resolution
12 was to be set aside for tax cuts.

13 But in this tax bill, there is a lot more given in
14 terms of tax cuts. And I call those borrowed tax breaks
15 because this isn't for an economic dividend, but this is
16 what is being borrowed in order to provide the tax
17 relief. And that amounts to about \$54 billion.

18 So what I am suggesting is that we limit the tax cut
19 to the amount that the CBO says is the economic dividend
20 which is \$170 billion.

21 And I am secondly saying that we should provide that
22 tax relief to families only. In this amendment, I
23 include the child care credit ---- the child credit. I
24 include the adoption credit. I include marriage penalty
25 relief. And I include the student loan interest credit.

1 All of those would be included in this proposal.

2 What I am saying is let's not give and borrow to give
3 tax relief to all of the kind of special interests that
4 have gotten their little thing in this bill.

5 And we all know what these things are in this bill,
6 you know. We have the football coaches are getting a
7 special deal in here. I am particularly struck by that
8 one. I thought you could have been a little more
9 broader, basketball coaches or something. But we got it
10 for the football coaches.

11 And we got a little special thing here for these fast
12 food franchises that locate with a gasoline pump in front
13 of their doors. They get a little special break.

14 And we get a little special break for private
15 foundations that want to form a common fund for
16 investment. We've got a whole of things in here.

17 And I am simply saying jettison all of those. If the
18 rhetoric on the other side is let's give tax relief to
19 America's families, and my response is, yes, let's give
20 tax relief to America's families, but let's not borrow
21 more increasing the national debt \$54 billion to give tax
22 relief to all these little special interests out there
23 that have good lobbyists who manage to get their little
24 thing in this bill.

25 It is a very simple proposal. And it is one that I

1 think should meet with approval on the other side in
2 terms of their commitment to giving tax relief to
3 America's families.

4 We give the child credit. Now, what we do here with
5 the child credit is we make it refundable, as the
6 Heritage Foundation suggested, up to the amount of taxes
7 actually paid by the individual family, up to the income
8 tax and Social Security tax actually paid. There we
9 could get a refundable credit to that amount and no more
10 if they have children.

11 And then, we phase in the marriage tax penalty relief
12 slightly slower so that we get \$170 billion. We keep the
13 adoption. We keep the student interest credit.

14 So, Mr. Chairman, it is a very simple amendment.
15 Give family tax relief. Do not give special interest tax
16 relief.

17 Senator Moynihan. Mr. Chairman, I think that is a
18 clear choice this committee can make. And I hope that we
19 will do it.

20 The Chairman. There is one minute left.

21 Senator Bradley. We might retain that depending on
22 how powerful the rebuttal is.

23 The Chairman. Well, let me say that I strongly
24 oppose the amendment because essentially it guts what we
25 seek to do by our tax proposal.

1 Yes, we are trying to help the family. And we have a
2 number of proposals that do exactly that. But I am
3 concerned that I don't hear anyone from the Democratic
4 side talking about creating the kind of tax environment
5 that will create jobs and growth.

6 It only makes sense, for example, to encourage the
7 American to save. To save is good for the family, but it
8 is also good for the Nation.

9 Alan Greenspan time and again has said that one of
10 the most important problems this country faces is to
11 promote savings. And that is what part of our package is
12 intended to do.

13 We also think it is critically important to unlock
14 the literally hundreds of billions of dollars tied up
15 because of capital gains treatment.

16 We are in competition in a global economy. And if
17 this Nation is going to succeed, it has to be
18 competitive. And we are not meeting that challenge in
19 many cases.

20 So it seems to me that what we have in the Republican
21 package is a program that helps protect the family, but
22 equally important promotes an environment of growth, jobs
23 and opportunity.

24 A few minutes ago, somebody criticized what happened
25 in the 1980s. They forget that we took the economy out

1 of a slump from the Carter years, developed a rate of
2 growth of job creation that has never been equaled, the
3 longest growth period, peace time growth in the history
4 of the country.

5 So it is not just a question of being fair to the
6 family which we seek to do, but it is also a question of
7 developing the kind of tax policy that is going to mean
8 jobs, opportunity, and upward mobility.

9 The reason the American people are disillusioned
10 today is because they don't see that opportunity for
11 their children that they enjoyed in the past. For that
12 reason, I oppose the amendment.

13 Ready for the vote.

14 Senator Bradley. Mr. Chairman, are you ----

15 Senator Moynihan. I am in silence.

16 Senator Bradley. I will use my last minute before
17 we do.

18 Senator Moynihan. Please do. Do you not note the
19 ominous silence.

20 Senator Bradley. But maybe, that is a relief.

21 It is beyond me to know why, you know, if I run a 7-
22 Eleven and I've got to depreciate my building over 39
23 years. But if I put a gas pump in front of it, I can
24 depreciate it over 15 years.

25 It is beyond me to know what does that have to do

1 with savings and how that is going to affect the economy
2 boom.

3 Giving a special deal to football coaches, I mean,
4 that is beyond. How is that going to make the economy
5 boom?

6 I mean, giving estates of more than \$5 million a tax
7 cut, an average tax cut of \$1.7 million, it is beyond me.
8 I don't know how that is going to make the economy boom.

9 Giving special deals to individual foundations so
10 they can pool their money and make investments without
11 any tax, it is beyond me how that is going to make the
12 economy boom.

13 So, Mr. Chairman, I think we have to, if we are
14 serious about this, strip this bill down a lot. I just
15 want to say let's just keep this bill for families.

16 Give them tax relief. Give them their child credit.
17 Give them that adoption credit.

18 Give them the opportunity to get something back into
19 their pockets, but let's not borrow because that is what
20 we will have to do to give all these special interests
21 all their little baubles and bangles. It does not make
22 sense to me.

23 Senator Simpson. Mr. Chairman.

24 The Chairman. Senator Simpson.

25 Senator Simpson. Speaking from the standpoint of a

1 former jock, although the Senator from New Jersey ----

2 Senator Bradley. We took care of football.

3 Senator Simpson. Yes, I thought about football

4 coaches because I used to play football. I weighed 260

5 and had hair and thought there was food and played for

6 the Wyoming Cowboys.

7 [Laughter]

8 Senator Simpson. And I was very good at it and made

9 first string. Basketball, I was simply listed in the

10 statistical column as others.

11 [Laughter]

12 Senator Simpson. And they called me Other Simpson

13 in basketball. And Senator Bradley was much more sublime

14 than that.

15 But one of the things I thought about was ----- I did

16 want to mention was one that Senator Bradley has

17 mentioned, the pooling of small 501(3)(c)s. This is very

18 important.

19 This is good for the economy because you can take all

20 these little guys who have endowments of less than \$10

21 million. And now, they are going to be able to get in

22 and pull together. This is the wildlife museum or the

23 whatever of whatever.

24 And they are going to be able to pool and go and get

25 an investment counselor and pay much less in premium and

1 be able to do their nonprofit work in a much better way.
2 I thin it is very important provision.

3 The football coaches, apparently, that is in there
4 because they get fired more than basketball coaches. And
5 they can't accrue a pension. So they are stretching them
6 all together apparently.

7 The Chairman. All time is up.

8 Senator Bradley. The retired professors have
9 already been ahead of even the football coaches.

10 Senator Simpson. Sure.

11 The Chairman. All time is up. The Clerk will call
12 the roll.

13 The Clerk. Mr. Dole.

14 The Chairman. No, by proxy.

15 The Clerk. Mr. Chafee.

16 Senator Chafee. No.

17 The Clerk. Mr. Grassley.

18 Senator Grassley. No.

19 The Clerk. Mr. Hatch.

20 The Chairman. No, by proxy.

21 The Clerk. Mr. Simpson.

22 Senator Simpson. No.

23 The Clerk. Mr. Pressler.

24 Senator Pressler. No.

25 The Clerk. Mr. D'Amato.

1 The Chairman. No, by proxy.
2 The Clerk. Mr. Murkowski.
3 The Chairman. No, by proxy.
4 The Clerk. Mr. Nickles.
5 Senator Nickles. No.
6 The Clerk. Mr. Gramm of Texas.
7 The Chairman. No, by proxy.
8 The Clerk. Mr. Moynihan.
9 Senator Moynihan. Aye.
10 The Clerk. Mr. Baucus.
11 Senator Moynihan. No, by proxy.
12 The Clerk. Mr. Bradley.
13 Senator Bradley. Aye.
14 The Clerk. Mr. Pryor.
15 Senator Pryor. Aye.
16 The Clerk. Mr. Rockefeller.
17 Senator Rockefeller. Aye.
18 The Clerk. Mr. Breaux.
19 Senator Moynihan. Aye, by proxy.
20 The Clerk. Mr. Conrad.
21 Senator Conrad. Aye.
22 The Clerk. Mr. Graham.
23 Senator Graham. No.
24 The Clerk. Ms. Moseley-Braun.
25 Senator Moynihan. Aye, by proxy.

1 The Clerk. Mr. Chairman.

2 The Chairman. No.

3 The Clerk. The ayes are seven, the nays 13.

4 The Chairman. The amendment is not agreed to.

5 The floor is open to amendment.

6 Senator Conrad. Mr. Chairman.

7 The Chairman. Senator Conrad.

8 Senator Conrad. Mr. Chairman, I would like to offer
9 an amendment. This amendment is very simple. It strikes
10 any provision in this title that would have the effect of
11 increasing the debit above current levels during any year
12 of the budget window.

13 So all those who say they want to do something about
14 reducing the increase in the growth of the debt, here is
15 your chance.

16 Mr. Chairman, we heard a lot of talk here again today
17 that we are balancing the budget. WE are not balancing
18 the budget.

19 This is the budget transmittal document itself. It
20 shows for the year 2002 a deficit of \$108.5 billion. All
21 this hokum about we are balancing the budget is just
22 that. It is hokum.

23 The only way they can claim they are balancing the
24 budget is to loot and to raid every penny of Social
25 Security surplus between now and the year 2002.

1 The American people should know that. Every penny is
2 being thrown into the pot of their retirement funds to
3 call it a balanced budget.

4 If any private employer did this, they would be on
5 their way to Federal jail because it is a violation of
6 Federal law.

7 I think that it is also important that people
8 understand that during this next seven years, we are
9 going to be increasing the debt.

10 Under the Republican plan, the debt is increasing
11 \$1.3 trillion. It makes no sense to cut taxes when we
12 are increasing the debt.

13 The third chart I want to show is that the tax
14 increase is contributing to an increase in the debt.
15 This charge shows very clearly year by year the amount we
16 are adding to the debt of the United States, a debt that
17 already stands at over \$5 trillion.

18 And every year of this plan, we are going to add to
19 the debt. And these light orange bars show the amount
20 that the tax cut is adding to the debt each and every
21 year.

22 Mr. Chairman, in conclusion, 48 percent of the
23 benefits of this tax cut we know now are going to people
24 earning over \$100,000 a year. Everyone earning up to
25 \$100,000 a year is going to get a tax increase. That is

1 51 percent of the people in this country.

2 This chart shows under the Republican plans, the
3 Republicans raise taxes on majority of Americans to give
4 tax preferences, tax breaks, tax loopholes to a small
5 percentage of the American people.

6 Tax increases on 51 percent of the American people,
7 48 percent or 49 percent of the American people get a tax
8 reduction, but most of them get a small tax deduction.

9 The big bucks go to the big boys. The big bucks go
10 to the wealthiest among us. Already, the top 1 percent
11 in this country have 40 percent of the wealth.

12 Our Republican friends accuse the Democrats of
13 wanting to redistribute wealth. They have been champions
14 of wealth redistribution, absolute champions.

15 From the late 1970s until now, the top 1 percent have
16 seen their share of the wealth go from 20 percent to 40
17 percent of the wealth of America.

18 And I just have to ask the question how much do they
19 want? How much does the top 1 percent want in this
20 country of the wealth of our Nation?

21 Do they insist on 60 percent of the wealth for 1
22 percent of the people? Do they insist on 80 percent of
23 the wealth for 1 percent of the people?

24 All I can say is that way lies politically
25 instability and a very serious break from the egalitarian

1 history and roots of America.

2 I hope very much that the people of this country will
3 back a move to say we don't eat dessert before we have
4 our dinner.

5 Senator Rockefeller. Mr. Chairman.

6 The Chairman. Senator Rockefeller.

7 Senator Rockefeller. Mr. Chairman, I think this is
8 first-class amendment. And I am really confounded and
9 struck and annoyed by the defensiveness of our Republican
10 colleagues on this subject of tax cuts.

11 They have a chance in Senator Conrad's amendment to
12 do what they have been telling us that we didn't do.
13 When President Carter left office, I believe the Federal
14 budget deficit was \$50 billion.

15 And it was under the Republicans under President
16 Reagan with the tax cut to the rich, tax cut to the
17 corporations which everybody said, well, that means that
18 the corporations will go out and invest in capital and
19 new equipment and therefore new jobs. They didn't.

20 Mergers and acquisitions, that the rich will receive
21 the tax increase will, of course, put that into savings.
22 And that will be available through banks for jobs. And,
23 of course, that didn't happen. It was all mergers and
24 acquisitions and spending of unprecedented binges in this
25 country's history going back to the 1920s.

1 The Chairman. The time on the Democrat side is
2 expired.

3 Senator Moynihan. Another 30 seconds.

4 Senator Rockefeller. So I would simply suggest that
5 this is a very honest amendment and one which pierces the
6 soul I think of the Republican hypocrisy on this subject.

7 The Chairman. Senator Grassley.

8 Senator Grassley. Well, first of all, if we vote
9 for this tax bill which it is going to pass and become
10 law, the rich, meaning over \$150,000 a year income is
11 going to be the only class of people by the year 2000
12 that will be paying more tax.

13 Every other class is going to be paying less tax than
14 under current law. So this is a tax on the wealthy
15 because theirs is the only group that is going to paying
16 a more proportion of tax.

17 The second thing is the chart about how Republicans
18 are unbalancing or contributing to debt. By the year
19 2002, our plan for the first time in 30 years is going to
20 be the first year where we haven't had a government that
21 has contributed to the total national debt.

22 On the other hand, the President's program promising
23 a balanced budget by the year 2005 three years out more
24 than ours, still according to the nonpartisan
25 Congressional Budget Office still is not balanced and for

1 every year in the future contributing \$200 billion or
2 more to the deficit.

3 So it is just absolutely wrong to say that our
4 program is contributing to the deficit beyond the year
5 2002. The President's program does.

6 If you want to balance a budget, it's got to be this
7 program. You will never get it from the other side of
8 the aisle.

9 The Chairman. Yes.

10 Senator Nickles. I just want to take issue again.
11 Senator Conrad mentioned it. Other members on the other
12 side have mentioned it and said, well, the people under
13 \$30,000 have a tax increase. And that is totally
14 completely false.

15 And if they want to distort the facts, they can try
16 to do so, but that is not the case. Let me give just a
17 couple of facts.

18 And to do that, they are talking about the changes
19 that we are making on the EITC. We have already voted on
20 those.

21 The EITC is a cash payment program, 85 percent. Just
22 look at the figures. In 1995, the EITC total credit was
23 \$23.7 billion. \$20.2 billion of that was a cash outlay.
24 It didn't have anything to do with anybody's taxes. It
25 is Uncle Sam writing the check.

1 The amount of that check exceeds AFDC today. And so
2 to call ---- and let me mention all these radical changes
3 we are talking about in the EITC, the maximum benefit
4 rises.

5 The maximum benefit under current law is \$3,110.
6 Under our proposal, next year, it goes up to over \$3,200.
7 Granted, present law, it would increase even more. We
8 slowed the rate of growth up because this program is
9 exploding.

10 But if someone can receive \$3,100 in cash today, and
11 next year under our radical proposal they can receive
12 \$3,200, our colleagues are calling that a tax increase.

13 We are increasing cash outlays to millions of people
14 even under our earned income tax program. And for people
15 to say that is a tax increase, I think is ludicrous and
16 really distorts the facts.

17 The facts are we are giving a \$500 tax credit for
18 individuals with children. And this totally eliminates
19 the tax liability for millions of American families. And
20 so I would urge that our colleagues not adopt the
21 amendment.

22 The Chairman. Senator Pressler.

23 Senator Pressler. Following up on what Senator
24 Nickles has said, I would add that in this package, 70
25 percent of the cuts go to individuals making less than

1 \$75,000; 90 percent of the cuts go to those under
2 \$100,000.

3 We have been hearing over and over about how this is
4 tax break for the rich. The top 10 percent of taxpayers
5 pay 57.5 of all taxes. And it seems to me that it is
6 clear that this budget ---- that this balances the
7 budget. It is certified by CBO in 2002 with a surplus.

8 We are hearing a lot of rhetoric about this tax bill.
9 And I think it is a very much something that is favorable
10 to the middle class. And it is something that is very
11 much needed.

12 The Chairman. Senator Simpson.

13 Senator Simpson. Mr. Chairman, I keep hearing this
14 figure from my friend from North Dakota something about
15 at the year 2002, we will still be \$108 billion in the
16 whole. That is not so.

17 I don't know what figures my friend is using, but we
18 are using the certification from CBO. It won't do any
19 good to reach back in the vat and dig one up because the
20 certification of CBO on October 18th ---- I don't know
21 the date of that remarkable document over there.

22 But on October 18th, a bipartisan group, that is the
23 CBO, of budget estimators, the deficit will go down to
24 zero by 2002.

25 In fact, CBO said in 2002, we will have a budget

1 surplus of \$10 billion. And this is current information.

2 But let me remind my colleagues that under those
3 glorious Carter years interest was 21 percent.

4 The Chairman. All time has expired.

5 Senator Simpson. If you went in to borrow at the
6 bank, you paid 21 percent. And the inflation rate was 15
7 percent.

8 We have a story to tell. We will get it told in a
9 year. Thank heaven, we have that time.

10 The Chairman. All time has expired on both sides.

11 The Clerk will call the roll.

12 The Clerk. Mr. Dole.

13 The Chairman. No, by proxy.

14 The Clerk. Mr. Chafee.

15 The Chairman. No, by proxy.

16 The Clerk. Mr. Grassley.

17 Senator Grassley. No.

18 The Clerk. Mr. Hatch.

19 Senator Hatch. No.

20 The Clerk. Mr. Simpson.

21 Senator Simpson. No.

22 The Clerk. Mr. Pressler.

23 Senator Pressler. No.

24 The Clerk. Mr. D'Amato.

25 The Chairman. No, by proxy.

1 The Clerk. Mr. Murkowski.
2 The Chairman. No, by proxy.
3 The Clerk. Mr. Nickles.
4 Senator Nickles. No.
5 The Clerk. Mr. Gramm of Texas.
6 The Chairman. No, by proxy.
7 The Clerk. Mr. Moynihan.
8 Senator Moynihan. Aye.
9 The Clerk. Mr. Baucus.
10 Senator Moynihan. No, by proxy.
11 The Clerk. Mr. Bradley.
12 Senator Moynihan. Aye, by proxy.
13 The Clerk. Mr. Pryor.
14 Senator Pryor. Aye.
15 The Clerk. Mr. Rockefeller.
16 Senator Rockefeller. Aye.
17 The Clerk. Mr. Breaux.
18 Senator Breaux. Aye.
19 The Clerk. Mr. Conrad.
20 Senator Conrad. Aye.
21 The Clerk. Mr. Graham.
22 Senator Graham. Aye.
23 The Clerk. Ms. Moseley-Braun.
24 Senator Moynihan. Aye, by proxy.
25 The Clerk. Mr. Chairman.

1 The Chairman. No.

2 The Clerk. The ayes are eight, the nays 12.

3 The Chairman. The amendment is not agreed to.

4 The legislation is open to amendment.

5 Senator Moynihan. Mr. Conrad I believe wishes to
6 offer a second amendment.

7 Senator Conrad. Mr. Chairman, this second amendment
8 is also very simple. And I will be fascinated to hear
9 the objections from my colleagues across the way who have
10 talked about their frailty and their concern about Social
11 Security on this one.

12 This delays the effective date of the tax title, the
13 reconciliation bill until the budget is balanced without
14 counting the Social Security surpluses.

15 I am going to be just fascinated to hear the
16 explanations why they vote against this amendment.

17 Mr. Chairman, let's go back to this talk about
18 whether the budget is being balanced or not. The letter
19 from CBO that Senator Simpson quotes from bases that
20 statement on a unified basis.

21 For those that are listening, that means that they
22 are assuming every penny of Social Security surpluses are
23 going to be raided, are going to be looted in order to
24 balance the budget by 2002. That is a fact.

25 Under the law that we have in this country, you can't

1 use Social Security surpluses. We voted that law. We
2 made that law. And that is why the budget transmittal
3 document ---- this is the conference report on the
4 budget.

5 And when you go down to the year 2002, it doesn't
6 show zero deficit. Oh, no. It shows \$108 billion
7 deficit. Why? Because you can't Social Security
8 surpluses under the law that we have passed.

9 But our friends on the other side, they want to
10 forget about the law. They want to count and use every
11 penny of Social Security surplus between now and the year
12 2002, \$36 billion.

13 Throw all the retirement funds of the seniors of this
14 country into the pot to balance the operating budget and
15 call that a balanced budget. What a hoax, what a fraud.

16 There is not an accounting firm in American that
17 would say that a company has balanced its budget if it
18 took the retirement funds of its employees and used those
19 the balance the operating budget.

20 That is what is happening. And nobody should be
21 misled by the rhetoric on the other side.

22 Senator Moynihan. Mr. Chairman, may I just add a
23 point to this? To give some sense of the profligacy with
24 which we have been dealing with our Nation's future, the
25 incredible unconcern.

1 In 1977, we took the Social Security trust funds from
2 a pay-as-you-go basis to a partially funded basis.

3 I was on the committee at that time. I was a member
4 of the Committee on Conference. And we put in place a
5 surplus in the Social Security trust funds--just listen
6 to this--a surplus which could buy the New York Stock
7 Exchange, knowing that we were going to have a baby boom
8 retirement and the demographics, the people who were
9 going to retire were already born. We knew that.

10 And we said we will have to save for them. And if we
11 have this much of a surplus, the trust funds will buy up,
12 pay up all the public debt, and increase the savings in
13 the private economy which is the only source of growth.
14 And not a penny has been save, not one penny.

15 We have about 12 years left. Senator Conrad says in
16 the name of God, do what you are still possible to do.
17 And I hope we will support this measure.

18 Senator Nickles. Mr. Chairman.

19 The Chairman. Senator Nickles.

20 Senator Nickles. Senator Conrad was interested in
21 what the response would be. I would say that as a
22 taxpayer, I think of my kids. My son pays taxes. His
23 wife pays a lot of Social Security taxes. I pay a lot of
24 Federal income taxes. Those are both Federal taxes.

25 I think he would want to have both of them counted.

1 And so to say, we are not going to count Social Security.
2 Social Security is a tax. It is a Federal tax. It is a
3 Federal outlay.

4 And I hear a lot of concern over Social Security
5 trust funds. And Senator Moynihan mentioned, well, we
6 are going to partially fund the trust fund. He mentioned
7 partially because we don't even come close to funding
8 Social Security.

9 There is unfunded liabilities in the trillions of
10 dollars. If you want to go back to private sector
11 reality, you'd have to fund the entire liability in the
12 private sector. Or as a fiduciary, you are in trouble,
13 according to Risk and Standards.

14 We don't come close to that in Social Security. It
15 is still largely a pay-go system. But to say, well, we
16 will exclude it, I will just mention that the Chairman
17 has used the exact same accounting that President Clinton
18 has used.

19 And so if my colleague wants to hold up a chart and
20 say, wait a minute, we still have a deficit of \$108
21 billion because we have that much of a surplus in Social
22 Security funds, that means that President Clinton has a
23 deficit in the year 2002, not of balance, not of \$108
24 billion. President Clinton would have a deficit of over
25 300 and some odd billion dollars.

1 So again, I would urge my colleagues to reject the
2 amendment.

3 The Chairman. Senator Grassley.

4 Senator Grassley. Well, Senator Nickles just made
5 the point I wanted to make. We don't have to tell
6 Senator Conrad this. He knows it.

7 What he finds fault with what the Republicans are
8 doing is the same way that we have calculated the bottom
9 line of what is a balanced budget historically.

10 He knows that even the President of the United States
11 has done exactly the same thing in his efforts to show
12 the country that he can balance the budget by the year
13 2005, three years further out than Republicans will.

14 Now, Senator Conrad will probably say, well, he
15 doesn't think it ought to be done by his President. But
16 the point of his argument today is to somehow lead the
17 people of this country to believe that Republicans are
18 doing something different in accounting, that we are
19 cooking the books and arriving at an artificial bottom
20 line that is intellectually dishonest differently than
21 anything that has ever been done or differently than
22 Democrats would do it.

23 But the fact of the matter is we are doing it the
24 same way that it has always been done. And we have to do
25 it that way or the Congressional Budget Office is not

1 going to certify.

2 Senator Simpson. Mr. Chairman.

3 Senator Moynihan. I think Mr. Conrad should have
4 the right to respond.

5 Senator Conrad. Mr. Chairman, that is absolute
6 total hokum. Hokum. The fact is our own law ---- our
7 own law says you can't count Social Security trust fund
8 surpluses. That is why the conference report of the
9 Budget Committee shows \$108 billion deficit in 2002 under
10 the Republican plan, not a balanced budget.

11 And under any accounting standard ---- any accounting
12 standard, you couldn't take the retirement funds of the
13 employees and throw those in the pot and call that a
14 balanced budget. It simply is not.

15 Yes, that is what has been going on in this town.
16 And it is dead wrong. Ever since 1983, we have been
17 playing this game. And unfortunately, it is going to
18 catch up to us because we have already run up about \$500
19 billion of this funny money scheme.

20 And now, we are going to do another \$1.3 trillion
21 over the next 13 years. And you know what is going to
22 happen?

23 When the baby boomers go to the cupboard to find
24 their retirement benefits, they are going to find the
25 cupboard is bare because we have been playing this game

1 of looting of the Social Security trust fund in order to
2 reduce and make look smaller the budget deficit. It is a
3 fraud.

4 Senator Moynihan. Mr. Chairman, can I just make a
5 quick point? In March of 1989, the National Economic
6 Commission submitted its report.

7 And we made, on the minority side, exactly the point
8 Senator Conrad is making. If we would just balance the
9 operating budget and take that Social Security surplus
10 and use it to buy down the publicly held debt, the result
11 would have doubled the savings rate.

12 We didn't do it. If we had done it, we wouldn't be
13 talking. We wouldn't be here today. If we don't do it at
14 all, we shall have taken an amount of money that would
15 purchase the stock exchange and spend it for current
16 uses. What was meant as savings will be gone.

17 The Chairman. All time on the Democrat side has
18 expired. We have three minutes on the Republican.

19 Mr. Simpson.

20 Senator Simpson. Mr. Chairman, I must ask my friend
21 from North Dakota whether the amendment was put up there
22 then for a constructive purpose or to see what we would
23 do over here. I think that was the indication that I
24 want to do this because I want to see what we will do
25 over here.

1 I will tell you what I will do over here. I will say
2 that you and the Democrats in 1993 used this same masking
3 system that we are using here exactly. And you voted for
4 it. It was a roll call vote.

5 We have always masked the size of the deficit. There
6 is nothing illegal, immoral about it. You've done it.
7 We've done it. You voted for it. I didn't. I am going
8 to vote for it this time. You won't.

9 So if we are going to talk about the old shell game,
10 let's keep our eye on the rabbit.

11 Stop talking partisanship and join a bipartisan
12 effort to save the Social Security system. Senator Bob
13 Kerrey and myself, join us then and we can forget all the
14 babble around this room. And join us in a bipartisan
15 effort to save the Social Security system.

16 And I think you have. Others here haven't. Perhaps
17 you have. I think you have. But let me tell you, ladies
18 and gentlemen, there is only two ways to go when you get
19 in this box. You either raise the payroll tax or you
20 lower the benefits.

21 And with the power of seniors in this country, you
22 know which one we will do. And who are you diddling
23 then? All of the people I hear about all day long, the
24 poor, the wretched, the destitute, the toothless, the
25 whole works.

1 And if you want to save them, then save them from a
2 payroll tax which will eat their lunch into eternity.

3 Senator Conrad. Well, the way to save them is not
4 by looting the Social Security trust fund of every penny
5 of surpluses.

6 The Chairman. All time has expired. The Clerk will
7 call the roll.

8 Senator Moynihan. Simpson votes aye.

9 [Laughter]

10 Senator Simpson. I want my proxy back. Oh, no.

11 The Clerk. Mr. Dole.

12 Senator Dole. No.

13 The Clerk. Mr. Chafee.

14 The Chairman. No, by proxy.

15 The Clerk. Mr. Grassley.

16 Senator Grassley. No.

17 The Clerk. Mr. Hatch.

18 Senator Hatch. No.

19 The Clerk. Mr. Simpson.

20 Senator Simpson. No.

21 The Clerk. Mr. Pressler.

22 Senator Pressler. No.

23 The Clerk. Mr. D'Amato.

24 The Chairman. No, by proxy.

25 The Clerk. Mr. Murkowski.

1 Senator Murkowski. No.
2 The Clerk. Mr. Nickles.
3 Senator Nickles. No.
4 The Clerk. Mr. Gramm of Texas.
5 The Chairman. No, by proxy.
6 The Clerk. Mr. Moynihan.
7 Senator Moynihan. Aye.
8 The Clerk. Mr. Baucus.
9 Senator Moynihan. Aye, by proxy.
10 The Clerk. Mr. Bradley.
11 Senator Bradley. Aye.
12 The Clerk. Mr. Pryor.
13 Senator Pryor. Aye.
14 The Clerk. Mr. Rockefeller.
15 Senator Rockefeller. Aye.
16 The Clerk. Mr. Breaux.
17 Senator Breaux. Aye.
18 The Clerk. Mr. Conrad.
19 Senator Conrad. Aye.
20 The Clerk. Mr. Graham.
21 Senator Graham. Aye.
22 The Clerk. Ms. Moseley-Braun.
23 Senator Moynihan. Aye, by proxy.
24 The Clerk. Mr. Chairman.
25 The Chairman. No.

1 The Clerk. The ayes are nine, the nays 11.

2 The Chairman. The amendment is not agreed to.

3 The floor is open to further amendment.

4 Senator Graham. Mr. Chairman.

5 The Chairman. Senator Graham.

6 Senator Graham. Mr. Chairman, I offer an amendment
7 which I modestly refer to as the budget integrity
8 amendment or let's spinach before we eat the cake.

9 This amendment builds on a premise on this tax
10 legislation. And that is that we have committed
11 ourselves first to a program of balancing of the budget.

12 And as a result of that commitment, we get the
13 opportunity to now consider a tax reduction.

14 My concern is that that commitment is based on
15 promises today rather than performance over the next
16 seven years.

17 And so my amendment would link performance to our
18 ability to continue to offer this cake and ice cream of a
19 tax cut.

20 The proposal is simple. It will say that in November
21 of each year, one month after the end of the fiscal year,
22 the Office of Management and Budget would certify the
23 level of the deficit for the just ended fiscal year.

24 And I would use the same definition of the deficit,
25 as is included in the budget resolution. That is, for

1 instance, for fiscal year 1996, the conference agreement
2 of the deficit is \$170.3 billion.

3 It will be a certification as to whether that budget
4 number of deficit had been achieved. If it were not
5 achieved, then the President would issue a compliance
6 order which would suspend the tax cuts for the calendar
7 year beginning in this case January 1, 1997.

8 That suspension would stay in effect for that
9 calendar year as of November of the next fiscal year.
10 There would be an assessment as to whether the target
11 date had been met for that year which will be \$152.2
12 billion for fiscal year 1997, and the same process.

13 If we met that budget target of \$152.2 billion in
14 1997, then the tax reductions contained in this
15 legislation would become operative again and would stay
16 operative as long as we continued to stay on our
17 determined path towards a balanced budget.

18 I believe that, as has been said on both sides on the
19 aisle this morning, the tax cut is subsidiary to the goal
20 of balancing the budget, that we wouldn't be able to
21 consider this legislation today but for the fact that the
22 Congressional Budget Office has certified that there is a
23 plan in the making which will balance the budget by the
24 year 2002 using the definition of a balanced budget which
25 was contained in the budget resolution.

1 My concern is that we have been here before. We have
2 been here before in the 1980s when we made a similar
3 commitment that we were going to balance the budget and
4 therefore we could give ourselves the dessert of a tax
5 cut before we had delivered on that balanced budget.

6 Frankly, we have been here before as recently as last
7 week. Last week we saw changes being made on the House
8 side relative to the spending cuts which in one area of
9 the budget, the area of physician payments within
10 Medicare as reported have reduced the savings by some \$3
11 to \$5 billion.

12 We don't know where we are going to make up those \$3
13 to \$5 billion, but if they result in us failing to meet
14 our budget deficit targets, I don't think we ought to be
15 granting ourselves a tax cut.

16 We've got to have some form of enforceable discipline
17 in this process. Or we are going to repeat in the 1990s
18 exactly what we did in the 1980s.

19 So I urge the adoption of this amendment. I do not
20 think it is a partisan amendment. I think it is an
21 amendment that the vast majority of Americans would agree
22 is a rationale process of linking our continued
23 commitment to our set goals of deficit reduction to the
24 continuation of the tax cuts which we wouldn't even be
25 considering but for the fact that we have certified that

1 we have a process in the making that would get us to
2 those deficit reductions and eventually to a balanced
3 budget by the year 2002.

4 Senator Moynihan. Mr. Chairman, may I say in
5 support of Senator Graham's amendment? There has been a
6 leakage of reality in the United States Government about
7 the nature of the deficit.

8 We find ourselves content to make statements that we
9 will do something about it whilst we in fact make it
10 worse.

11 This is not an event of one year or two. We are now
12 into our second decade. I speak of a leakage of reality.
13 We will not ---- the society will not escape what is
14 going on.

15 And we have the opportunity. We have been offering
16 one amendment after another that says do what we all here
17 know needs to be done.

18 The Senator from Florida has offered certainly an
19 acceptable approach. I hope it will be accepted.
20 Otherwise this leakage of reality will go on and on until
21 we are drained of our capacity for self government. That
22 is how serious I believe this is.

23 Senator Nickles. Mr. Chairman.

24 The Chairman. Senator Nickles.

25 Senator Nickles. Mr. Chairman, just very quickly.

1 I find Senator Graham's amendment kind of interesting.
2 But what it says is if we don't meet our deficit targets,
3 let's suspend our tax cuts. Let's make sure of the
4 increased taxes.

5 Spending is going from \$1.5 trillion to \$1.9 trillion
6 over this seven years. So spending is not doing down.

7 I would hope that maybe we would consider something
8 that if we don't meet the target, let's have something
9 automatic to cut spending or to cut the growth of
10 spending to meet the target.

11 In other words, let's not be socking it to taxpayers.
12 Let's reduce spending in order to meet the deficit
13 target.

14 So I would urge that our colleagues not support this
15 amendment which would really sock it taxpayers and reward
16 us for not meeting targets. That would be an
17 encouragement to spend more and to tax more.

18 I would rather say, let's try and meet. Let's give
19 taxpayers ---- let them keep some of their money. And if
20 we miss the deficit target, let's cut spending or let's
21 reduce the growth of spending somewhat more.

22 Senator Graham. Mr. Chairman, I would like to
23 reserve the time to close. We wouldn't be here today if
24 we had not adopted a concept that first we would cut
25 spending sufficient to have the Congressional Budget

1 Office certify that we would have a balanced budget by
2 the year 2002, and based on that certification, have
3 certain economic assumptions readjusted which then
4 provide the funds to support this tax cut.

5 If in fact we are sufficiently uncreative that we
6 can't come up with a final plan to balance the budget or
7 are sufficiently undisciplined that we do not adhere to
8 that plan once adopted and we fail to meet the deficit
9 reduction targets which we voted for as part of the
10 budget resolution, then I don't think we ought to get the
11 dessert of the tax cuts which we would not have had an
12 opportunity to eat but for the fact that we have
13 presumptively developed a balanced budget program.

14 If we don't meet our own commitments, we aren't in a
15 state of fidelity to those obligations that we ----

16 The Chairman. The time of the Democrats has
17 expired.

18 Senator Graham. I don't think we should continue to
19 allow the tax cuts which are predicated upon those
20 commitments.

21 The Chairman. The time of the Democrats has
22 expired. The Clerk will call the roll.

23 The Clerk. Mr. Dole.

24 Senator Dole. No.

25 The Clerk. Mr. Chafee.

1 The Chairman. No, by proxy.
2 The Clerk. Mr. Grassley.
3 Senator Grassley. No.
4 The Clerk. Mr. Hatch.
5 Senator Hatch. No.
6 The Clerk. Mr. Simpson.
7 Senator Simpson. No.
8 The Clerk. Mr. Pressler.
9 Senator Pressler. No.
10 The Clerk. Mr. D'Amato.
11 The Chairman. No, by proxy.
12 The Clerk. Mr. Murkowski.
13 Senator Murkowski. No.
14 The Clerk. Mr. Nickles.
15 Senator Nickles. No.
16 The Clerk. Mr. Gramm of Texas.
17 The Chairman. No, by proxy.
18 The Clerk. Mr. Moynihan.
19 Senator Moynihan. Aye.
20 The Clerk. Mr. Baucus.
21 Senator Moynihan. Aye, by proxy.
22 The Clerk. Mr. Bradley.
23 Senator Bradley. Aye.
24 The Clerk. Mr. Pryor.
25 Senator Pryor. Aye.

1 The Clerk. Mr. Rockefeller.
2 Senator Rockefeller. Aye.
3 The Clerk. Mr. Breaux.
4 Senator Breaux. Aye.
5 The Clerk. Mr. Conrad.
6 Senator Conrad. Aye.
7 The Clerk. Mr. Graham of Florida.
8 Senator Graham. Aye.
9 The Clerk. Ms. Moseley-Braun.
10 Senator Moynihan. Aye, by proxy.
11 The Clerk. Mr. Chairman.
12 The Chairman. No, by proxy. I mean, no.
13 [Laughter]
14 The Clerk. The ayes are nine, the nays 11.
15 The Chairman. The amendment is not agreed to.
16 Senator Graham. Mr. Chairman.
17 The Chairman. Senator Graham.
18 Senator Graham. Mr. Chairman, on behalf of Senator
19 Bradley and myself, I offer a second amendment which
20 moves into a different area.
21 The amendments that we have considered to date have
22 primarily related to the wisdom of granting any or the
23 form of tax relief that is being proposed given the
24 overall economic circumstances of today. Or in the case
25 of the last amendment, it might be tomorrow.

1 This next amendment goes to a different issue. And
2 that is should we be adopting a series of tax measures
3 which are going to add substantial complexity to the tax
4 code at the very time that the American people are asking
5 for simplicity.

6 There are houses of Congress to move to a flat tax, a
7 flat tax that can be filled out on a single postcard. I
8 would like to ask the Joint Tax and committee staff, how
9 many pages do you anticipate this bill will consume when
10 it is converted into legislative language?

11 Mr. Kies. Senator Graham, that is difficult to say
12 because there are a number of provisions that are being
13 repealed, but there are new provisions being put in. So
14 I ----

15 Senator Graham. Do you think it will be more than
16 20?

17 Mr. Kies. It could be.

18 Senator Graham. More than 40?

19 Mr. Kies. It could be a reduction as well.

20 Senator Graham. More than 60? It could be less
21 than zero?

22 Mr. Kies. We are repealing a number of provisions
23 as well.

24 Senator Graham. About how many pages of the tax
25 code are we going to be affecting?

1 Mr. Kies. Senator Graham, we haven't looked at
2 that.

3 Senator Graham. Mr. Samuels, do you have any idea?

4 Mr. Samuels. Senator Graham, obviously this has to
5 wait for drafting, but I would expect that the Chairman's
6 mark will add a substantial number of pages to the tax
7 bill.

8 Senator Graham. So at the time the American people
9 want to have simplicity, we are adding additional
10 complexity.

11 Now, is there an alternative? Yes, there is an
12 alternative. It is in the proposal of Senator Bradley
13 and myself which states simply this, strike the entire
14 Chairman's mark and replace it with an across the board 1
15 percent reduction in the individual and corporate income
16 tax rates. And that happens to be an amendment which can
17 be place don one postcard.

18 So this is the simplification by postcard amendment
19 and provide across the board 1 percentage point reduction
20 in tax rates as opposed to a series, a plethora of
21 complicating special interest provisions which are
22 contained in the Chairman's mark.

23 If you believe in simplicity, if you believe that the
24 route to which we should be moving is some sort of flat
25 tax, this takes a step in that direction or at least

1 avoids a signification step away from simplification.

2 Senator Dole. Does this eliminate the IRS?

3 Senator Graham. This does not eliminate the IRS.
4 This reduces the tax of every American, corporate and
5 individual by 1 percent.

6 I yield to my colleague, Senator Bradley.

7 Senator Murkowski. Mr. Chairman.

8 Senator Bradley. Mr. Chairman, Senator Murkowski
9 would like to speak. I will reserve and come back.

10 Senator Murkowski. I'd rather listen first.

11 Senator Bradley. Okay. Mr. Chairman, it seems to
12 me that the issue here is how do you want to provide tax
13 relief.

14 And I have always believed that the best way to
15 provide tax relief is through cutting individual tax
16 rates as opposed to targeting relief to groups or
17 individuals who manage to reduce their effective tax
18 rates because they get their credit exclusion or
19 deduction into the code or because they delay a date or
20 because they do any number of things that allow them to
21 pay less tax.

22 This is a much more straightforward approach. It
23 simply says that we believe the best tax rate is the
24 lowest possible tax rate.

25 So you take the money that you were going to give for

1 capital gains and expanded IRAs for millionaires and
2 simply cut the tax rate.

3 Now, this is a tax cut also that frankly benefits
4 primarily corporations and individuals. But because you
5 cut the top rate, you are benefitting primarily people
6 who pay the top rate which poses the question you best
7 benefit them by cutting a tax rate or do you do it by
8 giving them their special capital gains exclusion
9 deduction by giving millionaires IRAs.

10 Again, the issues I personally believe the best way
11 to go is to cut tax rates because that effects everybody
12 in a particular income class as opposed to kinds of
13 particularly situated taxpayers who can take advantage of
14 those things which their lobbyists have gotten into the
15 code.

16 Senator Murkowski. Mr. Chairman.

17 The Chairman. Senator Murkowski.

18 Senator Murkowski. I think an appealing argument is
19 made, but it doesn't make the whole argument. If we take
20 the lower areas of taxable income.

21 If you add \$10,000 taxable income, you would be in
22 the 15 percent bracket, well, zero bracket, \$1,500 of
23 what your tax might be. Okay.

24 Under Senator Bradley's proposal, of 1 percent tax
25 cut, you reduce that to \$1,400, right?

1 Senator Bradley. No. It wouldn't affect it.

2 Senator Murkowski. Just let me finish. It wouldn't
3 affect it, but ours would. Ours would per child result
4 in a \$500 credit, if you will, right off the bottom line.

5 So our reduction would take it down from \$1,500 to
6 \$1,000. Now, who has the greater contribution relative
7 to the cut that favors the taxpayer? Clearly, the \$500
8 per child.

9 Senator Bradley. Senator, we tried to expand that
10 earlier. And it was rejected. We tried to expand that.

11 Senator Murkowski. I am just responding to your
12 argument. It doesn't do all things for all people.

13 It really hits the lower taxable income group, as
14 opposed to what our program would do which it would give
15 the \$500 child credit which would be much more
16 significant than the 1 percent.

17 Senator Graham. As I understand, 40 percent of the
18 children in America would not benefit by the child credit
19 because it has no refundable provision. And their
20 parents, if they have parents, don't pay any income
21 taxes.

22 So we are ---- your proposal would not benefit the
23 most disadvantaged children in America. I think ----

24 The Chairman. The Chair recognizes Senator Dole.

25 Senator Dole. As I understand this amendment, this

1 will put the Democrats on record for a \$245 billion tax
2 cut at least.

3 Senator Bradley. That is right.

4 Senator Dole. So we are all agreed it ought to be a
5 \$245 billion tax cut. It is just a question of how we
6 put it together. So I think that is significant in
7 itself.

8 Senator Bradley. I would respond by simply, no,
9 that it is true that basically, we are getting on the
10 Titanic, but we are simply rearranging the deck chairs
11 that is basically when you talk about a \$245 billion cut.

12 We made our points earlier about what we think the
13 size should be. Since we failed in our attempts to
14 reduce it, we are now saying, well, if you are going to
15 keep it that big at least do it a particular way.

16 Senator Breaux. Mr. Chairman.

17 The Chairman. Senator Breaux.

18 Senator Breaux. Mr. Chairman, I think the point
19 needs to be understood that everybody has talked about a
20 flat tax. We have heard a lot of people say I am for a
21 flat tax. And they held up card and all types of forms
22 about being for a flat tax proposal.

23 This Chairman's mark is the Mt. Everest of flat
24 taxes. This thing is huge. It is full of details and
25 full of special tax breaks for special groups and

1 organizations.

2 There is nothing flat about the Chairman's proposal.
3 If we can't get a flat tax bill passed, at least let's
4 make the cut simple.

5 And Senator Graham is absolutely correct. Give a 1
6 percent tax cut across the board. Let it add up to \$245
7 billion, but let's make it simple and make it fair.

8 I mean, if anybody who is for a flat tax cannot be
9 for this, they are incredibly inconsistent.

10 The Chairman. All time on the Democrat side has
11 expired. The Republicans ---- the Clerk will call the
12 roll.

13 The Clerk. Mr. Dole.

14 Senator Dole. No.

15 The Clerk. Mr. Chafee.

16 The Chairman. No, by proxy.

17 The Clerk. Mr. Grassley.

18 Senator Grassley. No.

19 The Clerk. Mr. Hatch.

20 Senator Hatch. No.

21 The Clerk. Mr. Simpson.

22 Senator Simpson. No.

23 The Clerk. Mr. Pressler.

24 The Chairman. No, by proxy.

25 The Clerk. Mr. D'Amato.

1 The Chairman. No, by proxy.
2 The Clerk. Mr. Murkowski.
3 Senator Murkowski. No.
4 The Clerk. Mr. Nickles.
5 The Chairman. No, by proxy.
6 The Clerk. Mr. Gramm of Texas.
7 The Chairman. No, by proxy.
8 The Clerk. Mr. Moynihan.
9 Senator Moynihan. Aye.
10 The Clerk. Mr. Baucus.
11 Senator Moynihan. Aye, by proxy.
12 The Clerk. Mr. Bradley.
13 Senator Bradley. Aye.
14 The Clerk. Mr. Pryor.
15 Senator Pryor. Aye.
16 The Clerk. Mr. Rockefeller.
17 Senator Rockefeller. Aye.
18 The Clerk. Mr. Breaux.
19 Senator Moynihan. Aye, by proxy.
20 The Clerk. Mr. Conrad.
21 Senator Conrad. No.
22 The Clerk. Mr. Graham.
23 Senator Graham. Aye.
24 The Clerk. Ms. Moseley-Braun.
25 Senator Moynihan. Aye, by proxy.

1 The Clerk. Mr. Chairman.

2 The Chairman. No.

3 The Clerk. The ayes are eight, the nays 12.

4 The Chairman. The amendment is not agreed to.

5 Senator Dole. Mr. Chairman.

6 The Chairman. Yes, Senator Dole.

7 Senator Dole. If that indicates the committee I
8 know we want to try to finish this bill. What I am going
9 to do is go over and recess, if I can, recess the Senate.
10 So you can just stay right here or whatever you work out.
11 And then, we will have the Senate come back in the night
12 instead of the Finance Committee come back in the night.
13 It seems to me they all ought to come back if we finish
14 our work. And that way, I think it will accommodate
15 members of the committee, instead of the other way
16 around.

17 The Chairman. Very good. Well, the Senate will
18 continue ---- or the Finance Committee with the
19 amendment. The legislation is open to amendment.

20 Senator Conrad.

21 Senator Conrad. Mr. Chairman, I have another
22 amendment that is a motion to strike all provisions in
23 the tax title which do the following: lose revenues
24 after the first seven years at an annual rate exceeding
25 the rate in any of the first seven years.

1 Mr. Chairman, the reason for this amendment is
2 simple. First of all, as I have said repeatedly, we are
3 not balancing the budget. There is still a \$108 billion
4 deficit in the year 2002.

5 Second, we are adding to the debt under this plan
6 \$1.3 trillion over the next seven years.

7 And number three, what one finds is, as you go into
8 the out-years, the revenue losses from these tax
9 proposals, these tax preferences, and expansion of tax
10 loopholes explode.

11 And what you get are much greater revenue losses down
12 the road than in the initial years.

13 Let me give two examples. The IRA provision between
14 1995 and 2000 loses \$4.3 billion. But in the last three
15 years of a 10-year cycle, it loses \$21 billion.

16 To make matters worse, this is a provision where 95
17 percent of the benefit goes to the wealthiest 20 percent
18 of the population.

19 The same is true of capital gains. Between the years
20 1995 and 2000, the capital gains provision loses \$23
21 billion.

22 Between the 2001 and 2005, the revenue loss more than
23 doubles to almost \$47 billion. This is a provision where
24 the top 12 percent of the income earners in this country
25 get 75 percent of the benefit.

1 Again, heavily targeted to the wealthiest among us at
2 the very time that the wealth is accumulating at a very
3 rapid rate at the very top of the income distribution of
4 our society.

5 The top 1 percent of the people now have 40 percent
6 of the wealth. I don't think that is a wise thing to do
7 in society. We have seen in history any society that
8 allows this trend to continue suffers the consequences in
9 political instability.

10 Now, Mr. Chairman, I have noted with great interest
11 that our friend son the other side of the aisle are very
12 concerned about the exploding cost of the earned income
13 tax credit which reduces taxes for those earning less
14 than \$28,000 a year.

15 They are terribly concerned about the exploding cost
16 of that. They are terribly concerned about the 51
17 percent of the American people that earn less than
18 \$30,000 getting a tax break. That is of great concern to
19 them.

20 They don't seem very concerned about the exploding
21 nature of the tax breaks that are going to the wealthiest
22 among us.

23 So, Mr. Chairman, I offer this amendment in the hopes
24 that the colleagues will respond and to say that is not
25 what we want to have happen.

1 Senator Moynihan. And that is not what ought to
2 happen. I very much support the Senator's provision.

3 Senator Roth is away for a moment. The Senators on
4 the Republican side just might wish to volunteer to
5 speak.

6 Senator Simpson. I will throw in a crumb here, Mr.
7 Acting Chairman. I have no fear there about this,
8 recognizing you as such.

9 I must get back to the old issue: there is no such
10 thing as repetition. I have often thought that we should
11 dispose of this, finally dispose of this issue versus the
12 rich and the poor.

13 It is just makes your heart sing. You need violins
14 and symphonies behind you when you speak of the rich
15 versus the poor. And it just grips our heart. And it is
16 wonderful.

17 But I have a wonderful idea. Let's quit messing
18 around with that. Let's just confiscate everything the
19 rich have.

20 Now, that sounds absorb, but it isn't, as you see,
21 because if we get it ---- now, this is not corporate
22 wealth. This is individual wealth. We will take the
23 Forbes 400 and the Fortune 500 or whatever they are,
24 backwards or forward, take them all, every big family in
25 American, every yacht, every ranch, every stock

1 certificate, every bond and confiscate it for the good of
2 the poor and for America and the downtrodden and the
3 heaped on.

4 And guess what? It will run the government for seven
5 months, ladies and gentlemen. It's about \$800 billion.
6 I'm talking about individual wealth in America, not
7 corporate.

8 Individual wealth in America is somewhere between
9 \$750 billion and \$800 billion. And that will run the
10 government for seven months. Come on. Let's get off the
11 kick. This is absolutely absurd.

12 The budget this year is \$1.506 trillion. We must be
13 doing something for veterans. We must be doing something
14 for the poor. We must be doing something for the
15 downtrodden.

16 When you are spending \$1.506 trillion a year, you are
17 doing something for 260 million people. The problem is I
18 keep a can of bag bomb on my desk now. Bag bomb is an
19 emollient. It is a salve. It is used on the appendages
20 of those who ---- bovine members of the quadrupeds that
21 issue a lacteal extract.

22 [Laughter]

23 Senator Simpson. And you put it on the odder
24 because the sun shines on the odder. And then, it shines
25 up off the snow. And then, it cracks the odder. And the

1 odder bleeds. And it is raw. And it is rough. You rub
2 this remarkable salve on the odder. The calf nurses.
3 And everything is well again. And peace is in the farm
4 yard.

5 And they say why is this on your desk? I said
6 because if America has become a milk cow with 260 million
7 pits, we need all the bag bomb we can produce.

8 [Laughter]

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1 Senator Conrad. Mr. Chairman?

2 Senator Simpson. Are you sure you want to follow
3 this?

4 Senator Conrad. Mr. Chairman, it is a question of
5 who is sucking off the teat. [Laughter]

6 Senator Conrad. And I tell you, you guys are the
7 greatest defenders of the guys who are at the top of
8 feeding cycle, the very wealthiest among us. And you are
9 getting all lined up to send them all a big check.

10 You know, I understand where you get your checks for
11 your campaigns, so it is right in line with what is
12 happening.

13 Senator Simpson. I never heard you vote for a
14 balanced budget amendment, so it is odd to hear all this.

15 Senator Conrad. Well I not only voted for, I
16 presented a balanced budget amendment to my colleagues.

17 Senator Simpson. You did not.

18 Senator Conrad. Wait a minute. Let me answer. I
19 presented a fair share balanced budget plan to my
20 colleagues, got 39 votes in the United States Senate. We
21 had more deficit reduction than the Republican plan by
22 the year 2002. We balanced by 2004, without counting
23 Social Security surpluses. You do not even balance by
24 then without counting Social Security surpluses.

25 So I not only presented a balanced budget plan, I

1 voted for one. And it was honest, and it more fairly
2 distributed the burden, instead of having a plan that
3 says to the working class and the middle-income people in
4 this country, you get in the front lines for this brave
5 battle on the budget deficit, but it puts the wealthiest
6 among us to the sidelines, in fact puts the wealthiest
7 among us first in line for more tax breaks, more tax
8 preferences, more tax loopholes. And you call that fair?
9 That is not fair.

10 Senator Simpson. Mr. Chairman, methinks my friend
11 protesteth too much. Just as he said at the beginning of
12 the debate many minutes ago, he did not vote for the
13 balanced budget amendment that was presented to the
14 United States Senate, which failed.

15 Senator Conrad. I voted for a balanced budget
16 amendment that also failed. The Senator may recall that
17 there were two balanced budget amendments, one that did
18 not loot the Social Security trust funds, one which did.

19 The Senator from Wyoming voted for one that raided
20 the Social Security trust fund; the Senator from North
21 Dakota did not.

22 The Chairman. All time for the Democrats has
23 expired. The clerk will call the roll.

24 The Clerk. Mr. Dole.

25 Senator Dole. No, by proxy.

1 The Clerk. Mr. Chafee.
2 Senator Chafee. No.
3 The Clerk. Mr. Grassley.
4 Senator Grassley. No.
5 The Clerk. Mr. Hatch.
6 Senator Hatch. No, by proxy.
7 The Clerk. Mr. Simpson.
8 Senator Simpson. No.
9 The Clerk. Mr. Pressler.
10 Senator Pressler. No, by proxy.
11 The Clerk. Mr. D'Amato.
12 Senator D'Amato. No, by proxy.
13 The Clerk. Mr. Murkowski.
14 Senator Murkowski. No.
15 The Clerk. Mr. Nickles.
16 Senator Nickles. No, by proxy.
17 The Clerk. Mr. Gramm.
18 Senator Gramm. No, by proxy.
19 The Clerk. Mr. Moynihan.
20 Senator Moynihan. Aye.
21 The Clerk. Mr. Baucus.
22 Senator Baucus. No.
23 The Clerk. Mr. Bradley.
24 Senator Bradley. Aye, by proxy.
25 The Clerk. Mr. Pryor.

1 Senator Pryor. Aye.

2 The Clerk. Mr. Rockefeller.

3 Senator Rockefeller. Aye.

4 The Clerk. Mr. Breaux.

5 Senator Breaux. Aye.

6 The Clerk. Mr. Conrad.

7 Senator Conrad. Aye.

8 The Clerk. Mr. Graham.

9 Senator Graham. Aye, by proxy.

10 The Clerk. Ms. Moseley-Braun.

11 Senator Moseley-Braun. Aye, by proxy.

12 The Clerk. Mr. Chairman.

13 The Chairman. No.

14 The ayes are 8, the nays 12.

15 The Chairman. The amendment is not agreed to.

16 Senator Moynihan. I believe Mr. Breaux has an
17 amendment, Mr. Chairman.

18 Senator Breaux. Mr. Chairman, I have an amendment
19 dealing with the \$500 child tax credit.

20 As it is being passed out, I would just say briefly,
21 Mr. Chairman, that the bill in its current form says to
22 families with children that we have good news and we have
23 bad news. The good news is that the bill provides at
24 \$500 per child tax credit. The bad news is that most
25 people in middle- and lower-income levels will not get

1 any of it.

2 So while the Chairman's proposal says that we are
3 going to spend \$141 billion on a child tax credit for
4 families with children, we are not sending it to the
5 people who need it the most.

6 Let us agree--all of us--that we are going to do a
7 child credit. I think it is fine. Most people are not
8 asking for it. But if we are going to do it, let us
9 agree that we should do it in a way that tries to get
10 most of the benefits to most of the people who need it.

11 So I agree with my Republican colleagues on a \$500
12 per child tax credit. My amendment preserves that. The
13 concern I have is that because it does not offset payroll
14 taxes, it is nonrefundable, people who are middle-income
15 and lower-income people are not going to get it. So it
16 is a good news-bad news situation. The good news is that
17 we are going to spend \$141 billion of the American
18 taxpayer's dollars to do a child credit amendment. But
19 most people are not going to get it.

20 The statistics show that about 24 million children
21 living in families with low or moderate income will get
22 no benefits from the credit at all. And an additional 7
23 million children will get only a partial credit.

24 So what this bill, in its current form, says is that
25 we will have a tax credit for children, but about 44

1 percent of the nation's children, who need it the most,
2 are not going to get it.

3 Some say all right, let us agree that we are going
4 to have a child tax credit. But let us try to direct it
5 to the people who need it the most.

6 Senator Nickles pointed this out in a speech on the
7 floor when he talked about the payroll tax. He pointed
8 out that the huge tax burden on families is caused by
9 many factors, but particularly damaging are the heavy
10 payroll taxes. He said that payroll taxes hit families
11 with children particularly hard because most of their
12 income is in the form of wages. And nearly three-fourths
13 of all the taxpayers in this country now pay more in
14 payroll taxes than they pay in income taxes.

15 Therefore, if we are going to have a tax credit for
16 families who have children, should we not at least target
17 it to three-fourths of the families who pay more in
18 payroll taxes than they pay in income taxes.

19 Let me make this point. Per-capita income in
20 Louisiana is \$16,667 a year. A lot of you here represent
21 States that are not that much different. Our adjusted
22 gross income is about \$27,000. So if you add what we are
23 doing in the large cuts and the earned income tax credit,
24 which hit these families, and then we spend \$141 billion
25 on a per-child tax credit, and we do not let it go to

1 these people who we are hurting with the EITC cuts, and
2 we say we are not going to let you take any credit
3 against your payroll taxes, it really is a good news-bad
4 news situation.

5 The good news is that we are going to have a tax
6 credit for children. The bad news is that you are not
7 going to get it.

8 My amendment is quite simple. It says that we are
9 going to have a \$500 refundable tax credit for children
10 under the age of 16. The Republican proposal is 18. We
11 are trying to reduce it a little to save money. It is
12 going to be refundable to the extent of the taxpayer's
13 payroll tax liability. So it can be taken off of his
14 income tax or off of his payroll tax.

15 In addition, we have a tuition tax credit for
16 families that send their kids to school. We should be
17 encouraging families to educate their children--not just
18 to have children, which is what the child tax credit
19 does. So my amendment also says, let us encourage people
20 to send the children they have to school, to be more
21 productive citizens.

22 It is a \$5,000 tuition tax deduction. It is phased
23 in: \$1,000 the first year, \$2,000 the second year, up to
24 the amount of \$5,000. The numbers come out almost the
25 same, as far as the cost. We still have a per-child tax

1 credit, combined with a tuition tax credit. And we make
2 it refundable so that 44 percent of the people who get no
3 help under the Chairman's Mark, who need the greatest
4 amount of help, will be able to say this is a good
5 package. This changes good news-bad news into a good
6 news-good news proposal for everybody.

7 The Chairman. All time on the Democratic side has
8 expired.

9 Just let me say that the \$500 child credit is a key
10 aspect of the Republican tax plan, geared towards
11 providing relief to hard-working American families.

12 I might point out that the President's 1996 budget
13 also contained a \$500 child tax credit proposal, although
14 it is narrower than the one offered by the Chairman. But
15 like the one in the Chairman's Mark, it is not
16 refundable.

17 There is an important difference between the
18 administration's version and the one in the Chairman's
19 Mark. The administration's \$500 child proposal would
20 apply after the EITC is applied against taxes. And this
21 means low-income individuals would have to use up their
22 EITC, which is refundable, before they could apply the
23 President's nonrefundable \$500 child credit against their
24 taxes.

25 Under the Chairman's Mark, the \$500 child credit

1 applies before the EITC. This means that low-income
2 individuals would get more, and possibly all of their
3 EITC refunded, since that is what would have to be used
4 to offset taxes. Therefore, it is a better proposition
5 than that of the administration.

6 Senator Breaux. Mr. Chairman, I would just
7 mention, my proposal is not the administration's. I
8 think theirs is flawed too. You spoke against theirs,
9 but not against mine.

10 The Chairman. All time on the Democratic side has
11 expired. The clerk will call the roll.

12 The Clerk. Mr. Dole.

13 Senator Dole. No, by proxy.

14 The Clerk. Mr. Chafee.

15 Senator Chafee. No.

16 The Clerk. Mr. Grassley.

17 Senator Grassley. No.

18 The Clerk. Mr. Hatch.

19 Senator Hatch. No, by proxy.

20 The Clerk. Mr. Simpson.

21 Senator Simpson. No, by proxy.

22 The Clerk. Mr. Pressler.

23 Senator Pressler. No, by proxy.

24 The Clerk. Mr. D'Amato.

25 Senator D'Amato. No, by proxy.

1 The Clerk. Mr. Murkowski.
2 Senator Murkowski. No.
3 The Clerk. Mr. Nickles.
4 Senator Nickles. No, by proxy.
5 The Clerk. Mr. Gramm.
6 Senator Gramm. No, by proxy.
7 The Clerk. Mr. Moynihan.
8 Senator Moynihan. Aye.
9 The Clerk. Mr. Baucus.
10 Senator Baucus. Aye.
11 The Clerk. Mr. Bradley.
12 Senator Bradley. Aye, by proxy.
13 The Clerk. Mr. Pryor.
14 Senator Pryor. Aye.
15 The Clerk. Mr. Rockefeller.
16 Senator Rockefeller. Aye.
17 The Clerk. Mr. Breaux.
18 Senator Breaux. Aye.
19 The Clerk. Mr. Conrad.
20 Senator Conrad. Aye.
21 The Clerk. Mr. Graham.
22 Senator Graham. Aye, by proxy.
23 The Clerk. Ms. Moseley-Braun.
24 Senator Moseley-Braun. Aye, by proxy.
25 The Clerk. Mr. Chairman.

1 The Chairman. No.

2 The Clerk. The ayes are 9, the nays 11.

3 The Chairman. The amendment is not agreed to.

4 The legislation is open to further amendment.

5 Senator Moynihan. Mr. Chairman, I have an
6 amendment I would like to offer. It is being passed out
7 now.

8 The amendment would strike the provision allowing a
9 pension reversion at pages 137 to 140 of the Chairman's
10 Mark.

11 We have discussed this, at least tangentially,
12 yesterday. In my opening statement, I said that I would
13 call attention to the provision in the Chairman's
14 proposal that would allow companies to withdraw assets
15 from workers' pension plans.

16 This provision would allow the removal of \$40
17 billion in assets from existing pension plans, putting
18 the retirement security of workers at great risk, along
19 with the financial security of the Pension Benefit
20 Guaranty Corporation, and ultimately the U.S. taxpayer.

21 The issue came up in the course of our general
22 discussion. I recall that the Senator from North Dakota
23 made a very powerful statement about the assets in the
24 pension funds, which are typically a mixture of bonds and
25 equities. The stock market is up at the highest level it

1 has ever been just now. It does not follow that it will
2 remain so, or continue to rise indefinitely.

3 This provision was apparently put in the House
4 measure as a way of raising some money from the
5 corporations who, having realized their assets, owe tax
6 on them. And the result is that the balance sheet looks
7 better for the House Ways and Means Committee tax bill,
8 but not for these pension plans. We are putting them in
9 jeopardy. We know we are. And I think the less I say,
10 and the more someone who cares about it as deeply as the
11 Senator from Arkansas says, the better.

12 I would simply say once again, we have a letter from
13 the trustees of the Pension Benefit Guaranty Corporation,
14 the Secretary of Labor, the Secretary of Treasury, the
15 Secretary of Commerce, saying do not do this. And I
16 yield.

17 Senator Pryor. Thank you, Senator Moynihan.

18 Here we are on the second day of our hearings, and
19 we are for the second time wading into this very, very
20 arcane and unknown area of pensions.

21 I would just urge you, Mr. Chairman, for us to leave
22 the present pension law with regard to this as it exists
23 today, because we have no idea what we are going to do to
24 some of these pension funds.

25 For example, we are removing the impediments that

1 have been the impediments to taking these excess pension
2 funds out and using them at will for anything they want.
3 If there are those assets, those unfunded liabilities
4 there, which are going to be stacking up--and they should
5 stack up to prevent anyone from being without a pension
6 at the time they need it--we are going to see many of
7 these pensions simply terminate the annuities for their
8 employees, perhaps, which are uninsured. They are not
9 insured.

10 Senator Moynihan. No, no.

11 Senator Pryor. And I just think, Mr. Chairman,
12 that we are moving off into an area that we should not
13 do. I know that this is a revenue raiser, but these
14 pension funds and this policy should not be changed at
15 this particular point, simply to raise revenue.

16 It is a dangerous step. And I hope that we will
17 keep the pension laws as they are now, and not tamper
18 with them at this moment.

19 Senator Moynihan. Thank you, sir. May I ask Mr.
20 Talisman. I know you have some particular interest in
21 this field. The 125 percent provision--the cushion this
22 is called--how adequate is that in your view?

23 Mr. Talisman. Well, there are certain weaknesses
24 in the 125 percent cushion, Senator. The specific
25 weaknesses are the range in the interest rate, and the

1 lack of specific mortality and retirement age
2 assumptions.

3 In the GMC auto workers' plan, for example, the
4 interest rate differential accounted for 22 percentage
5 points, the mortality rate differential for 12 points,
6 and retirement age assumption differential for 8 points.
7 That allows the employer to gain the system, to choose an
8 interest rate at the top of the range permissible under
9 the Code definition. They can assume higher mortality
10 rates and later average retirement age. Therefore, he
11 can minimize the liability and maximize the excess
12 assets.

13 Senator Moynihan. I see. So it is a chancy
14 situation, even at present.

15 Mr. Talisman. That is correct.

16 Senator Moynihan. I note that U.S.A. Today says in
17 an editorial called, "Attempt to Trim Deficit Puts
18 Pensions in Danger", "For every dollar this plan cuts
19 from the deficit, \$4 in pension savings and potential
20 investment go out the window." I do not think we need to
21 do this. I hope we will not.

22 Senator Pryor. Let me say, Senator Moynihan, if I
23 may, I do not know how in the world we can justify going
24 into this massive change in the pension law without ever
25 even holding a hearing on it. We have not even held a

1 hearing on this, and this is a very grave step.

2 The Chairman. All time has expired on the
3 Democratic side.

4 Senator Moynihan. Could I ask 30 seconds for
5 Senator Rockefeller?

6 The Chairman. Yes.

7 Senator Rockefeller. Thank you very much, Senator
8 Moynihan. We went through this last night in the walk-
9 through. And I think what Senator Moynihan is trying to
10 fix is terribly important because what will happen
11 otherwise is that it will weaken workers' retirement
12 security, and it will shorten savings in this country.
13 It allows corporations to set up tax-sheltered corporate
14 piggybacks. It is a cornucopia of bad ideas, and is bad
15 budget policy as well as bad legislative policy.

16 And I hope the Senator's amendment prevails.

17 The Chairman. All time for the Democrats has
18 expired.

19 First of all, just let me point out that the
20 transfer provision contains the same safeguards, the same
21 safeguards that were approved in the GATT legislation
22 that was negotiated by that Congress and the Clinton
23 administration. Is that not correct, Mr. Kies?

24 Mr. Kies. Senator Roth, the proposal before you
25 contains the same cushion, with one additional

1 clarification that is a tightener. That is that the
2 amount that can be taken out is limited to the lesser of
3 the surplus that existed on January 1, 1995 or the amount
4 as of the valuation date closest to the reversion. So
5 you have to use the smaller amount. So increases in the
6 stock market since January 1 of this year would not
7 increase the amount that could be available for
8 reversion.

9 The Chairman. You have made a study of this
10 matter. Would you explain your findings?

11 Mr. Kies. Well, Senator Roth, we did review the
12 concerns raised by the PBGC, and concluded that most of
13 them involved fairly hypothetical situations that we and
14 a number of outside actuaries do not believe are likely
15 to ever occur.

16 Among the issues that we did look at was stock
17 market performance because interest rate assumptions are
18 directly related, and there have been a number of
19 references to the stock market falling.

20 One of the things in our report is a chart, looking
21 at the stock market performance from 1955 to 1995. What
22 you see is that there has been a consistently upward
23 trend in the stock market, including even the 1987
24 adjustment that was a downward adjustment, which was
25 completely corrected for within a short period of time.

1 So in terms of the reaction of the stock market and
2 interest rates, we found that to be a relatively small
3 factor.

4 On balance, we would agree with the outside
5 actuarial firms that have studied this issue, who believe
6 that the cushion, which effectively for most companies is
7 150 percent, is more than adequate.

8 I would just clarify one other point. That is that
9 Senator Moynihan alluded to \$30 billion to \$40 billion of
10 pension assets that might come out under reversions. I
11 believe that is under the House version. Our estimate
12 under the Senate version is that the amount that is
13 likely to be subject to reversion over the cushion that
14 is part of the GATT agreement would only be \$19 billion,
15 so it is a somewhat smaller amount.

16 Senator Moynihan. Mr. Kies, that legislation was
17 put in the GATT agreement because we felt that we had to
18 do something. We really took the opposite direction from
19 what we are taking today.

20 Mr. Kies. Senator Moynihan, the GATT agreement did
21 two things with respect to funding of pension plans.

22 Senator Moynihan. The legislation that was put on
23 the GATT legislation?

24 Mr. Kies. Yes, sir.

25 The legislation that was put on the GATT agreement

1 did two things. First it ----

2 Senator Rockefeller. I am not sure the Senator
3 inquired regarding your opinion on this matter.

4 Mr. Kies. This is not an opinion. I was just
5 going to state a fact.

6 Senator Rockefeller. At the Senator's request?

7 Mr. Kies. I was actually responding to Senator
8 Roth.

9 Senator Rockefeller. I see.

10 The Chairman. I would make the request.

11 Mr. Kies. What I was going to say, Senator
12 Moynihan, is that it put in place new safeguards to
13 insure that underfunded plans do get funded at a more
14 rapid rate when and if there is an underfunding problem.

15 The second thing it did was it did continue a
16 provision of prior law that does permit reversions, to
17 the extent the money is used for retiree health.

18 I think the only point Senator Roth had inquired
19 about was whether or not this legislation includes the
20 same safeguards, in terms of cushion, to protect pension
21 participants and current workers. And the answer is that
22 it does, except that it has a further limitation that the
23 amount that can be taken out is limited to the excess on
24 January 1, 1995 or the smaller amount.

25 Senator Moynihan. This scares me. Could we ask

1 the Secretary of the Treasury Department's view?

2 The Chairman. Yes.

3 Mr. Samuels. Senator Moynihan, first, regarding
4 the comment that the amount that can be taken out now is
5 maybe \$19 billion, I do not think anyone really knows.
6 But that is a very large number. And I think it is
7 especially important to remember that today is the
8 anniversary of the market crash in 1987, where the market
9 fell by over 500 points, and that was frightening to me
10 then.

11 The Chairman. You are not predicting another
12 market crash, are you?

13 Mr. Samuels. No, absolutely not. But I think, Mr.
14 Chairman, that we all know that there are market
15 corrections, and you can have significant changes in
16 asset value. It has happened in the past, and I think
17 economists will tell you that it will happen in the
18 future. And it is not the time, when we have a problem
19 with our savings rate, to start allowing withdrawals from
20 our pension system.

21 The Chairman. All time has expired. The clerk
22 will call the roll.

23 The Clerk. Mr. Dole.

24 Senator Dole. No, by proxy.

25 The Clerk. Mr. Chafee.

1 Senator Chafee. No, by proxy.
2 The Clerk. Mr. Grassley.
3 Senator Grassley. No, by proxy.
4 The Clerk. Mr. Hatch.
5 Senator Hatch. No, by proxy.
6 The Clerk. Mr. Simpson.
7 Senator Simpson. No, by proxy.
8 The Clerk. Mr. Pressler.
9 Senator Pressler. No, by proxy.
10 The Clerk. Mr. D'Amato.
11 Senator D'Amato. No, by proxy.
12 The Clerk. Mr. Murkowski.
13 Senator Murkowski. No, by proxy.
14 The Clerk. Mr. Nickles.
15 Senator Nickles. No, by proxy.
16 The Clerk. Mr. Gramm.
17 Senator Gramm. No, by proxy.
18 The Clerk. Mr. Moynihan.
19 Senator Moynihan. Aye
20 The Clerk. Mr. Baucus.
21 Senator Baucus. Aye, by proxy.
22 The Clerk. Mr. Bradley.
23 Senator Bradley. Aye, by proxy.
24 The Clerk. Mr. Pryor.
25 Senator Pryor. Aye.

1 The Clerk. Mr. Rockefeller.
2 Senator Rockefeller. Aye.
3 The Clerk. Mr. Breaux.
4 Senator Breaux. Aye, by proxy.
5 The Clerk. Mr. Conrad.
6 Senator Conrad. Aye.
7 The Clerk. Mr. Graham.
8 Senator Graham. Aye.
9 The Clerk. Ms. Moseley-Braun.
10 Senator Moseley-Braun. Aye, by proxy.
11 The Clerk. Mr. Chairman.
12 The Chairman. No.
13 The Clerk. The ayes are 9, the nays 11.
14 The Chairman. The amendment is not agreed to.
15 Senator Moynihan. Senator Pryor, I believe?
16 Senator Graham. Mr. Chairman, I do not have an
17 amendment to offer, but an observation.

18 We have heard repeatedly the virtues of the members
19 of the Medicare trustees who submitted the report asking
20 that we take some steps towards bringing that trust fund
21 into better balance. Both sides of the House have heard
22 that, and have attempted to respond.

23 It is interesting to me that two of the same people
24 to whose judgment we give such preeminence to, as it
25 relates to the Medicare trust fund--that is, Secretary

1 Reich and Secretary Rubin--are also members of the
2 Pension Benefit Guaranty Corporation.

3 As I read their letter, it is as strong or stronger
4 language. They have advised against the ill wisdom of
5 the decision we have just made to allow this raid of
6 pension funds.

7 Senator Moynihan. Somehow their authority seems to
8 diminish when you get into something that is in the House
9 Contract.

10 Senator Graham. There seems to be a certain
11 selectivity of when their judgment is worthy of our
12 following.

13 The Chairman. We call that flexibility.

14 Senator Moynihan. It is called flexibility, the
15 Chairman says.

16 The Chairman. Further amendments?

17 Senator Pryor. I think I have an amendment, Mr.
18 Chairman.

19 The Chairman. Senator Pryor.

20 Senator Pryor. Mr. Chairman, I believe all the
21 Members have a copy of my amendment. This amendment is
22 very simple. It is to the point. It is one that has
23 been supported in concept by each side of the aisle. And
24 I am very hopeful that we can get the support of our
25 colleagues on the other side of the aisle.

1 My amendment would very simply say to 10 million
2 individual businesses, self-employed, small businesses,
3 that we are going to allow you, for the first time, to
4 deduct 50 percent of your health care premiums from your
5 income tax.

6 We know for a fact that in C corporations, the
7 larger C corporations today deduct 100 percent. We know
8 that the employees of these particular corporations, Mr.
9 Chairman, get to exclude 100 percent from their income
10 because they are covered by these particular policies,
11 where the corporations can deduct this amount of money.

12 Now, this will apply to farmers, to small
13 businesses, to self-employed, to S corporations. Some 10
14 million people will be helped if we pass this amendment.

15 How do we increase from 30 percent, which is the law
16 today in deductions, to 50 percent? It is very simple.
17 In the Chairman's Mark, we see that in the area of
18 corporate capital gains, the Chairman's Mark is reducing
19 it from a 35 percent rate to a 28 percent rate.

20 I am simply saying that we will reduce corporate
21 capital gains from 35 percent to 30 percent. This will
22 pay for the additional increase of some 20 percent extra
23 in deductions that will benefit hundreds of thousands of
24 small businesses, and perhaps as many as 10 million
25 people in our country today who are struggling to pay the

1 costs of their medical insurance.

2 It will be a tremendous boost for these individuals
3 and for these smaller companies. I have the support in
4 concept in a letter from the NFIB, not necessarily on
5 this amendment per se, but in concept supporting the
6 deductibility. In addition to the NFIB, we have the
7 Small Business Legislative Council.

8 Mr. Chairman, I would urge our colleagues on both
9 sides of the aisle not to make this a partisan issue, but
10 to make this a good issue of policy that can come forth
11 from this particular legislation.

12 Senator Moynihan. Mr. Chairman, can we not have
13 one unanimous vote? I think we ought to. It would show
14 the country that we are capable of agreeing, without
15 partisan differences all the time.

16 I am pleased to note that the National Federation of
17 Independent Business is so supportive of this measure,
18 which simply enables persons to cover themselves with
19 health insurance. If they are not, businesses go out of
20 business, persons end up on public assistance.

21 Let us all get together and say aye. [Laughter.]

22 The Chairman. I would like to ask Senator Pryor
23 about this new proposal. At least I have not seen it
24 before.

25 Senator Pryor. No, sir. I think this proposal was

1 presented on Monday afternoon. I guess it would be the
2 corporate capital gains provision in the Mark. You had a
3 revenue estimate on Monday I believe, Mr. Chairman.

4 The Chairman. What was the estimate?

5 Senator Pryor. We have not received the revenue
6 estimate. We had requested the revenue estimate on
7 Monday.

8 Mr. Kies. Senator Roth, we do have a revenue
9 estimate. Under the proposal, the deductibility for
10 self-employed health insurance would be increased to 50
11 percent, and offset by changing the tax on corporate
12 capital gains.

13 The cost of the increase in deductibility over a
14 7-year period, is \$3.3 billion. In order to offset, it
15 would require that the capital gains rate on corporations
16 rises from 28 percent, as it is in the Mark, to 32
17 percent. That would basically offset the effect of it,
18 with a little bit to spare.

19 Senator Pryor. In other words, if we put it from
20 28 percent to 30 percent ----

21 Mr. Kies. Thirty-two.

22 Senator Pryor. It would cover?

23 Mr. Kies. Yes, sir.

24 Senator Pryor. Well, I was hoping it would be 30
25 percent. But being it is 32, we will just take 32

1 percent. I guess I would ask the opportunity to modify
2 my amendment to allow the corporate capital gain in the
3 Chairman's Mark to go from 35 percent to 32 percent to
4 pay for a 50 percent deduction for smaller companies and
5 individuals.

6 So we are still giving the corporations a break in
7 their capital gains.

8 Senator Moynihan. Down from 35 percent to 32
9 percent.

10 Senator Pryor. Down from 35 to 32.

11 Senator Moynihan. A 10 percent reduction.

12 The Chairman. All time on the Democratic side has
13 expired.

14 Reluctantly, I must oppose it. The clerk will call
15 the roll.

16 The Clerk. Mr. Dole.

17 Senator Dole. No, by proxy.

18 The Clerk. Mr. Chafee.

19 Senator Chafee. No, by proxy.

20 The Clerk. Mr. Grassley.

21 Senator Grassley. No, by proxy.

22 The Clerk. Mr. Hatch.

23 Senator Hatch. No.

24 The Clerk. Mr. Simpson.

25 Senator Simpson. No, by proxy.

1 The Clerk. Mr. Pressler.
2 Senator Pressler. No, by proxy.
3 The Clerk. Mr. D'Amato.
4 Senator D'Amato. No, by proxy.
5 The Clerk. Mr. Murkowski.
6 Senator Murkowski. No, by proxy.
7 The Clerk. Mr. Nickles.
8 Senator Nickles. No, by proxy.
9 The Clerk. Mr. Gramm.
10 Senator Gramm. No, by proxy.
11 The Clerk. Mr. Moynihan.
12 Senator Moynihan. Aye.
13 The Clerk. Mr. Baucus.
14 Senator Baucus. Aye, by proxy.
15 The Clerk. Mr. Bradley.
16 Senator Bradley. Aye, by proxy.
17 The Clerk. Mr. Pryor.
18 Senator Pryor. Aye.
19 The Clerk. Mr. Rockefeller.
20 Senator Rockefeller. Aye.
21 The Clerk. Mr. Breaux.
22 Senator Breaux. Aye.
23 The Clerk. Mr. Conrad.
24 Senator Conrad. Aye.
25 The Clerk. Mr. Graham.

1 Senator Graham. Aye.

2 The Clerk. Ms. Moseley-Braun.

3 Senator Moseley-Braun. Aye, by proxy.

4 The Clerk. Mr. Chairman.

5 The Chairman. No.

6 The Clerk. The ayes are 9, the nays 11.

7 The Chairman. The amendment is not carried.

8 We are open to further amendment.

9 Senator Rockefeller. Mr. Chairman?

10 The Chairman. Mr. Rockefeller.

11 Senator Rockefeller. Mr. Chairman, I have one
12 referring to the social services block grant, and I will
13 wait for it to be distributed.

14 The block grant of Title XX is the Social Security
15 social services block grant. It covers a wide range of
16 social services. It has to do with eliminating
17 dependency, achieving self-sufficiency, preventing or
18 reducing inappropriate institutional care, home-based
19 care, community-based care, other forms of less intensive
20 care.

21 It is just the type of the so-called flexibility in
22 the States' block grant, which I hope the Republicans now
23 will continue to support. It certainly would be very
24 good for West Virginia, and I think most other States.

25 I think it is really a simple statement about

1 priorities. On October 2, the Monday after we completed
2 the first part of the reconciliation, I had a letter from
3 Sue Surgey, who is the Commissioner of our West Virginia
4 Bureau for Children and Families, and a social worker
5 that I have known for many, many years. And she wrote,
6 "I know this is too late. Sorry, but I am sending a memo
7 from the Director of the Office of Social Services that
8 will give you some idea of the impact of reductions which
9 have been effected in social services block grants. It
10 would destroy the social service system in West Virginia.
11 It would be necessary for us to eliminate over 100 social
12 service staff positions. That kind of cutback would in
13 fact render us unable to provide the basic protection for
14 children and adults in West Virginia."

15 Another person, the Director of the Office of Social
16 Services, Mr. Burgess, writes, "In the late 1980's, when
17 a Federal cutback on Title XX funds occurred, the State
18 invested millions of dollars in direct service contracts
19 as a way to try to get around that. Since that time, the
20 Office of Social Services has transferred to other State
21 agencies, or otherwise divested itself of all direct
22 service contracts that are not primary to its core
23 mission."

24 In other words, this is State flexibility trying to
25 work its way through on a very difficult problem. There

1 are no good options for absorbing a 20 percent reduction
2 in the social services block grant, Mr. Chairman. In the
3 case of West Virginia, it would be many millions of
4 dollars. We have basically used up our choices over
5 recent years, when it comes to reductions in Title XX.

6 Our people feel that it is impossible to make
7 further cuts. And these are the people to whom we are
8 turning over responsibility for all of this.

9 So I offer this amendment on behalf of my State and
10 the vulnerable families across the country served by
11 Title XX. And I want it to be crystal clear that my
12 priority is protecting abused and neglected children. We
13 ought to do that first, before extending tax breaks to
14 businesses. Businesses have lobbyists; abused children
15 tend not to have lobbyists.

16 Senator Graham. Mr. Chairman?

17 The Chairman. Yes, Senator Graham.

18 Senator Graham. I would like to support the
19 amendment offered by Senator Rockefeller.

20 I was very concerned after we had taken the vote to
21 cut Title XX funds as to what effect it was going to have
22 on our overall plan of welfare reform. If there was one
23 area in which there was broad agreement, it was the
24 necessity of having an adequately funded child care
25 component, in order to make it realistically available

1 for single mothers to take those steps, including
2 training and early employment that are the building
3 blocks of independence and relief from welfare.

4 In my State, I have found that the largest single
5 area of reduction that would be occasioned by this cut in
6 Title XX is exactly in child care. And if our State is
7 representative of the nation, we have essentially
8 eviscerated the increases in child care which we worked
9 so hard to get into the welfare reform bill, by cutting
10 back the capacity of Title XX to be used for child care
11 services.

12 So, Mr. Chairman, I think that consistent with our
13 goal of welfare to work, and consistent with our goal of
14 no more unfunded mandates on States, the amendment that
15 the Senator from West Virginia has offered is not only
16 good for West Virginia, good for Florida, but good for
17 America, and particularly the children and soon-to-be-
18 working mothers that we hope to make independent. I
19 think it is a realistic objective.

20 The Chairman. The time of the Democrats has
21 expired.

22 The clerk will call the roll.

23 Senator Rockefeller. Is there no comment from the
24 other side?

25 The Chairman. No comment. The clerk will call the

1 roll.

2 The Clerk. Mr. Dole.

3 Senator Dole. No, by proxy.

4 The Clerk. Mr. Chafee.

5 Senator Chafee. No, by proxy.

6 The Clerk. Mr. Grassley.

7 Senator Grassley. No, by proxy.

8 The Clerk. Mr. Hatch.

9 Senator Hatch. No.

10 The Clerk. Mr. Simpson.

11 Senator Simpson. No, by proxy.

12 The Clerk. Mr. Pressler.

13 Senator Pressler. No, by proxy.

14 The Clerk. Mr. D'Amato.

15 Senator D'Amato. No, by proxy.

16 The Clerk. Mr. Murkowski.

17 Senator Murkowski. No, by proxy.

18 The Clerk. Mr. Nickles.

19 Senator Nickles. No, by proxy.

20 The Clerk. Mr. Gramm.

21 Senator Gramm. No, by proxy.

22 The Clerk. Mr. Moynihan.

23 Senator Moynihan. Aye.

24 The Clerk. Mr. Baucus.

25 Senator Baucus. Aye.

1 The Clerk. Mr. Bradley.

2 Senator Bradley. Aye, by proxy.

3 The Clerk. Mr. Pryor.

4 Senator Pryor. Aye, by proxy.

5 The Clerk. Mr. Rockefeller.

6 Senator Rockefeller. Aye.

7 The Clerk. Mr. Breaux.

8 Senator Breaux. Aye.

9 The Clerk. Mr. Conrad.

10 Senator Conrad. Aye.

11 The Clerk. Mr. Graham.

12 Senator Graham. Aye.

13 The Clerk. Ms. Moseley-Braun.

14 Senator Moseley-Braun. Aye, by proxy.

15 The Clerk. Mr. Chairman.

16 The Chairman. No.

17 The Clerk. The ayes are 9, the nays 11.

18 The Chairman. The amendment does not carry.

19 The floor is open for further amendments.

20 Senator Graham?

21 Senator Graham. Mr. Chairman, as we discussed a

22 few moments ago, it had been my intention to offer an

23 amendment relative to the Caribbean Basin, and to extend

24 parity treatment to the CBI countries, as that which as

25 been accorded to Mexico under the North American Free

1 Trade Agreement.

2 Based on your request that trade issues be deferred
3 to a later date, and not be incorporated in this
4 reconciliation, I will defer from that. But I would like
5 to make a couple of points.

6 One is that there is a sense of time urgency here.
7 We are beginning to see what had been expected, and that
8 is a shift of investment from the CBI countries in the
9 Caribbean and Central America to Mexico, as we have
10 created an unequal playing field in terms of access to
11 the U.S. market, as between Mexico and the CBI countries.
12 And every month that inequality continues, those fragile
13 economies are more at risk.

14 Second, we are increasing that risk by a step that
15 we are taking in this legislation before us today. And
16 that is the repeal of section 936.

17 Senator Moynihan. Of section 936.

18 Senator Graham. One of the provisions of section
19 936 ----

20 Senator Moynihan. Puerto Rico.

21 Senator Graham. ---- was to provide that a certain
22 portion of the benefits of section 936 would be used in
23 various joint venture arrangements ----

24 Senator Moynihan. CBI.

25 Senator Graham. ---- for the Caribbean nations.

1 That potential source of capital is now going to be
2 phased down and phased out. So by this legislation
3 before us, in addition to what we did with NAFTA, we are
4 adding another detriment to the economic foundation of a
5 region that is very important to us. They have been
6 extremely good neighbors. It is one of the areas in the
7 world in which we have a substantial trade surplus, a
8 growing trade surplus.

9 It is an area which just a few years ago was pocked
10 with dictatorships. And today, with one exception, it is
11 region of democracy. And I think that we should not only
12 take some pride in that, but also should avoid steps that
13 could potentially result in a slippage of the economic
14 and political gains we have made in the Caribbean Basin.

15 So, Mr. Chairman, in deference to your desire, I
16 will not offer this amendment today, as much as that
17 pains me. But I would urge an early consideration of
18 this, as well as other trade matters that are pending
19 before this Committee because, in this case, delay is not
20 benign. Delay is having adverse consequences to an area
21 of the world that is of special historic, political and
22 economic importance to the United States.

23 The Chairman. Let me just say, Senator Graham,
24 that you are correct. We did have a conversation on this
25 matter. I recognize the importance of it, not only to

1 you, but to your area. That is what you are particularly
2 concerned about.

3 There are a number of matters in the international
4 trade area that I think are of great importance. So it
5 is my hope that we will begin to address some of these
6 problems at the earliest possible time. And I appreciate
7 your deference on this matter.

8 Senator Rockefeller. Mr. Chairman?

9 The Chairman. Yes, Senator Rockefeller.

10 Senator Rockefeller. Mr. Chairman, I have an
11 amendment on the alternative minimum tax.

12 I am not aware at the moment what its number is. It
13 has been submitted. It is number 26.

14 I am glad that Senator Hatch is here because he and
15 I--and actually Senator Nickles--have worked on this
16 before.

17 I am not going to ask that this be brought to a vote
18 because I am not sufficiently confident that it would
19 pass. Therefore, for strategic reasons, I would like to
20 make my case, but then reserve options for the
21 conference.

22 This affects capital-intensive industries, the steel
23 industry, for example, wood, paper, the chemical
24 industry, any industry which depends a lot on capital-
25 intensive equipment.

1 We have in the AMT, by only fixing the so-called
2 method of calculating the depreciation under AMT, instead
3 of conforming the lives--that is, the length of time that
4 the depreciation stretches out--we have left a number of
5 companies in a very desperate situation.

6 By only fixing the method--that is, the formula--we
7 are not helping those industries that have very, very
8 high capital costs, and are unable to recover their costs
9 for years.

10 For steel, for example, under the alternative
11 minimum tax, it takes 15 years for them to depreciate
12 their assets, as opposed to 7 years under the regular
13 tax.

14 For the chemical industry, they have 9-1/2 years to
15 depreciate under the AMT, as opposed to 5 years under the
16 regular tax.

17 Well, let me say one more thing here, because steel
18 companies are effectively stuck in their AMT status,
19 Under the current law, after 5 years, a U.S. steel maker
20 under AMT recovers only 30 percent on its investment in
21 new plant and equipment versus, for example, 58 percent
22 in Japan, 81 percent in Germany, 90 percent in Korea and
23 100 percent in Brazil.

24 So this is really an AMT amendment on the one hand,
25 but it is also about keeping American heavy industry,

1 good job producers, competitive in a global marketplace,
2 which we thought we were ushering in with GATT last year.

3 I think the need for corrective action is clear, and
4 I hope that the Committee will be accommodating at a
5 later point.

6 Senator Hatch may have some comments he wants to
7 make.

8 The Chairman. Yes, Senator Hatch.

9 Senator Hatch. Mr. Chairman, your Mark includes
10 significant corporate alternative minimum tax relief.
11 However, because of revenue restraints, we had to limit
12 the AMT depreciation relief to bring the depreciation
13 method for AMT purposes in line with the depreciation
14 methods allowable for regular tax purposes.

15 The bill that Senators Nickles, Burns, Rockefeller
16 and I cosponsored went an additional very important step
17 by also conforming the depreciation lives for AMT
18 purposes with those of the regular tax.

19 This additional step is very significant, especially
20 for certain capital-intensive industries because much of
21 the equipment in these companies and that these
22 industries have to purchase on a continual basis in order
23 to stay competitive, becomes obsolete very quickly. For
24 example, for regular depreciation purposes, some of this
25 property is given a useful life of 7 years. But for AMT

1 purposes, its useful life is extended for 15 years.
2 Because of this sizeable mismatch, we are actually
3 discouraging corporate investment in capital assets.

4 So I agree with Senator Rockefeller. This is
5 something I hope we can change at a future date, and do
6 more to conform depreciation lives, as well as
7 depreciation methods.

8 As I understand it, we may in the future have an
9 additional bill that we might be able to put this in, and
10 I think we ought to do it at that time.

11 Senator Rockefeller. The method we have solved.
12 The length of time for depreciation we have not. And
13 that is where these industries are hurt.

14 Senator Hatch. That is right. And I commend you
15 for mentioning that, and agree with you that it needs to
16 be fixed.

17 Senator Rockefeller. I thank the Senator, and I
18 thank the Chairman.

19 The Chairman. Does anyone have any further
20 amendments?

21 Senator Pryor. Mr. Chairman, I have an amendment.

22 The Chairman. Senator Pryor.

23 Senator Pryor. Mr. Chairman, in 1988 the Congress
24 did something that was very unique because, for the first
25 time since our Republic started collecting taxes, we

1 finally got around in 1988 to telling the taxpayer what
2 their rights were--for the first time. This became known
3 as the Taxpayer's Bill of Rights. It was historic, it
4 was bipartisan, it was a great Democrat-Republican
5 effort, signed into law by a Republican President.

6 Mr. Chairman, the Taxpayer's Bill of Rights was so
7 popular and so successful, I would tell my colleagues,
8 that we decided to strengthen the taxpayer's rights, to
9 make it better, to make it more understood. And
10 certainly, in 1992, by a tremendous vote of this
11 Committee, the Senate and the House, we enacted or passed
12 into law, I should say, Taxpayer's Bill of Rights
13 Number 2.

14 However, these particular bills were in ----

15 Could I have order, Mr. Chairman?

16 The Chairman. The Senator is entitled to be heard.

17 Senator Pryor. I thank the Chairman very much.

18 We included these in H.R. 11 and H.R. 4210, which
19 were very major proposals, and they were vetoed by then
20 President Bush. He may or may not have had reasons. I
21 do not think he meant to nor wanted to veto the part of
22 the Taxpayer's Bill of Rights.

23 Mr. Chairman, in the Chairman's Mark there is a
24 Taxpayer's Bill of Rights. But I must say with all
25 respect, after looking at this issue for the number of

1 years that I have--and that we have, I might say--the
2 taxpayer's rights issue that is set out in the Chairman's
3 Mark is very, very weak indeed. In fact, it is only a
4 remnant of its former self.

5 I am introducing this amendment, or presenting this
6 amendment, Mr. Chairman, basically as the amendment that
7 has already passed this Committee two times, that has
8 passed the House and the Senate on two occasions, and
9 that was vetoed by the President.

10 I would also state that the way I plan to pay for
11 this amendment, which is estimated at about \$700 million
12 over 7 years, is by slowing down the phase-in of the
13 increased unified credit contained in the Chairman's
14 Mark. Instead of phasing in the increased unified credit
15 of \$25,000 per year, we will phase this in slower. I
16 have a table that I would be glad to discuss. I hate to
17 take my time because it is sort of arcane. But I think
18 it is an acceptable way to pay for this, and to make it
19 revenue-neutral.

20 Mr. Chairman, I would like to personally thank, in
21 the early years of this fight, Senator Baucus and our
22 friend, Senator D'Amato from New York, our friends
23 Senator Grassley, Senator Hatch, and Senator Pressler,
24 who have all been a part of this movement over a long
25 number of years to increase the rights of the individual

1 taxpayer. And we hope very much to get a strong
2 bipartisan vote for this amendment today.

3 The Chairman. Is there any comment?

4 Senator Hatch?

5 Senator Hatch. Mr. Chairman, if I could just make
6 one comment? I agree with the Senator. It would be
7 wonderful if we could pass every one of those provisions.
8 As I understand it, the only provisions that were put in
9 the bill are the ones that would pass the Byrd Rule, and
10 the others apparently would not. Otherwise, I think
11 there is a lot of empathy and sympathy on this side for
12 what the Senator from Arkansas wants to do. And I
13 certainly support it.

14 Senator Pryor. I understand. I would say to my
15 friend from Utah that all five of the provisions actually
16 have a revenue effect.

17 Senator Hatch. Yes. All right. That was my
18 understanding.

19 Senator Pryor. Right. I hope we can get your
20 support for it because you have been a supporter in the
21 past.

22 The Chairman. Is there any further comment?

23 [No response]

24 The Chairman. I would ask you, Mr. Kies, what is
25 the cost of these provisions?

1 Mr. Kies. Mr. Chairman, the part of Senator
2 Pryor's amendment that relates to the Taxpayer Bill of
3 Rights has a revenue cost over 7 years of \$730 million.
4 Senator Pryor proposes to pay for that by modifying the
5 phase-in of the reduction of the unified credit in a way
6 that is roughly revenue-neutral.

7 It does produce a \$63 million first-year loss, and
8 then it evens it out over time. The principal provision
9 included that is of a revenue nature, that was not
10 included in the package in the Chairman's Mark, is a
11 provision dealing with abatement of interest. And that
12 has a cost of \$45 million over 7 years.

13 The Chairman. Senator Grassley, who could not be
14 here at this moment, wanted me to point out that he would
15 certainly like to have included the whole bill in the
16 Mark. But, as Senator Pryor and others know, over half
17 of the bill is subject to the so-called Byrd Rule and
18 cannot be included in a reconciliation bill.

19 Other provisions cost revenue, and Senator Grassley
20 will be fighting for these provisions in conference with
21 the House. So I was speaking on your behalf, Senator
22 Grassley.

23 Senator Nickles. Mr. Chairman?

24 The Chairman. As long as you have done that, I
25 will not take the time.

1 Any further comment?

2 Senator Pryor. I think Senator Nickles has a
3 comment.

4 Senator Nickles. I just wanted in inquire.
5 Senator Nickles' amendment would increase the \$600,000 to
6 \$750,000?

7 Mr. Kies. It would slow down the rate at which it
8 increases, as compared to the Chairman's Mark to make up
9 the revenue loss. It would still increase over time to
10 \$750,000, but it would do it at a slower rate.

11 Senator Nickles. We do it in 6 years, and he would
12 do it in how many years?

13 Mr. Kies. We think it would be ----

14 Senator Pryor. Six years.

15 Mr. Kies. Well, it would require that the
16 increases be lower in the earlier years to make up the
17 money. The Chairman's Mark does it ratably over time.
18 And I think for your amendment to be revenue neutral, it
19 would take it to \$750,000 in 6 years, but do it in
20 smaller increments in the earlier years.

21 The Chairman. Senator Nickles, anything further?

22 Senator Nickles. No.

23 The Chairman. I reluctantly oppose it.

24 I would ask the clerk to call the roll.

25 The Clerk. Mr. Dole.

1 Senator Dole. No, by proxy.
2 The Clerk. Mr. Chafee.
3 Senator Chafee. No.
4 The Clerk. Mr. Grassley.
5 Senator Grassley. No.
6 The Clerk. Mr. Hatch.
7 Senator Hatch. No.
8 The Clerk. Mr. Simpson.
9 Senator Simpson. No, by proxy.
10 The Clerk. Mr. Pressler.
11 Senator Pressler. No.
12 The Clerk. Mr. D'Amato.
13 Senator D'Amato. No.
14 The Clerk. Mr. Murkowski.
15 Senator Murkowski. No, by proxy.
16 The Clerk. Mr. Nickles.
17 Senator Nickles. No.
18 The Clerk. Mr. Gramm.
19 Senator Gramm. No, by proxy.
20 The Clerk. Mr. Moynihan.
21 Senator Moynihan. Aye.
22 The Clerk. Mr. Baucus.
23 Senator Baucus. Aye.
24 The Clerk. Mr. Bradley.
25 Senator Bradley. Aye.

1 The Clerk. Mr. Pryor.

2 Senator Pryor. Aye.

3 The Clerk. Mr. Rockefeller.

4 Senator Rockefeller. Aye, by proxy.

5 The Clerk. Mr. Breaux.

6 Senator Breaux. Aye.

7 The Clerk. Mr. Conrad.

8 Senator Conrad. Aye.

9 The Clerk. Mr. Graham.

10 Senator Graham. Aye, by proxy.

11 The Clerk. Ms. Moseley-Braun.

12 Senator Moseley-Braun. Aye.

13 The Clerk. Mr. Chairman.

14 The Chairman. No.

15 I might say that it is a delight to have our one
16 woman Senator here with us again. We hope you are
17 feeling much better.

18 Senator Moseley-Braun. Thank you very much, Mr.
19 Chairman. And thank you and the Ranking Member for your
20 kindness during my absence.

21 The Clerk. The ayes are 9, the nays 11.

22 The Chairman. The amendment is not agreed to.

23 Senator Baucus?

24 Senator Baucus. Mr. Chairman, I have an amendment,
25 which I hope is being circulated.

1 Mr. Chairman, this is an attempt--I hope not
2 futile--for a common ground, balanced, bipartisan
3 approach to deficit reduction, where I think the majority
4 of American people really are.

5 Mr. Chairman, I have noted in my opening statement
6 that your Mark greatly improved upon the two packages in
7 the House, and I very much meant that. I think this is a
8 major improvement, and I appreciate that.

9 At the same time, I emphasized that the tax benefits
10 in the Mark are still a bit too large. That is where I
11 think most American people are. This is particularly
12 true when measured against the \$270 billion in spending
13 cuts that have been imposed on the Medicare program.

14 Montanans who I have listened to first-hand over the
15 past several months do want tax relief. I think most
16 people in my State and across the country do want some
17 tax relief. But they also realize how threatening these
18 Medicare cuts are to seniors, to rural doctors, and
19 hospitals. And the more organized national research
20 firms find about the same thing. Americans oppose
21 Medicare cuts by about three to one.

22 Let me repeat that--Americans oppose Medicare cuts
23 by about three to one. But I think most Americans would
24 also like to see some kind of tax relief.

25 This amendment is to attempt to reach beyond party

1 lines and find that common ground. It would adjust
2 several--not all, but several--of the tax provisions in
3 the Mark, and apply the savings to Medicare. That way,
4 we can provide some relief to people who need it, put
5 Medicare on a strong financial footing, and remove the
6 grave threat the package poses to health care for seniors
7 and security for rural hospitals.

8 Let me review the specifics. First, it phases in
9 the child credit--\$400 in 1996, \$450 in 1997, and \$500
10 for all years thereafter.

11 Second, it focuses the child tax credit on the
12 families who need the benefit the most, that is families
13 who find themselves at the end of the week or the month
14 scrambling to make ends meet. So it reduces the gross
15 income levels at which the family tax credit phases out.

16 Third, it slows down only slightly the marriage
17 penalty relief provision. My good friend, the Senator
18 from Utah, has spoken eloquently on many occasion of the
19 evil caused by the marriage penalty. I agree with him.
20 I think most Americans do. I am pleased that your Mark
21 addresses that issue. When dollars are few and precious,
22 relief for those impacted by the marriage penalty can be
23 slowed down just a bit. To that end, the amendment would
24 reduce the proposed increases in the standard deduction
25 by about \$100 a year.

1 Fourth, it modifies the capital gains relief for
2 individuals. I think capital gains relief is important.
3 When I am back home, I hear from the small town
4 businessman who is retiring and selling his business that
5 capital gains relief would leave that businessman more
6 money to invest in his retirement, a result I think this
7 Committee should encourage.

8 The amendment allows a individual to take a
9 deduction equal to half of the net capital gains on the
10 first \$100,000 in capital gains. Anything over \$100,000
11 would be taxed at the current capital gains level.

12 My amendment will not assist everyone who is
13 required to pay capital gains tax. But the \$100,000
14 threshold will give most taxpayers maximum relief.

15 Fifth, it deletes the alternative capital gains tax
16 rate of 28 percent for corporations. I realize that the
17 provision may create an unfair playing field between
18 certain individuals and corporations in the business
19 arena. And I realize that it may cause business entities
20 which should be incorporated to structure themselves as a
21 partnership or similar entity. But as I noted in my
22 opening statement, to get a good package that protects
23 Medicare, we do have to make some tough choices.

24 Sixth, it strikes the provision in the Mark allowing
25 the corporation with certain AMT credits to offset a

1 portion of its tentative alternative minimum tax
2 liability with those credits.

3 In testimony before this Committee, business
4 representatives made a strong case about the negative
5 impact of depreciation under AMT. The mark addresses
6 that concern in some measure. But I feel simply that it
7 is more important to preserve health services for senior
8 than to let companies in AMT apply their AMT credits
9 against their AMT liability.

10 As I noted above, savings obtained by the proposed
11 amendment would be used to reduce the \$270 billion in
12 Medicare spending cuts.

13 So in the end, we provide a strong package of tax
14 relief for families with children, small business and
15 people subject to estate and gift tax, and basically
16 middle-class folks. We also preserve for the same
17 middle-class folks the rural hospitals, health services
18 their parents and grandparents need. I think it will be
19 something that the American people in the end will
20 support and want. It is more balanced; they can vote for
21 it on both sides.

22 It really is a major attempt, Mr. Chairman, to
23 bridge what has too often been an acrimonious partisan
24 debate here this morning. I think the debate has too
25 often been off on incidentals and peripheral matters. We

1 are not seeing the forest for the trees. This is an
2 amendment which is designed to get at the forest, a
3 common sense, balanced effort to get budget deficit
4 reduction, which is where I think most Americans really
5 are.

6 The Chairman. Well, of course I appreciate the
7 effort of the Senator from Montana to reach out to a
8 solution that he hopes would have bipartisan support.
9 Unfortunately, I do not think his proposal achieves that
10 goal.

11 Let me start out by saying that we have, of course,
12 already dealt with the question of Medicare within this
13 Committee. I think the actions we have taken in the past
14 not only help preserve the program, by strengthens it--
15 strengthens it by giving choice.

16 I also think it is critically important that the
17 American family have relief. The cost of raising a child
18 today is of course going up, as it has over the years.
19 And I think it would be a mistake to try to modify the
20 tax credit for children.

21 So I must reluctantly oppose the proposition of
22 Senator Baucus because I think we have addressed these
23 problems in a constructive way. It is particularly
24 important that we keep our promise, our pledge to the
25 American family, that we are going to help with a \$500

1 tax credit for children immediately.

2 If there is no further discussion, the clerk will
3 call the roll.

4 The Clerk. Mr. Dole.

5 Senator Dole. No, by proxy.

6 The Clerk. Mr. Chafee.

7 Senator Chafee. No.

8 The Clerk. Mr. Grassley.

9 Senator Grassley. No.

10 The Clerk. Mr. Hatch.

11 Senator Hatch. No, by proxy.

12 The Clerk. Mr. Simpson.

13 Senator Simpson. No, by proxy.

14 The Clerk. Mr. Pressler.

15 Senator Pressler. No, by proxy.

16 The Clerk. Mr. D'Amato.

17 Senator D'Amato. No, by proxy.

18 The Clerk. Mr. Murkowski.

19 Senator Murkowski. No, by proxy.

20 The Clerk. Mr. Nickles.

21 Senator Nickles. No.

22 The Clerk. Mr. Gramm.

23 Senator Gramm. No, by proxy.

24 The Clerk. Mr. Moynihan.

25 Senator Moynihan. Aye.

1 The Clerk. Mr. Baucus.
2 Senator Baucus. Aye.
3 The Clerk. Mr. Bradley.
4 Senator Bradley. Aye, by proxy.
5 The Clerk. Mr. Pryor.
6 Senator Pryor. Aye.
7 The Clerk. Mr. Rockefeller.
8 Senator Rockefeller. Aye, by proxy.
9 The Clerk. Mr. Breaux.
10 Senator Breaux. Aye.
11 The Clerk. Mr. Conrad.
12 Senator Conrad. Aye, by proxy.
13 The Clerk. Mr. Graham.
14 Senator Graham. Aye, by proxy.
15 The Clerk. Ms. Moseley-Braun.
16 Senator Moseley-Braun. Aye.
17 The Clerk. Mr. Chairman.
18 The Chairman. No.
19 The Clerk. The ayes are 9, the nays 11.
20 The Chairman. The amendment is not agreed to.
21 Senator Moynihan. Mr. Chairman, I believe that
22 Senator Breaux has an amendment.
23 Senator Breaux. Yes, sir.
24 The Chairman. Senator Breaux.
25 Senator Breaux. Mr. Chairman, I have an amendment,

1 and I would ask that the summary be passed out.

2 I will be brief. I have talked to the Chairman's
3 staff and, I think, to the Chairman about this as well.

4 This amendment would implement an agreement that the
5 United States has signed after 5 years of negotiation.
6 We signed an agreement called the OECD Shipbuilding
7 Agreement, which affects the Tax Code of the United
8 States very directly.

9 This is a matter under the jurisdiction of the
10 Senate Finance Committee, in the sense that this
11 agreement, when implemented, repeals the 50 percent ad
12 valorem duty that U.S. flag ships have to pay when they
13 get non-emergency repairs in shipyards.

14 But the larger point, Mr. Chairman, is that this
15 agreement for the first time eliminates subsidies that
16 are principally being carried on by foreign countries in
17 all of their shipyards.

18 The Ways and Means Committee on the other side has
19 had a hearing. I presented testimony on this issue in
20 the Ways and Means Committee. Chairman Bill Archer
21 supported our testimony, and supported the agreement.
22 The Ranking Minority Member, Sam Gibbons, supported this
23 agreement.

24 Mr. Chairman, this agreement really needs to be
25 completed and signed by January 1, 1996. We have not had

1 a chance to have a hearing on the OECD Agreement in this
2 Committee. And it is unfortunate that I offer this
3 legislation now because we have not been able to have a
4 hearing. My good friend, Senator Grassley, who watches
5 these issues very closely, I think would find that this
6 is something he can support because the whole thrust of
7 it is to eliminate subsidies.

8 We have no shipbuilding subsidies in the U.S. There
9 are a lot of other programs we differ on. This does not
10 affect the Jones Act one way or the other. It only
11 affects the international agreement which eliminates
12 shipbuilding subsidies by foreign countries so our yards
13 can better compete.

14 I say, Mr. Chairman, we have not had a hearing. I
15 would very much like to get a commitment that we would
16 have a hearing on this issue. The Ways and Means
17 Committee has had one. I think if we had one, everybody
18 would find that they can be in agreement with what this
19 effort tries to do. And I would ask the Chairman if he
20 might comment on this.

21 The Chairman. Yes. Of course, I would have to say
22 that the amendment is not germane to the legislation
23 before us, but I do understand the importance which the
24 Senator from Louisiana attaches to this matter.

25 The Committee has not held a hearing. I cannot say

1 when we might be able to do so because it depends on the
2 schedule, but it is my intent to seek a hearing at the
3 earliest practical date.

4 Senator Breaux. I appreciate that. What I would
5 like to do is to see if we could have one this year. I
6 know we have budget reconciliation. But as soon as we
7 finish that, it would probably only take one day to bring
8 in the administration and anybody who is opposed to it,
9 as well as supporters.

10 The Chairman. If we can get the President to sign
11 the reconciliation, I probably could agree to doing it
12 before the end of the year. [Laughter]

13 Senator Breaux. I have heard of trades, but that
14 is a big one.

15 The Chairman. I will try to schedule it as
16 promptly as possible.

17 Senator Breaux. All right.

18 Senator Chafee. Mr. Chairman, I want to second
19 what Senator Breaux is working on here. I look forward
20 to the hearing likewise. Whatever impact I can have, or
21 if there is any way I can be helpful, I certainly would
22 want to be because I think this is an important matter
23 for our shipyards.

24 Senator Breaux. I thank the Senator.

25 Mr. Chairman, with that understanding, I will

1 withdraw the amendment at this time.

2 The Chairman. Thank you, Senator Breaux.

3 Are there further amendments?

4 Senator Moynihan. Senator Rockefeller has one.

5 Senator Rockefeller. Mr. Chairman?

6 The Chairman. Senator Rockefeller.

7 Senator Rockefeller. We return to our favorite
8 subject, but I just have a few amendments at the moment.
9 Hopefully, I will have a few more later on.

10 The first amendment is Amendment No. 6. What it
11 would do is to strike the 10 percent of benefits in
12 administrative costs, that language in provision No. 26
13 of Title VIII of the Chairman's Mark, and insert a
14 requirement that the bill's surplus be "reduced by the
15 same percentage reserve required to meet the medical HI
16 trust fund's solvency standards."

17 And, if you will remember, I made the point
18 yesterday that a 10 percent reserve is about enough for 3
19 months of assistance to a miner, health funds for a
20 miner, and that we have to have a much stronger reserve
21 fund.

22 If the Members will indulge me, I am just going to
23 read from the Federal Hospital Insurance Trust Fund. It
24 says, "In order to meet the trustees' test of financial
25 adequacy in the short-range projection period, the HI

1 trust fund ratio must either: (a) be at least 100
2 percent throughout the 10-year projection period; or
3 (b) reach a level of 100 percent within 5 years and
4 remain at or above 100 percent throughout the remainder
5 of the 10-year period. In addition, the fund's estimated
6 assets at the beginning of each month of the 10-year
7 period must be sufficient to cover the month's estimated
8 disbursement." And it goes on like that. It is a very
9 strong Medicare case for 100 percent.

10 Coal miners and their widows, as I described
11 yesterday, are very frail. They are in constant pain.
12 They take fistfuls of pills, even prior to the noon hour,
13 to relieve their pain if possible. And I think that my
14 colleagues know that most coal miners and their widows
15 are Medicare beneficiaries, but there are a lot of things
16 Medicare does not cover.

17 Why does this bill set a separate standard from
18 Medicare for the solvency of the coal miner's health
19 program, the so-called Cochran amendment?

20 There has been a lot of talk in this Committee by
21 Members about protecting the solvency of the Medicare
22 trust fund. And I think we all share that view. There
23 has been a lot of talk, a lot of rhetoric, and why? For
24 a very good reason because solvency means that benefits
25 are protected. And benefits have to be protected. It

1 means that beneficiaries can count on their Medicare
2 being there, that they will be able to count on their
3 health benefits being there.

4 So why does the Cochran amendment say that coal
5 miners should be 90 percent more insecure than seniors
6 who rely on Medicare?

7 My amendment is that it should be 100 percent
8 solvency or get there within 5 years, as the Medicare
9 trust fund puts forward.

10 And this is extremely important. It is an arcane
11 subject, but extremely important.

12 The Chairman. Any further comment?

13 [No response]

14 Well, let me just make an observation, Jay. Of
15 course I appreciate the importance you attach to this
16 matter, as I think many Members of the Committee on both
17 sides of the aisle do.

18 There is no question but what the payment of coal
19 miner retiree health care through the reach back tax is a
20 very contentious issue. I can say from discussions I
21 have had with various Members, both on and off this
22 Committee, they hold strong views on whether reach back
23 companies should be responsible for continuing to pay
24 coal miners' retiree health benefits.

25 In spite of the contentiousness of this issue, the

1 decision was made in the Chairman's Mark to provide
2 partial and temporary relief to super reach back
3 companies, those companies who were not signatories to
4 the 1988 wage agreement with the United Mine Workers.
5 And you are right, it is the language of Senator Cochran

6 The bill does relieve certain reach back companies
7 from liability for retiree premiums, provided that the
8 fund surplus does not fall below a safety cushion of 10
9 percent of the previous year's expenditure. This relief
10 is temporary in nature; it expires in 2 years.

11 Although the proposal is not acceptable to many
12 Senators, or to many reach back companies, nor does it
13 resolve the reach back tax issue, it does attempt to
14 provide some relief to the reach back companies without
15 jeopardizing the solvency of the retirement fund, nor
16 unduly burdening the other reach back companies.

17 Senator Rockefeller. Mr. Chairman, I understand
18 your point. That addresses some amendments that I will
19 be putting forward a little bit later. This is a matter
20 of, if we are going to be serious about protecting coal
21 miners, we have got to be serious. And the 10 percent is
22 not serious; the 100 percent is serious, and I would ask
23 for a vote.

24 The Chairman. The clerk will call ----
25 Yes, Senator Nickles?

1 Senator Nickles. I do not care if he has his vote.
2 But I am not as knowledgeable about either the original
3 Rockefeller amendment or the Cochran amendment as I would
4 like to be. I am trying to follow his amendment. I
5 would like to ask staff if they are familiar with it, if
6 they could give a brief explanation of it.

7 Mr. Kies. Well, Senator Nickles, I believe that
8 Senator Rockefeller's amendment is intended to define
9 when there is a surplus under different set of rules that
10 would provide a greater cushion than that which would be
11 provided under the proposal in the Mark.

12 Under either proposal, it is intended that if the
13 amount in the fund does drop below that amount, then
14 additional premiums do take effect to try to bring the
15 fund back up to the surplus. And I do not think this
16 amendment would change that requirement.

17 Senator Rockefeller. That is correct.

18 Mr. Chairman, I have to say something rather direct
19 here. As of yesterday evening, when we had this
20 discussion, I do not really believe that there was a
21 sentence which said that premiums would have to be
22 increased. It is my view--certainly subject to
23 argument--that that was added because of the statement
24 Senator Conrad made last night that there is no way
25 miners could lose their benefits, which is a completely

1 fallacious statement unless, of course, one adds in a
2 statement that anytime there is a problem, you just raise
3 the premiums.

4 That is the kind of good news that has been absent
5 from any previous discussion of all of this. To be quite
6 honest, what I really fear is that I think that is put in
7 for the benefit of the junior Senator from West Virginia,
8 and will disappear with alacrity when faced with the
9 Hancock amendment, which puts all responsibility for all
10 coal miners' health care benefits back on the 25-percent
11 of the operating coal companies in this country.

12 I am very nervous, and genuinely fearful of it for
13 that reason.

14 The Chairman. The clerk will call the roll.

15 The Clerk. Mr. Dole.

16 Senator Dole. No, by proxy.

17 The Clerk. Mr. Chafee.

18 Senator Chafee. No.

19 The Clerk. Mr. Grassley.

20 Senator Grassley. No.

21 The Clerk. Mr. Hatch.

22 Senator Hatch. No, by proxy.

23 The Clerk. Mr. Simpson.

24 Senator Simpson. No, by proxy.

25 The Clerk. Mr. Pressler.

1 Senator Pressler. No, by proxy.
2 The Clerk. Mr. D'Amato.
3 Senator D'Amato. No, by proxy.
4 The Clerk. Mr. Murkowski.
5 Senator Murkowski. No, by proxy.
6 The Clerk. Mr. Nickles.
7 Senator Nickles. No.
8 The Clerk. Mr. Gramm.
9 Senator Gramm. No, by proxy.
10 The Clerk. Mr. Moynihan.
11 Senator Moynihan. Aye.
12 The Clerk. Mr. Baucus.
13 Senator Baucus. Aye.
14 The Clerk. Mr. Bradley.
15 Senator Bradley. Aye.
16 The Clerk. Mr. Pryor.
17 Senator Pryor. Aye.
18 The Clerk. Mr. Rockefeller.
19 Senator Rockefeller. Aye.
20 The Clerk. Mr. Breaux.
21 Senator Breaux. Aye, by proxy.
22 The Clerk. Mr. Conrad.
23 Senator Conrad. No, by proxy.
24 The Clerk. Mr. Graham.
25 Senator Graham. Aye, by proxy.

1 The Clerk. Ms. Moseley-Braun.

2 Senator Moseley-Braun. Aye.

3 The Clerk. Mr. Chairman.

4 The Chairman. No.

5 The Clerk. The ayes are 8, the nays 12.

6 The Chairman. The amendment is not agreed to.

7 Senator Rockefeller. Mr. Chairman, the next
8 amendment is very simple. It is Amendment No. 3. It
9 is a sense of the Finance Committee that all employers
10 should pay for the promised health benefits of their own
11 retirees.

12 Now this is only simple because it is so important.
13 All of the history of this has been the six companies
14 that I related last night--North American, Pittston, A.T.
15 Massey, LTV, and two others--which would stand to get 60
16 percent of the benefits of the Cochran amendment. That
17 is the reason they have put so much money into lobbyists
18 every year since the Coal Act passed in 1992.

19 We have been talking about individual
20 responsibility, about parental responsibility, about
21 family responsibility, about making sure your children
22 get to school on time and doing homework, and everything
23 else. And a little bit of corporate responsibility is
24 not exactly an inane concept in the American democracy.

25 I think we should have the same expectations of

1 American corporations. When they have agreed, as these
2 have, to pay for their own retirees, they should in fact
3 pay for their own retirees. They should not ask others
4 to pay for their retirees, as is currently the case, but
5 they should do it themselves.

6 Now I do not know how to explain that in a more
7 complicated fashion. It is simply common sense. It is
8 fair. And, very interestingly, it was unanimously
9 endorsed by something called the Dole Commission, which
10 studied all of this for quite some time.

11 Mrs. Elizabeth Dole chaired the Coal Commission, to
12 study this series of problems we are addressing. They
13 were obviously appointed by a Republican President,
14 President Bush, and they came out for this unanimously,
15 that companies should pay for their own retirees. It
16 made sense to them, it made sense to President Bush, and
17 I think it ought to make sense to all of us.

18 So it is a sense of the Senate resolution.

19 Senator Nickles. Mr. Chairman?

20 The Chairman. Senator Nickles.

21 Senator Nickles. Mr. Chairman, I was just going to
22 ask what the impact of the resolution would be. The
23 resolution reads attractively.

24 Mr. Kies. Well, Senator Nickles, since it is a
25 sense of the Congress resolution, I think it represents a

1 sense of the Congress. It would not have any real
2 effect.

3 The issue is that there are several classes of
4 retirees covered by the retiree health benefits provided
5 through this fund. One is retirees who were employed by
6 BCOA signatories, that is, signatories to the 1988
7 agreement.

8 Then there are people who are retirees who were
9 employed by nonsignatories. And then there are so-called
10 orphans who have been assigned to both BCOA companies and
11 to the so-called reach back companies.

12 I gather that this would not apply to the so-called
13 orphans that have been assigned, but rather would be ----

14 Senator Rockefeller. That is correct.

15 Mr. Kies. All right. But otherwise it would say,
16 if you are a BCOA signatory, you have to pay for yours.
17 If you are not a BCOA signatory, you have to pay for
18 yours.

19 The Chairman. Could I ask a question?

20 This involves a union contract. Is that correct?

21 Mr. Kies. There were a series of collective
22 bargaining agreements signed, I think beginning as early
23 as the 1940's or 1950's. The one that is a key
24 agreement--although not the only agreement--is the 1988
25 agreement, which was signed in 1988. Prior to the

1 legislation in 1992, there was litigation over what
2 exactly was the extent of legal responsibility of
3 signatories to earlier collective bargaining agreements.

4 The Chairman. Is the question that if the
5 agreement expires, you continue to be liable?

6 Mr. Kies. A key question that arises in the case
7 of collectively bargained benefits is whether or not the
8 responsibility of the employer signatory carries beyond
9 the expiration of the collectively bargained agreement.

10 There have been numerous cases of litigation over
11 that issue. Some courts have found that the obligation
12 of the signatories only extends to the period of the
13 collectively bargained agreement, and only extends to the
14 amounts they were obligated to contribute during that
15 time frame.

16 The Chairman. So there is no consistency in the
17 court decisions at this time?

18 Mr. Kies. There are substantial differences of
19 view.

20 Senator Rockefeller. Mr. Chairman, I must strongly
21 object. One, I am not sure whether it is within the
22 jurisdiction of the Joint Tax Committee to be
23 interpreting the court decisions of the land. It just so
24 happens that the overwhelming majority of court cases
25 have reaffirmed this principle, and have said that you

1 are responsible, that you stay responsible.

2 The Chairman and Ken were having a dialogue which
3 implied that when the contract expired, people did not
4 have any more responsibility. That is fallacious. They
5 do. And that has been the principle from the very
6 beginning.

7 And, to be quite honest with you, all of this goes
8 back to the period when Harry Truman nationalized the
9 coal mines, and sent in Federal troops, which must have
10 been interesting to see Federal troops doing coal mining.

11 But anyway it happened, and the agreement that came
12 out of that with the coal miners, which has been
13 reflected in every single agreement ever since was, in
14 essence, that in exchange for the mechanization of the
15 mines, which took away half a million jobs within several
16 years, that miners would get pension benefits and health
17 care benefits, which they did not have up until that
18 point.

19 And the miners have contributed themselves. People
20 say well, the miners have not contributed. You bet they
21 have contributed to this solution. They have contributed
22 hundreds of millions of dollars out of their pension
23 funds, their money, to the solution for this problem, for
24 these 95,000 folks who are old enough that they are dying
25 at the rate of 6,000 a year.

1 There has never been any question that the
2 obligation remains beyond the end of the contract. I am
3 quite serious about this. This is not confrontational.
4 This is a very deep subject. I care about it, but I also
5 care about the facts. You do not have the right to your
6 own facts.

7 It said in the 1974 NBWCA agreement, as it does in
8 any other, and it goes back before that too, "Such
9 pensioner will be entitled to retain his health card
10 services for life. Upon his death, his widow will retain
11 a health services card until her death or remarriage."
12 That has appeared in all the contracts, and is binding.

13 The Chairman. Time has expired. Let me correct
14 the record on some statements that I think were made
15 yesterday.

16 It is my understanding that Mrs. Dole was not
17 Secretary at the time of those decisions, but Mr. Bill
18 Usery was. Is that correct?

19 Senator Rockefeller. I never said that I believed
20 that she was. I simply referred to her as Senator Dole's
21 wife.

22 The Chairman. Yes.

23 Senator Rockefeller. Mrs. Dole.

24 The Chairman. Mrs. Dole. Anyway, to correct the
25 record. And the other point was that the matter was not

1 endorsed by the then administration, whatever.

2 Senator Rockefeller. Mr. Chairman, at that point I
3 should point out that this whole solution incidentally
4 was not my idea; my idea was different. This whole
5 solution was brought about by President George Bush. And
6 George Bush, through Tom Scully and Gail Wilensky, in
7 fact intervened to settle all of this. And President
8 Bush signed the bill. So this has had a history of
9 bipartisanship.

10 Senator Nickles. Mr. Chairman?

11 The Chairman. The record so notes.

12 Senator Nickles.

13 Senator Nickles. I appreciate Senator
14 Rockefeller's interest in what he is trying to do, but I
15 object to even the sense of the Senate resolution. I
16 will read from the sense of the Senate, or sense of the
17 Finance Committee. It says, "All employers should pay
18 for the promised health benefits of their own retirees."

19 And he read from a contract that was written, I
20 guess, in 1988.

21 Senator Rockefeller. Nineteen seventy-four.

22 Senator Nickles. Nineteen seventy-four.

23 Senator Rockefeller. The reason why 1978,
24 1988 ----

25 Senator Nickles. That is fine.

1 Senator Bradley. It is like that earned income tax
2 data. It is outdated.

3 Senator Nickles. I remember I ran a company. I
4 took over a company that had a contract at one time that
5 said that the company would pay 100 percent of health
6 insurance costs.

7 What was the practice in the early 1970's is quite
8 different today. Most companies realize that you had to
9 put in cost-sharing. You had to put in different types
10 of operations if you are ever going to have any control
11 over health care costs.

12 To try to say that somebody signed a contract at one
13 period of time, for a specific number of years, I think
14 it is not realistic that the 100 percent contribution
15 should apply at this time. So I would urge that we not
16 support the resolution.

17 Senator Rockefeller. Mr. Chairman, if I might have
18 one more minute here.

19 The Chairman. I will let you proceed. I will just
20 say that all time has expired, but go ahead.

21 Senator Rockefeller. I understand the Senator's
22 point. I am referring here to coal companies, not to
23 whatever company it was that you mentioned.

24
25

1 You talk about the cost of health care. One of
2 the points that was made last night by Senator Simpson was
3 that this is a Cadillac plan. It is not. The major outlay
4 for the fund, in fact, is for prescription drugs.

5 Starting January 1st of this year, unbeknownst to most
6 people, these benefits are being delivered under a risk-
7 based capitation arrangement with Diversified
8 Pharmaceutical Services; beginning, again, January 1st of
9 this year, medical benefits are being delivered by United
10 Health Care, a major managed care provider. There are
11 capitation arrangements. It is very much of a sort of
12 pulled-back health care plan, trying to be as efficient in
13 keeping up with the rest of American policies, but not
14 exceeding them.

15 The Chairman. The Clerk will call the roll.

16 The Clerk. Mr. Dole.

17 The Chairman. No, by proxy.

18 The Clerk. Mr. Chafee.

19 The Chairman. No, by proxy.

20 The Clerk. Mr. Grassley.

21 Senator Grassley. No.

22 The Clerk. Mr. Hatch.

23 The Chairman. No, by proxy.

24 The Clerk. Mr. Simpson.

25 The Chairman. No, by proxy.

1 The Clerk. Mr. Pressler.
2 The Chairman. No, by proxy.
3 The Clerk. Mr. D'Amato.
4 The Chairman. No, by proxy.
5 The Clerk. Mr. Murkowski.
6 The Chairman. No, by proxy.
7 The Clerk. Mr. Nickles.
8 Senator Nickles. No.
9 The Clerk. Mr. Gramm.
10 The Chairman. No, by proxy.
11 The Clerk. Mr. Moynihan.
12 Senator Moynihan. Aye.
13 The Clerk. Mr. Baucus.
14 Senator Baucus. Aye.
15 The Clerk. Mr. Bradley.
16 Senator Moynihan. Aye, by proxy.
17 The Clerk. Mr. Pryor.
18 Senator Pryor. Aye.
19 The Clerk. Mr. Rockefeller.
20 Senator Rockefeller. Aye.
21 The Clerk. Mr. Breaux.
22 Senator Moynihan. Aye, by proxy.
23 The Clerk. Mr. Conrad.
24 Senator Conrad. No. Excuse me. If I could change to
25 aye.

1 The Clerk. Mr. Graham.

2 Senator Moynihan. Aye, by proxy.

3 The Clerk. Ms. Moseley-Braun.

4 Senator Moseley-Braun. Aye.

5 The Clerk. Mr. Chairman.

6 The Chairman. No.

7 The Clerk. The ayes are 9, the nays 11.

8 The Chairman. The amendment is not agreed to.

9 Senator Moynihan. Mr. Chairman, if I could comment.

10 We are moving along very well. I am not sure, but we have

11 another hour, hour and a quarter, before we will finish up.

12 Senator Moseley-Braun has two amendments, I believe. I

13 think it would be thoughtful if we could put her in because

14 I do not want her to stay around.

15 Senator Grassley. Mr. Chairman, after Senator

16 Moseley-Braun gets done I have something that your staff

17 said that would be appropriate for me to bring up, and I

18 want to do it when Senator Pryor is here.

19 The Chairman. Senator Moseley-Braun, please proceed.

20 Senator Moseley-Braun. Thank you very much, Mr.

21 Chairman. I want to thank the Senator from New York for

22 his graciousness. You have been very kind to me while I

23 have been sick, and I very much appreciate it. I

24 appreciate your offer of handling these amendments, but I

25 will see if I can just go forward and put them to the

1 committee.

2 In particular, Senator Grassley might have an interest
3 in this first amendment because of his important work in
4 the area of qui tam, private attorney generals, if you
5 will.

6 The Chairman's mark essentially changes the language or
7 changes the scope of exclusions from income resulting from
8 court awards for damages and excludes two categories,
9 punitive damages and compensatory damages resulting from
10 non-physical injuries.

11 I submit to my colleagues that the amendment that I
12 would propose would strike that part that applies to
13 compensatory damages for non-physical injuries, precisely
14 because of what is sometimes referred to as the law of
15 unintended consequences.

16 The effect of excluding from income or including as
17 income awards for compensatory damages for non-physical
18 injuries would be to diminish the awards for sexual
19 harassment awards, for race discrimination awards ----

20 Senator Moynihan. May we have order, please? Senator
21 Moseley-Braun is speaking.

22 Senator Grassley. Yes. I was violating the rules.
23 I was supposed to preside, but I wanted to get some
24 information from the staff. Go ahead, Ms. Moseley-Braun.

25 Senator Moseley-Braun. The effect of the Chairman's

1 mark in this area is to diminish the sexual harassment
2 awards, race discrimination awards, to have a chilling
3 effect, if you will, on qui tam activities, precisely
4 because it limits the amount of the award given to victims
5 of non-physical injury.

6 Now, there is a distinction in the law, and there
7 always has been, between compensatory and punitive damages.
8 Punitive damages are to punish a wrongdoer. That is not
9 affected by my amendment.

10 Compensatory damages, however, are directed to
11 compensate the victim of wrongdoing and is limited in that
12 regard. If we say compensatory damages have to be physical
13 in nature, then we exclude things like societal damages
14 such as race discrimination, such as sexual harassment,
15 such as ----

16 Senator Moynihan. Libel.

17 Senator Moseley-Braun. Such as libel, such as qui tam
18 activities. That is why I mentioned Senator Grassley.

19 So this amendment simply just takes out that one part,
20 strikes that part, and will in that regard make certain
21 that innocently-harmed citizens, people who are harmed in
22 ways that cannot actually be described as physical or in
23 instances in which they would not necessary want to have a
24 showing of the physical nature of their injury ---- a date
25 rape, for example. An individual suing for that would not

1 want to have to prove the physical nature of the activity
2 in order to receive a civil award.

3 So what this amendment will do is to just take out that
4 part of the Chairman's mark that relates to non-physical
5 compensatory--not punitive, but compensatory--damages, and
6 I encourage the committee's support.

7 Senator Moynihan. I certainly hope we will do this.
8 This is something a voice vote could handle very directly.

9 Senator Moseley-Braun. Well, I would hope so.

10 Senator Grassley. Members of the committee, this
11 amendment ----

12 Senator Bradley. Mr. Chairman, this is your chance.

13 Senator Grassley. This amendment does an injustice to
14 what the Chairman's mark intends to accomplish. The
15 Chairman's proposal provides needed clarification of the
16 law. We know the courts are split and Congress needs to
17 fill the gap.

18 Emotional distress damages received from discrimination
19 actions would not be subject to tax to the extent of the
20 Plaintiff's medical expenses. Contrary to the Senator from
21 Illinois' views, this proposal does not discriminate
22 against women and minorities.

23 Senator Moynihan. Well, it seems to me very clear
24 that it does. If compensatory damages are taxed, then it
25 is precisely in the areas that Senator Moseley-Braun has

1 described that you want to see. They are to compensate for
2 injury. In no sense are they income. It is loss.

3 Senator Moseley-Braun. That is correct.

4 Senator Moynihan. They make up a loss.

5 Senator Moseley-Braun. That is correct. And if I
6 may, to the Senator from Iowa, my friend with whom I have
7 worked on a number of things, including his qui tam
8 initiatives. I never said it discriminated against women
9 and minorities. That was not my argument, and your staff
10 is in error in that regard.

11 My point is, it does not make sense for us to set up
12 categories like private attorney generals to say, on the
13 one hand, we want to encourage people to go out and be
14 private attorney generals, and then turn around and limit
15 the damage awards that they get from being the whistle-
16 blowers and saying, because you did not get beaten up by
17 your boss your recovery is going to be diminished by the
18 amount of the tax that results from it. I recognize the
19 interest in clarifying the state of the law. Since the
20 Schlerer decision there has been some confusion in this
21 area.

22 I just think that as we go in the direction of the
23 clarification of the law, that it is important that we not,
24 again, have the unintended consequence of having a chilling
25 effect on qui tam, having an effect of diminishing awards

1 for race discrimination, sex discrimination, age
2 discrimination, libel, as the Ranking Member points out,
3 and a number of non-physical compensatory damages. Not the
4 punitive damages, but just compensatory damages.

5 Senator Grassley. Time has expired on the Democratic
6 side. I would ask if Mr. Kies would comment on the current
7 state of the law and what we tried to change here, just to
8 make sure that if I did not state it accurately, because
9 there has been exception taken to what I said, would you
10 please state the need for the legislation and the purpose
11 of the legislation?

12 Mr. Kies. Senator Grassley, under current law, as you
13 did indicate, there is some confusion as to how recoveries
14 for race and sex discrimination are treated. In the case
15 of age discrimination, the Supreme Court recently did rule
16 that these kind of recoveries are taxable.

17 The IRS position prior to that decision was that
18 recoveries in the case of race and sex discrimination that
19 are as a consequence of disparate treatment as opposed to
20 disparate impacts--disparate treatment being directed at an
21 individual--prior to suspending its view, was that
22 recoveries for disparate treatment were tax-exempt, but for
23 disparate impact were not tax-exempt. In light of the
24 Supreme Court decision, the IRS has suspended that position
25 and I gather they are reviewing it. Certainly Mr. Samuels

1 would be able to comment on that.

2 I think the policy view was that these types of
3 recoveries represent income similar to other amounts that
4 come to taxpayers and that there was not an overwhelming
5 policy reason for treating them as tax-exempt versus wages
6 or other things that are treated as taxable. So I think
7 that was the policy.

8 Senator Moynihan. Could we ask the Treasury view?

9 Secretary Samuels. Senator Moynihan, this is an area
10 where there is some controversy. There was a Supreme Court
11 case where we are evaluating the situation. I think this
12 provision is an excellent example of why one should not
13 rush to judgment. We have not had hearings on this
14 proposal in this committee or on the House side.

15 We are worried about unintended consequences. For
16 example, we do not know how this particular proposal would
17 apply to reparation payments. We actually just issued a
18 ruling that reparation payments were not taxable. There
19 are a lot of details and this is a difficult area. I would
20 just urge that we need further study of this.

21 Senator Grassley. Can we have a roll call now?

22 Senator Moseley-Braun. Mr. Chairman.

23 Senator Grassley. All time has expired.

24 Senator Moynihan. No Senator has taken up as little
25 time in this hearing as Senator Moseley-Braun.

1 Senator Grassley. All right. Would you take 30
2 seconds, please, and then we will have the roll call vote.

3 Senator Moseley-Braun. Thank you, Mr. Chairman.
4 Thank you to the Ranking Member. I do recognize when the
5 deck is stacked, but let me make one rather theoretical
6 point, if you will, for the Joint Tax people. The whole
7 idea of compensatory damages has always been that it is to
8 compensate someone for injury. Therefore, it is excludable
9 from income.

10 Now to make this rule, as the Treasury Department
11 indicates, to suggest that we will treat non-physical
12 damages differently and thereby limit the extent of awards
13 for particular injuries that, as a matter of policy ----
14 this Congress said race discrimination is not a good thing
15 and, therefore, we allow someone to be compensated for it
16 even though it was non-physical. It is the same thing with
17 sex discrimination.

18 So, I would encourage support of the amendment, again,
19 in large part because I do not think that is what this
20 committee wants to do. I do not think we want to just kind
21 of flail away and make law in this area and actually hurt
22 people by our actions without having fully thought it
23 through.

24 Senator Grassley. The Clerk will call the roll.

25 The Clerk. Mr. Dole.

1 Senator Grassley. No, by proxy.
2 The Clerk. Mr. Chafee.
3 Senator Chafee. No.
4 The Clerk. Mr. Grassley.
5 Senator Grassley. No.
6 The Clerk. Mr. Hatch.
7 Senator Grassley. No, by proxy.
8 The Clerk. Mr. Simpson.
9 Senator Grassley. No, by proxy.
10 The Clerk. Mr. Pressler.
11 Senator Grassley. No, by proxy.
12 The Clerk. Mr. D'Amato.
13 Senator Grassley. No, by proxy.
14 The Clerk. Mr. Murkowski.
15 Senator Grassley. No, by proxy.
16 The Clerk. Mr. Nickles.
17 Senator Grassley. No, by proxy.
18 The Clerk. Mr. Gramm.
19 Senator Grassley. No, by proxy.
20 The Clerk. Mr. Moynihan.
21 Senator Moynihan. Aye.
22 The Clerk. Mr. Baucus.
23 Senator Moynihan. Aye, by proxy.
24 The Clerk. Mr. Bradley.
25 Senator Bradley. Aye.

1 The Clerk. Mr. Pryor.
2 Senator Pryor. Aye.
3 The Clerk. Mr. Rockefeller.
4 Senator Rockefeller. Aye.
5 The Clerk. Mr. Breaux.
6 Senator Breaux. Aye.
7 The Clerk. Mr. Conrad.
8 Senator Conrad. Aye.
9 The Clerk. Mr. Graham.
10 Senator Moynihan. Aye, by proxy.
11 The Clerk. Ms. Moseley-Braun.
12 Senator Moseley-Braun. Aye.
13 The Clerk. Chairman Roth.
14 Senator Grassley. No, by proxy.
15 The Clerk. The ayes are 9, the nays 11.
16 Senator Grassley. The amendment is lost.
17 Ms. Moseley-Braun.
18 Senator Moynihan. She has a second amendment.
19 Senator Grassley. If you have another amendment we
20 will go to you, otherwise I will offer an amendment.
21 Senator Moseley-Braun. I do.
22 Senator Grassley. Go ahead.
23 Senator Moseley-Braun. But it is my understanding
24 that we are not going to take a vote on this one.
25 Senator Moynihan. Is it your wish?

1 Senator Moseley-Braun. Well, I would like to win the
2 amendment, so whatever it takes.

3 Senator Moynihan. Why do you not describe this, and
4 we can all agree?

5 Senator Moseley-Braun. Thank you very much. This has
6 to do with what used to be called the Targeted Jobs Tax
7 Credit, now the Work Opportunity Tax Credit. Because of
8 the description in the Chairman's mark there are categories
9 of people that I am sure the members would agree should
10 qualify as beneficiaries of this tax.

11 Senator Moynihan. As eligible for it.

12 Senator Moseley-Braun. Right, as eligible--thank you
13 very much, Senator Moynihan--for this tax credit, but were
14 left out. Those individuals include people age 18-24
15 receiving or living with families on food stamps, people
16 who are 18-24 who are non-custodial parents of a child
17 residing in a family receiving AFDC or any of the successor
18 programs, people 18-24 who are recipients of SSI,
19 Supplemental Social Security.

20 Now, as you know, the Work Opportunity Tax Credit goes
21 to the employer not to the individual, but the number of
22 individuals that are included obviously becomes important.
23 This provision, this amendment, would add a badly needed
24 youth category.

25 Currently, the Work Opportunity Tax Credit only covers

1 youth in the mark from 18-24 years old who reside in
2 empowerment zones and enterprise communities. If they move
3 out of those communities before they have worked six months
4 or 400 hours, the employer does not get the tax credit.

5 What it would essentially mean is that these
6 individuals I have just mentioned to in these categories
7 would not necessarily have to live in an empowerment zone
8 or an enterprise community.

9 If someone moved out of one or never lived in one the
10 employer would still get the credit, so the incentive would
11 still be there to hire poor young adults, 18-24, who are
12 receiving SSI, who are in an AFDC home, or reside in
13 families with food stamps.

14 Senator Moynihan. Could I ask the Senator, if these
15 persons receiving food stamps, AFDC or Supplementary
16 Security Income, if they go to work and have incomes then
17 payments under AFDC and food stamps are likely to decline;
18 is that not right?

19 Senator Moseley-Braun. That is correct.

20 Senator Moynihan. Is that not what we want to have
21 happen?

22 Senator Moseley-Braun. That is correct. I would
23 think so.

24 Senator Moynihan. I would have thought so. It seemed
25 sort of self-evident to me.

1 Senator Moseley-Braun. Well, I hope that it is as
2 evident to the other members of the committee, Senator
3 Moynihan, because this is something that I think, as we
4 encourage people to move from welfare to work, we ought to
5 expand and not constrict eligibility for the work
6 opportunity credit.

7 Senator Baucus. Mr. Chairman, I might add, too, I
8 think this is a very good idea. One of the problems with
9 the mark is that there are too few categories to draw from.
10 That is, too few people are available to make use of the
11 old Targeted Job Tax Credit, this new credit. I commend
12 the Senator very much for adding the categories, and
13 particularly categories of people that need the work, need
14 a job.

15 The Senator was not here a couple of days ago when I
16 talked a bit about the very subject, but there are some
17 companies in my State who have won national awards for
18 giving work opportunities for handicapped kids, low-income
19 kids, kids who need jobs and do not have jobs. If the
20 Chairman's mark were to be enacted in law, it would
21 significantly reduce the availability and the opportunity
22 for those people to find jobs. I very much compliment the
23 Senator for her amendment.

24 Senator Moseley-Braun. Thank you very much, Senator
25 Baucus.

1 Senator Grassley. I would ask Mr. Kies, maybe, to
2 comment. But before he does, this is probably one of those
3 programs that there is some question whether or not it
4 still ought to be kept alive, but we have done that.

5 As a consequence of the administration, their severe
6 criticism of it, we have tried to reform it to some degree.
7 I would have to be candid and say we are not absolutely
8 sure of the extent to which we are reforming it, but we are
9 going to take a look-see at it in the next period of time
10 and make another evaluation.

11 But we did try to meet the criticism that the Clinton
12 Administration has raised and tailor it with a program that
13 was based on people who were receiving cash assistance.
14 Would you have particularly some comment on the cost?

15 Mr. Kies. Senator Grassley, we have not estimated the
16 entire three pieces, but the first piece, which is to
17 include 18- to 24-year-olds receiving or living with
18 families on food stamps, would have a revenue cost of \$115
19 million over the seven-year period.

20 I would just point out that one of the categories that
21 is eligible is families receiving cash welfare benefits, so
22 there would be some overlap, but apparently that is not
23 complete overlap with that group.

24 Senator Moynihan. Have a heart. Come on.

25 Senator Grassley. Are we ready to call the roll? The

1 Clerk will call the roll.

2 Oh. Senator Moseley-Braun, you have one minute left.

3 Senator Moseley-Braun. Thank you very much, Mr.
4 Chairman.

5 Senator Grassley. Going by the clock.

6 Senator Moseley-Braun. Well, all right. It looks
7 like a bulldozer to me.

8 Let me say this with regard to the estimates of Joint
9 Tax. I would very much ask Mr. Kies and friends to go
10 back. Price-Waterhouse has done a review on the revenue
11 estimates here. There have been other analyses of the
12 numbers and they do not come out as high as you have just
13 indicated. And, while I am not one to argue numbers with
14 you here today, I would very much like you to take a look
15 at this because there are other members. Frankly, in my
16 own State of Illinois we have a number of empowerment zones
17 and enterprise communities, so this will have less impact
18 than it will on a number of other members' States in which
19 businesses wanted to reach out for these kids and we ought
20 to provide them with the ability to do so. I think, if
21 anything, the other more favorable revenue estimates ought
22 to be examined.

23 Senator Moynihan. Because there is an up side.

24 Senator Moseley-Braun. Absolutely.

25 Senator Moynihan. You save money in present welfare

1 payments that will not be made, or will be diminished.

2 Senator Moseley-Braun. That is absolutely correct.

3 Senator Grassley. Did you want to withdraw it and
4 have us take a look at it?

5 Senator Moseley-Braun. Sure.

6 Senator Grassley. Or did you want to vote on it?

7 Senator Moseley-Braun. If you are willing to do so,
8 I would be delighted.

9 Senator Grassley. Well, without any promises or
10 anything, we can take another look at it.

11 Senator Moseley-Braun. Certainly. All right. Thank
12 you.

13 Senator Grassley. The amendment is withdrawn.

14 Senator Moynihan. Mr. Chairman, I heard somebody say
15 that the Senator from Illinois is fond of referring to the
16 law of unintended consequences. I hope he is watching.
17 Robert K. Murton, who wrote that essay in 1935, is alive
18 and well and teaching at Columbia University.

19 Senator Chafee. He wrote the article in 1935 and he
20 is still teaching?

21 Senator Moynihan. Yes, sir. Yes, sir. It is
22 devotion to duty. He is a Democrat.

23 [Laughter]

24 Senator Chafee. I wonder what kind of a pension
25 system they have got at Columbia.

1 Senator Baucus. Mr. Chairman, I have an amendment.

2 The Chairman. Senator Grassley.

3 Senator Grassley. Yes. Mr. Chairman, I want to bring
4 up something that I believe is very non-controversial. I
5 would like to say, first of all, before I give Senator
6 Pryor a lot of credit in this effort, that Senator Dole
7 also has been strongly supporting this effort to include
8 this in the Chairman's mark.

9 We are going to pass around what is called the Church
10 Pension Simplification Act, and I would offer, for Senator
11 Pryor and myself, this amendment. I want to thank Senator
12 Pryor for his hard work in developing this legislation. He
13 and I have worked with the leaders of many denominations to
14 craft a bill which addresses the difficulties that they
15 face in trying to retain their pension plans in an overly-
16 complicated regulatory environment for pensions.

17 It provides this clarification: the benefit plans that
18 would be affected provide retirement and welfare benefits
19 for several hundred thousand clergy and lay workers
20 employed by thousands of churches and church ministry
21 organizations. We have worked closely with the leaders of
22 pension boards of 30 mainline Protestant and Jewish, as
23 well as Catholic, religious orders. The legislation is
24 designed to develop pension rules which are a better fit
25 with church organizations. As a for instance, churches are

1 typically much more loosely structured than most for-profit
2 businesses.

3 Many denominations cannot impose requirements on their
4 constituent parts. Churches are also tax-exempt, so they
5 have no incentive to maximize the number of employer's tax
6 deductions or the amount of income which a highly-
7 compensated employee can shelter from current taxation.
8 Retirement and employee benefit tax laws do not always take
9 such differences between churches and for-profit
10 organizations into account.

11 So, basically, what this legislation does is recodify
12 the rules which apply to church retirement plans so that
13 all those rules for churches are separate from the rules
14 which apply to for-profit organizations. So, I hope that
15 we can move forward and include this in the mark in a non-
16 controversial way.

17 The Chairman. Senator Pryor.

18 Senator Pryor. Yes. Thank you, Mr. Chairman.

19 I want to thank my friend, Senator Grassley, and I just
20 want all of our committee members to know that it has been
21 a pleasure working with him and other members of this
22 committee for the past several years to finally get this to
23 the Senate Finance Committee once again.

24 This has passed this committee before. It is not a new
25 issue. In fact, Senator Grassley and I first introduced

1 this issue in 1990. It was part of reconciliation or some
2 larger budget matter. It was vetoed by President Bush, not
3 connected with, I say, his reasons that the simplification
4 for churches' retirement funds were included in the issue.

5 Mr. Chairman, we also would like to request that this
6 amendment encompass the identical language of S. 881. We
7 are certain that that language is what we intend to do, and
8 I think this basically has a negligible effect upon the
9 deficit. I do have the letter from Mr. Kies dated August
10 21 on that. We think basically what this does is it
11 clarifies the rules of two basic types of retirement
12 programs.

13 From a policy standpoint, it makes no sense for the
14 Lutherans and the Baptists to be subject to one set of
15 rules, while the Jewish congregations and Presbyterians
16 across the street are subjected to another set of rules.
17 We think we have unanimous support out in the church
18 community, Mr. Chairman. Once again, it has been an honor
19 to work with my colleague and friend, Senator Grassley.

20 The Chairman. Senator Conrad.

21 Senator Conrad. Thank you, Mr. Chairman. I would
22 just like to inquire of the proponents of this amendment,
23 what church groups have endorsed this?

24 Senator Pryor. There are 31 denominations that have
25 endorsed this. I cannot tell you each organization that

1 has. I do not know any that have not.

2 Senator Rockefeller. Well, is this Methodists,
3 Lutherans, Baptists? Have the Catholics endorsed this?

4 Senator Pryor. The answer is, yes.

5 Senator Grassley. There was some concern as of last
6 week raised by some Catholic groups, but that has been
7 taken care of.

8 Senator Conrad. Thank you very much.

9 Senator Chafee. Mr. Chairman.

10 The Chairman. Senator Chafee.

11 Senator Chafee. Why is this necessary? What has
12 happened out there that makes this unique, or that you
13 could have the peculiar situation that was described where
14 things would be all right for Presbyterians on one side of
15 the street and bad for Episcopalians on the other side of
16 the street.

17 Senator Bradley. You do not know the answer to that
18 question?

19 Senator Chafee. Well, I am making the query.

20 Then it says in here in this letter from Mr. Kies to
21 Senator Pryor dated August 21st of this year that "the bill
22 would exempt churches from the non-discrimination
23 requirements that apply to self-insured medical plans." I
24 have had a lot of clergymen tell me they are all for this,
25 but I am just curious. Who knows anything about it?

1 Senator Pryor. Senator Grassley, would you like to
2 respond? I will be glad to try.

3 Senator Grassley. I think I will let you if you are
4 willing to.

5 Senator Pryor. Well, basically what happens, we have
6 two basic plans that the churches use. The IRS is
7 interpreting these plans depending on what location you
8 are.

9 For example, in Cincinnati, Ohio, the IRS has swooped
10 down and are auditing a large number of ministers--I think,
11 if I am not mistaken, Methodist ministers there--trying to
12 get these plans involved in some type of situation where
13 the tax burden upon the church and the minister would be
14 extremely large and very burdensome. We think that these
15 audits are unjustified.

16 We think if we all played by the same set of rules, all
17 of the 31 denominations who have joined in endorsement of
18 this legislation, we think then that they will all know the
19 rules, the churches, the ministers, and the lay people.

20 We also extend this to chaplains. It is very unclear
21 now whether the chaplains and self-employed clergy can
22 participate in their respective denomination's retirement
23 plan. We are clarifying that point and it is, once again,
24 part of a larger bill, S. 881, which has been introduced in
25 the past, which we now submit in the form of an amendment.

1 The Chairman. Any further questions?

2 Senator Conrad. Mr. Chairman.

3 The Chairman. Senator Conrad.

4 Senator Conrad. Might we just ask Mr. Samuels if the
5 Treasury has looked at this provision and what their
6 analysis of it is?

7 The Chairman. Secretary Samuels.

8 Secretary Samuels. Senator Conrad, we have reviewed
9 this proposal and testified before the Ways and Means on
10 the proposal. While there are certain technical provisions
11 in the proposed legislation that we support, overall we are
12 not supportive of the proposal.

13 The reason has been that the proposal exempts from the
14 trust and non-discrimination requirements this particular
15 new type of pension plan, and it seems to us that there are
16 not enough differences between these types of plans and
17 other types of plans that are subject to the trust and non-
18 discrimination rules that these should be exempt. So that
19 has been the source of our concern about this proposal.

20 Senator Conrad. Could I just inquire further, what
21 would the practical effect potentially be of these plans
22 being exempt from the trust provisions?

23 Mr. Kies. From the standpoint of revenue, our
24 conclusion was the practical effect of exempting them
25 from the non-discrimination rules would be negligible

1 because ----

2 Senator Conrad. These non-discrimination rules, can
3 you give us an inkling of what we are talking about here?
4 We are not talking about racial discrimination here, we are
5 talking about discrimination between types of people who
6 are in the plan, is that what we are talking about?

7 Mr. Kies. That is correct.

8 Senator Conrad. In other words, under current law if
9 you provide a certain level of benefits to one group you
10 have got to provide it to all. This would be taking away,
11 you would be exempt from those.

12 Mr. Kies. The practical reason why we have concluded
13 it has a negligible revenue effect is that within the
14 church community there is a relatively small handful of
15 workers, and in some cases no workers, who are actually
16 highly compensated. That is a practical consideration
17 here.

18 Senator Conrad. I see.

19 Mr. Kies. I think Mr. Samuels is correct.

20 Secretary Samuels. I think from our point of view
21 this was a policy issue. We were not making the judgment
22 on what the revenue effect was. We did not want to be in
23 a situation where you were creating a new type of plan for
24 which the non-discrimination rules would not apply.

25 The Chairman. Is there any further comment? Time has

1 expired.

2 Senator Grassley. You will accept it, will you not?

3 The Chairman. We are willing to accept the amendment.

4 So ordered.

5 Are there any other amendments?

6 Senator Bradley. Mr. Chairman.

7 The Chairman. Yes, Senator Bradley.

8 Senator Bradley. Mr. Chairman, I have a number of
9 amendments, but I will be glad to do them in an alternating
10 fashion, whatever the Chair would like.

11 The first amendment that I offer is an amendment to
12 strike and it is an amendment to strike the modification of
13 depreciation for small motor fuel convenience store
14 outlets. This is \$118 million, and it is \$118 million that
15 is lost because, under this provision, if you run a small
16 Circle K and you have a gas pump out in front and you sell
17 some gas as part of your business, you can depreciate the
18 building that you sell the potato chips, soda, and candy in
19 over 15 years.

20 But, if you have a 7-11 that sells the same kind of
21 candy, potato chips, and soda but you do not have a
22 gasoline pump in front, then you have to depreciate over 39
23 years. The law now says it is 39 years because it is a
24 non-residential structure, and that is the depreciable
25 life. This would cut the depreciable life for that

1 convenience store from 39 years to 15 years.

2 I do not believe that there is a good public policy
3 reason for this and I would simply like to save \$118
4 million that we are going to give away to these stores.

5 Now, I know times are changing and I know Exxon and
6 McDonald's are thinking of joining together and building
7 these super-highway stores where you end up, maybe even on
8 the New Jersey Turnpike, with a gigantic McDonald's and a
9 big Exxon gas station.

10 From my standpoint, that gigantic, big convenience
11 store on a major super-highway with a lot of Exxon fuel
12 pumps in front should not have a depreciable life of 15
13 years, whereas the 7-11 or Circle K in small-town America
14 has a depreciable life of 39 years. So this is very much
15 big guy, small guy. This is very much those people who are
16 out there now who are doing a pretty good job.

17 Then the other thing about this--I think Mr. Samuels
18 said this yesterday--is this is retroactive. In other
19 words, if you already built this store, you are not
20 building a new one, you made your investment and you built
21 the store and you put a gas pump in front, under this
22 provision you would, tomorrow or next year, have a
23 depreciable life cut to 15 years. Is that correct, Mr.
24 Samuels?

25 Secretary Samuels. Senator Bradley, that is my

1 understanding.

2 Senator Bradley. To me it just does not make any
3 sense. I mean, this is one of these things that obviously
4 gets in here because somebody gives them a piece of paper
5 on the way to the hearing room. I do not see how this can
6 be justified in terms of policy. I would simply like to
7 save \$118 million.

8 Senator Grassley. Mr. Chairman.

9 The Chairman. Senator Grassley.

10 Senator Grassley. One of the reasons that I really
11 support what is in the Chairman's mark is the fact that
12 this is one perfect example of the IRS going contrary to
13 what Congress intended, not only going contrary in saying,
14 you guys owe some tax, you are going to have to start
15 paying this tax, but the effect of their ruling is that a
16 whole class of small businesses are going to have to go
17 back and pay a lot of tax.

18 So this is a tax increase on a lot of small businesses,
19 maybe even big business, because this is not a big guy
20 versus a small guy like it has been portrayed. This is
21 just whether or not tax policy that we write in this
22 Congress is going to be followed by the IRS. So we are
23 putting, by the Chairman's mark, the law back where it was
24 so we do not have this retroactive tax increase.

25 Most importantly, the thing that irks me about what IRS

1 does is, we want to correct something where they have gone
2 contrary to Congressional intent and we have to dig up a
3 lot of so-called lost revenue because this has a revenue
4 measure on it.

5 I think one of the things we ought to get established
6 in this committee is, if we are going to enforce existing
7 law and going back to existing law where the IRS is
8 ignoring existing law, then we ought to not have to dig up
9 the revenue for it because it should not be a cost in the
10 first place. But what this is, is just getting the law
11 back to where it was. It is that simple. It is a perfect
12 example of a lot of other things, I think, that ought to be
13 corrected in Code.

14 Senator Baucus. Mr. Chairman, might I ask an
15 informational question here, and that is, what was the
16 standard that the IRS used in determining whether its 15
17 years or 39 and a half years before the IRS changed its
18 mind? What was the standard, does anybody know?

19 Mr. Kies. I think the standard at one point was
20 rather undefined, and then the service did put out
21 guidelines recently that did set forth guidelines that
22 looked to the amount of gross receipts and the amount of
23 floor space, whether or not ----

24 Senator Baucus. No, there must have been something
25 before it. We all drive around the country. I know back

1 in my State you see Exxon stations, for example, and they
2 sell lots of goods, and they also sell gas. I assume that
3 the depreciation was 15 years.

4 Mr. Kies. I believe, Senator Baucus, that the
5 industry was generally taking the position that it was 15
6 years. The IRS recently put out, I believe, a coordinated
7 issue paper that drew a line based upon this 50 percent
8 test, and Mr. Samuels certainly could probably address
9 that.

10 Secretary Samuels. Senator Baucus, the IRS'
11 coordinated issues paper provides that if the facility ----

12 Senator Baucus. Now, what is the date of this
13 coordinated issues paper?

14 Secretary Samuels. I will get that for you.

15 Senator Baucus. Roughly.

16 Secretary Samuels. I think it was in the last year.

17 Senator Baucus. All right. I am trying to focus on
18 what the ----

19 Secretary Samuels. All right. Let me just say,
20 Senator Baucus, I think that the notion is, if your
21 facility is used predominantly for marketing of petroleum
22 products, then you get the 15-year depreciation period.

23 What the IRS said is, predominantly means--I think that
24 would normally what people would have thought as to how you
25 decide whether something is 15 or 39--half your sales have

1 to be from the sale of petroleum products and half your
2 floor space has to be used for the marketing of petroleum
3 products. They have a diminimus rule that says all
4 structures of 1,400 square feet or less are 15-year
5 property.

6 So there was a disagreement between taxpayers and the
7 IRS, and the IRS has tried to resolve this matter in a
8 reasonable way. I think a requirement that says more than
9 50 percent has to be for the sales of petroleum products
10 and 50 percent of the floor space or more has to be used
11 for the sale of petroleum products. It is a reasonable ---
12 -

13 Senator Baucus. I appreciate that. I understand the
14 IRS' position, but that is not the question I am asking.
15 The question I am really asking is, what was the standard
16 before this recent determination? I mean, we have had
17 these kinds of service station/convenience store
18 combinations for many years. This is not just something
19 that popped up in the last year or two.

20 I am just curious what standard was the IRS using
21 before in applying what the depreciation schedule should be
22 for one of these combination outfits, say, 10 years ago.
23 Does anybody know?

24 Mr. Kies. I think there was not a specific standard.
25 I think the coordinated issue paper established one.

1 Senator Bradley. In 1981 you could depreciate these
2 giant hotels in this town for over 15 years. I mean, the
3 laws change. People recognize you made mistakes. In 1981,
4 we gave 15-year depreciation to these big hotels. That is
5 the reason they were built.

6 Then we decided, gee, no, that is really too generous,
7 and by 1993, depreciation of non-residential assets was up
8 to, what, 39 years. So the question is, why should this
9 not be up to 39 years as well? I mean, that is the basic
10 policy.

11 Senator Baucus. I guess one question in my mind is,
12 this is an area that is the business, apart from the tax
13 policy, which is changing very frequently. I mean, the
14 Senator from New Jersey alluded to it, and I have heard it,
15 too, that perhaps McDonald's is going to merge. I do not
16 know what they are going to do. They are going to start
17 putting up convenience stores.

18 Senator Bradley. McExxon.

19 Senator Baucus. McExxon, or something. I just know,
20 watching in my State, driving around the State, you see
21 lots of changes going on. Exxon now has lots of stores in
22 addition to selling gasoline, and other organizations, the
23 more mom and pop stores, are now selling gasoline, as well
24 as convenience stores. There are a lot of changes.

25 So the question in my mind really is, if you are on a

1 busy corner, a busy intersection and you do predominantly
2 sell gasoline or diesel fuel, or you are a service station,
3 but you are also selling goods, and the industry changing
4 so much, I am just curious. Either way we are boxed out
5 either way. This is a tough situation.

6 The Chairman. All time has expired. The Clerk will
7 call the roll.

8 The Clerk. Mr. Dole.

9 The Chairman. No, by proxy.

10 The Clerk. Mr. Chafee.

11 The Chairman. No, by proxy.

12 The Clerk. Mr. Grassley.

13 Senator Grassley. No.

14 The Clerk. Mr. Hatch.

15 Senator Hatch. No.

16 The Clerk. Mr. Simpson.

17 The Chairman. No, by proxy.

18 The Clerk. Mr. Pressler.

19 The Chairman. No, by proxy.

20 The Clerk. Mr. D'Amato.

21 The Chairman. No, by proxy.

22 The Clerk. Mr. Murkowski.

23 The Chairman. No, by proxy.

24 The Clerk. Mr. Nickles.

25 The Chairman. No, by proxy.

1 The Clerk. Mr. Gramm.
2 The Chairman. No, by proxy.
3 The Clerk. Mr. Moynihan.
4 Senator Moynihan. Aye.
5 The Clerk. Mr. Baucus.
6 Senator Baucus. No.
7 The Clerk. Mr. Bradley.
8 Senator Bradley. Aye.
9 The Clerk. Mr. Pryor.
10 Senator Moynihan. Aye, by proxy.
11 The Clerk. Mr. Rockefeller.
12 Senator Rockefeller. No.
13 The Clerk. Mr. Breaux.
14 Senator Breaux. No.
15 The Clerk. Mr. Conrad.
16 Senator Conrad. No.
17 The Clerk. Mr. Graham.
18 Senator Graham. Aye.
19 The Clerk. Ms. Moseley-Braun.
20 Senator Moseley-Braun. Aye.
21 The Clerk. Mr. Chairman.
22 The Chairman. No.
23 The Clerk. The ayes are 5, the nays 15.
24 The Chairman. The amendment is not agreed to.
25 Senator Hatch. Mr. Chairman.

1 The Chairman. Yes, Senator Hatch.

2 Senator Hatch. Mr. Chairman, yesterday I raised a
3 concern that because of the misunderstanding between our
4 staffs we were not aware that corporations are not eligible
5 for the venture capital incentive. This is an issue that
6 is very important to both Senator Lieberman and myself, and
7 to the many venture capital companies that are always
8 looking for new sources of venture capital funds.

9 Now, I understand that the staffs met yesterday to work
10 this out and they have come up with the following proposal.
11 Corporations that have gained from the sale or exchange of
12 qualified small business stock held for more than five
13 years would be eligible for a 21 percent corporate capital
14 gains rate as opposed to the 28 percent for other corporate
15 capital gains. This provision will apply to stock issued
16 after the date of enactment. Am I correct in that?

17 The Chairman. That is correct.

18 Senator Hatch. Well, then I ask that the Chairman's
19 mark be modified to reflect this clarification.

20 The Chairman. So ordered.

21 Senator Hatch. Thank you, Mr. Chairman.

22 The Chairman. Open to further amendment.

23 Senator Baucus. Mr. Chairman.

24 Senator Bradley. I am sorry, Mr. Chairman. I did not
25 hear the explanation. What is the amendment?

1 Senator Hatch. I had it in there that corporate
2 taxpayers would invest in venture capital companies that
3 are qualified companies under \$100 million, that they would
4 get the same 75 percent benefit that others do. The staff
5 did not have that clarified, it was not in there.

6 So they finally were able to work it out where they
7 will reduce it from 28 percent to 21 percent for venture
8 capital purposes, even though it stays at 28 for all other
9 corporate capital gains. That is what the amendment does.

10 Senator Bradley. Reduce the rate.

11 Senator Hatch. Reduces the rate from 28 to 21 percent
12 with regard to venture capital in these companies.

13 Senator Bradley. So if you are an individual venture
14 capitalist you pay 28 percent, but if you are a corporate
15 venture capitalist you pay 21 percent?

16 Senator Hatch. No. The individual investor ----

17 Senator Bradley. Is 19.

18 Senator Hatch. No. The individual investor would
19 have a right to a 75 percent deduction. That is what we
20 originally had. That is what Senator Lieberman put in for
21 the corporate capital investor. We cannot get that because
22 of the revenue problems, so we have reduced it from 28 to
23 21 percent. The difference is about seven percent versus
24 the 10 percent it would have been before.

25 Senator Bradley. Yes. Well, Mr. Chairman, I mean, I

1 think that the way that the Chairman did it originally is
2 clearly preferable to extending the benefit to corporations
3 in addition to the individuals. It seems to me that if you
4 take a look at where venture capital comes from in this
5 country, it comes from pension funds, it comes from
6 endowments, it comes from individuals.

7 The first two do not pay any tax, so all we are doing
8 here makes no difference to whether that is going to
9 unleash this increased venture capital. This is a very
10 small subset of the total pool of venture capital, and I
11 personally think it is really not needed. It is a gift--
12 yet another gift--to corporations that are doing pretty
13 well.

14 I mean, if you are a corporation and you are doing very
15 well, you decide, what do you want to do, you spin off an
16 entity, you fund it. Why do you do that? Because it is in
17 your corporate interest to do that. You are going to do
18 that because you are going to make more money in the long
19 run doing that. That is your calculation. Why we want to
20 give them tax dollars to do that is beyond me.

21 Senator Hatch. Mr. Chairman, let me just respond. I
22 will not take long.

23 The Chairman. Senator Hatch.

24 Senator Hatch. Many investments important for job
25 creation and economic growth are made by corporations. In

1 fact, 21 percent of all venture capital in 1994 came
2 directly from corporations, better than one-fifth.

3 The remaining 79 percent of the funds came from venture
4 capital funds through which corporations invested almost 19
5 percent. Thus, directly and indirectly corporations were
6 responsible for almost 36 percent of all venture capital
7 funds in 1994 and that is a whale of a lot of funds.

8 That is for these small businesses that are created,
9 biotechnology companies that might create blockbuster drugs
10 that will save us billions in the future, trillions, if
11 they can find them. In addition to the venture capital
12 markets, corporations are responsible for roughly one-third
13 of all capital gains realized each year.

14 If you take a recent econometric study, that indicates
15 that dropping the corporate capital gains rate from 35
16 percent to 25 percent, which is what we originally had,
17 will cause an increase in corporate capital gains
18 realizations of 12.6 percent.

19 Now, this is the very economic activity and unlocking
20 activity that will promote the capital formation and job
21 creation that this country needs at this time. Currently
22 there is no tax differential between ordinary income and
23 capital gains income for corporations. From 1942 to 1986,
24 the Tax Code contained a capital gains rate differential
25 for corporations.

1 I think our tax law should differentiate between these
2 two types of income for corporations for all of the same
3 important macroeconomic reasons that we use to
4 differentiate them from individuals, which include
5 encouraging investment and risky enterprises, the unlocking
6 effect, reallocation of resources to their most efficient
7 uses, decreasing the overall cost of capital, and
8 increasing GDP and the standard of living for anyone. So,
9 I think it is hard to argue against it.

10 Senator Bradley. Mr. Chairman.

11 The Chairman. Senator Bradley.

12 Senator Bradley. We do not want to belabor this
13 point. We just basically disagree. The corporate charter
14 is given, really, for a public purpose in addition to a
15 private purpose. If anybody believes that 36 percent of
16 all venture capital comes from corporations, I will take
17 you to dinner. That is a big move on my part.

18 Senator Moynihan. It might also be unethical.

19 Senator Grassley. I think tonight will be a good
20 night.

21 Senator Bradley. It might also be unethical. No, it
22 is not.

23 The Chairman. Senator Baucus.

24 Senator Baucus. Thank you, Mr. Chairman. Mr.
25 Chairman, I have an amendment that I would like to have

1 distributed, please.

2 Mr. Chairman, this is a very simple amendment. I just
3 urge you to agree to it.

4 Very simply, in 1996 2.5 cents of the current gasoline
5 tax is scheduled to change to the direction in which it
6 goes. Currently, 2.5 cents of the gasoline tax goes to
7 deficit reduction. In 1996, under current law, two cents
8 of that is scheduled to go into the Highway Trust Fund, and
9 one-half cent of the 2.5 cents is scheduled to go into the
10 Mass Transit Trust Fund.

11 This amendment provides that the one-half cent which
12 currently is scheduled in 1996 to go to the Mass Transit
13 Trust Fund does not go to the Mass Transit Trust Fund, and
14 instead goes to Amtrak.

15 Now, this is not intended to pit mass transit against
16 Amtrak. That is not the intent of this amendment. There
17 are many Senators--in fact, I think all Senators are very
18 concerned about maintaining a strong, viable mass transit
19 system in their home States.

20 The Mass Transit Trust Fund enjoys a balance of about
21 \$5 billion. It has always been around that, about \$5
22 billion. The Congress has appropriated money from the Mass
23 Transit Trust Fund to pay for mass transit projects around
24 the country.

25 So this half-cent which would not go to mass transit is

1 not going to in any way diminish the trust fund that now is
2 in mass transit. Obviously, it cannot because it is now
3 not going to mass transit. Instead, the half-cent will go
4 to Amtrak.

5 Now, that will generate roughly \$500-600 million and it
6 will go toward capital expenses and investment in Amtrak
7 which is sorely needed. Again, mass transit is held
8 intact. Mass transit will not be hurt by this amendment.

9 As a matter of fact, if this amendment does not pass
10 mass transit, as a practical matter, will not get any more
11 dollars, because I am quite confident that the trust fund
12 now in mass transit is going to stay about where it is,
13 about \$5 billion. So, again, mass transit is not going to
14 be helped, as a practical matter, if this amendment fails.

15 Mr. Chairman, this will help lots of States. I daresay
16 it might even have a beneficial effect on your State. I
17 urge the committee to consider it.

18 I will say, however, I am not going to press for a vote
19 on this amendment--I am going to withdraw it--but I do urge
20 Senators to think very kindly and keep an open mind about
21 this because, again, passage of this amendment will help
22 Amtrak, a transportation system which is sorely in need of
23 some help, while we are also reforming Amtrak, and it will
24 not hurt mass transit at all.

25 The Chairman. I would say to my distinguished

1 colleagues that I am very much interested in the same
2 matter. I have been frustrated, to be frank, that the
3 budget rules have prevented us from inserting legislation
4 that is within the jurisdiction of the Finance Committee
5 regarding Amtrak and the Local Rail Revitalization Act.

6 Now, Senator Moynihan and I sent a letter to Senator
7 Dole requesting that the legislation be referred to the
8 Senate Finance Committee so that this committee may mark up
9 the numerous tax provisions in that legislation.

10 Because this legislation is so vitally crucial to the
11 financial stability of the passenger rail service, I have
12 requested that our committee be given only 15 days so that
13 we can address the tax issues very promptly.

14 As I said, I am confident that, although we have a full
15 agenda, mark-up of this important piece of legislation will
16 move forward. I look forward to working with you and our
17 distinguished Senator from New Jersey, who has an interest,
18 I think, as well.

19 Senator Bradley. Yes, I do, Mr. Chairman. I am
20 confident that we will come back to this, given your
21 leadership, and Senator Baucus, of course, and Senator
22 Moynihan.

23 Senator Nickles. Mr. Chairman.

24 The Chairman. Yes, Senator Nickles.

25 Senator Nickles. I would like to compliment Senator

1 Baucus and state that I will be happy to work with him as
2 well.

3 Also, Mr. Chairman, on the previous amendment I would
4 like to clarify something. I believe a comment was made
5 dealing with service stations that also had convenience
6 stores, that if a person just put a service station in
7 front of a store that they would have the 15 years'
8 depreciation, that is not actually the case. Depreciation
9 schedules for convenience stores with gasoline has always
10 been 15 years. IRS came up with rules that said they had
11 to meet two tests to keep it at 15 years.

12 What we are saying is, do they meet either test? They
13 have to have a majority of their sales petroleum-related,
14 or a majority of their square footage would be petroleum-
15 related, to keep the 15-year depreciation schedule. We
16 will make that clear in the report language, just for my
17 colleagues' information.

18 Senator Baucus. Mr. Chairman.

19 The Chairman. Yes.

20 Senator Baucus. If I might--again, I want to thank
21 you very much---on the last amendment which I offered and
22 then withdrew, to work with you. I do very much hope that
23 during this process in the next couple, three weeks we can
24 find a solution to this problem. I very much appreciate
25 your consideration.

1 The Chairman. I agree very strongly with that
2 statement.

3 Any more amendments?

4 Senator Bradley. Mr. Chairman.

5 Senator Moynihan. Senator Rockefeller, I believe, has
6 one.

7 The Chairman. Senator Rockefeller.

8 Senator Rockefeller. Mr. Chairman, this one I hope
9 that we could accept simply by voice vote, because I think
10 last night essentially this concept was agreed to. It
11 strikes the use of cash basis accounting in the Coal Act in
12 the Chairman's mark and replaces it with the accrual
13 accounting method.

14 The accrual accounting method is the only acceptable
15 method for health payment plans under the accounting
16 profession's generally accepted accounting principles. I
17 believe Mr. Kies last night, in effect, did not say that,
18 but said that it would be preferable way. Using the cash
19 method of accounting for distribution of assets is really
20 irresponsible.

21 The funds that are in the combined fund of this whole
22 coal mine matter, they usually have about two or three
23 months of medical bills which are pending. If you just
24 take a snapshot once a year like you do in cash accounting,
25 then you are may think you have \$100 million of surplus

1 but, in fact, you have paid none of your medical bills, so
2 you really do not.

3 So, I think the accrual method of accounting is the
4 right method. I think the Joint Tax appeared to agree to
5 that last night, and I would hope that we could simply
6 accept this change in the Chairman's mark. I would ask
7 also, if there is any Treasury comment.

8 The Chairman. What would be the impact of the
9 amendment, Ken?

10 Mr. Kies. Senator Rockefeller, I want to make sure
11 that I correctly understand your amendment. Under the
12 current law, the determination of whether or not there is
13 a surplus in the fund and the determination of whether
14 there is a shortfall that would give rise to an increase in
15 premiums to make up the shortfall is done on a cash flow
16 basis so that it looks at the current assets of the fund,
17 and then only, I believe, looks forward for, I think, 30
18 days, a month or two, of anticipated expenses.

19 If I understand correctly your amendment, it would put
20 the fund onto an accrual basis for purposes of liabilities,
21 so it would take into account, I believe, all of the future
22 expenses for the covered group of workers. I believe that
23 would have the effect of substantially increasing what
24 would be the amount necessary in order to not have a
25 shortfall. I think that that would be the effect of what

1 you have proposed. Am I correct in that?

2 Senator Rockefeller. Well, the shortfall now, in that
3 we voted down the 100 percent, is just a 10 percent reserve
4 fund. What we are obviously trying to do is just to make
5 sure--and you agreed to this last night--that this is the
6 responsible way of doing it, it is the generally accepted
7 way of doing it in accounting. Cash accounting simply
8 leaves too much in the pipeline and gives the false
9 impression of financial security where, in fact, there may
10 be none, or insufficient.

11 Mr. Kies. Right. Senator Rockefeller, I just want to
12 make sure that I understand what the proposal is, because
13 we have not consulted with CBO to determine what that would
14 do to increase premium levels. That would control what
15 type of revenue effect or budgetary effect it would have.
16 But, based on the nature of the proposal, I think it would
17 require an immediate increase in premium levels because the
18 amount of the shortfall would immediately exist.

19 The Chairman. Any further comment, Senator
20 Rockefeller?

21 Senator Rockefeller. Ken is changing his position a
22 little bit from last night. I mean, last night basically
23 you said this was the right way to go. The amendment
24 affects not the Coal Act itself, but the Chairman's mark,
25 where the cash accounting method is introduced. That was

1 not in the Coal Act.

2 This is the right way to do accounting. I mean, either
3 we are going to make sure that there are benefits available
4 or we are not going to be, either we are going to have a
5 certainty about it or not. The right way to do it is to
6 have a 100 percent reserve fund. Now we have agreed there
7 will only be 10 percent. So at the very least, it seems to
8 me, we ought to do this under generally accepted accounting
9 procedures.

10 I would ask the Assistant Secretary to comment, if he
11 would.

12 Secretary Samuels. Senator Rockefeller, we agree that
13 the appropriate method would be to use an accrual method of
14 accounting. As I understand your amendment, the proposal
15 is to use an accrual method basis of accounting to
16 determine whether there is a surplus which could be
17 withdrawn under the Chairman's mark.

18 Senator Rockefeller. That is correct.

19 Secretary Samuels. I did not understand it to mean
20 that there would be an increase in premium.

21 Senator Rockefeller. That is correct also.

22 Mr. Kies. Well, Senator Rockefeller, I believe that
23 it would result in an increase in premiums against the
24 Chairman's mark.

25 Senator Rockefeller. But, Ken, quite honestly, you

1 cannot say that you believe that it would if you do not
2 have figures. I mean, this is like when you said the
3 Pennsylvania decision, then you did not mention any other
4 decisions. I mean, you are being very judgmental in that
5 respect.

6 Mr. Kies. Well, Senator Rockefeller, let me make it
7 more clear. It would increase the premium levels against
8 the Chairman's mark because you would impose a higher
9 standard for ----

10 Senator Rockefeller. Well, that is ----

11 Mr. Kies. Pardon me?

12 Senator Rockefeller. The general accounting standard.

13 Mr. Kies. Yes, but it is a higher standard than what
14 is in the Chairman's mark, so that it would increase the
15 additional premiums that would be payable by those that are
16 subject to the premiums as compared to Chairman's mark. We
17 do not know by what amount because we have not been able to
18 get from CBO what their analysis is. This is not a Joint
19 Committee on Tax estimate, it is a CBO estimate.

20 Senator Rockefeller. In that case, Mr. Chairman, I
21 will amend what I said and ask for a vote, because I think
22 this is a classic decision because it makes us choose
23 whether or not we are going to be serious about having
24 benefits available for retired coal miners, or are we not.

25 With the 10 percent reserve fund now all that is

1 available to us and cash accounting in the Chairman's mark,
2 I will predict to you that there will be a substantial lack
3 of payout capacity for pensioners benefits after one year's
4 period.

5 In fact, I have a chart somewhere in this great mass,
6 and you have it, which shows that. It shows that it just
7 disappears. This is one of Guy King's points. It is an
8 extraordinarily important point in the integrity of the
9 Coal Act, and I would ask for a vote on the matter, Mr.
10 Chairman.

11 The Chairman. The Clerk will call the roll.

12 The Clerk. Mr. Dole.

13 The Chairman. No, by proxy.

14 The Clerk. Mr. Chafee.

15 The Chairman. No, by proxy.

16 The Clerk. Mr. Grassley.

17 The Chairman. No, by proxy.

18 The Clerk. Mr. Hatch.

19 Senator Hatch. No.

20 The Clerk. Mr. Simpson.

21 The Chairman. No, by proxy.

22 The Clerk. Mr. Pressler.

23 The Chairman. No, by proxy.

24 The Clerk. Mr. D'Amato.

25 The Chairman. No, by proxy.

1 The Clerk. Mr. Murkowski.
2 The Chairman. No, by proxy.
3 The Clerk. Mr. Nickles.
4 Senator Nickles. No.
5 The Clerk. Mr. Gramm.
6 The Chairman. No, by proxy.
7 The Clerk. Mr. Moynihan.
8 Senator Moynihan. Aye.
9 The Clerk. Mr. Baucus.
10 Senator Moynihan. Aye, by proxy.
11 The Clerk. Mr. Bradley.
12 Senator Bradley. Aye.
13 The Clerk. Mr. Pryor.
14 Senator Moynihan. Aye, by proxy.
15 The Clerk. Mr. Rockefeller.
16 Senator Rockefeller. Aye.
17 The Clerk. Mr. Breaux.
18 Senator Breaux. Aye.
19 The Clerk. Mr. Conrad.
20 Senator Conrad. Aye.
21 The Clerk. Mr. Graham.
22 Senator Moynihan. Aye, by proxy.
23 The Clerk. Ms. Moseley-Braun.
24 Senator Moseley-Braun. Aye.
25 The Clerk. Mr. Chairman.

1 The Chairman. No.

2 The Clerk. The ayes are 9, the nays 11.

3 The Chairman. The amendment is not agreed to.

4 Senator Bradley. Mr. Chairman.

5 The Chairman. Senator Bradley.

6 Senator Bradley. Thank you very much, Mr. Chairman.

7 The second amendment I have in this round deals with
8 the IRA.

9 The Chairman. Are you going to do away with it?

10 Senator Bradley. No, sir. No, I am not. I am not
11 going to do away with it, sir.

12 Senator Moynihan. These discussions are under way
13 this very moment.

14 Senator Bradley. It is actually in law now for 73
15 percent of all the taxpayers. Prior to the passage of this
16 bill, 73 percent of all taxpayers have an IRA that is
17 deductible when they put it in and that builds up without
18 tax during the time that it is invested. So that is where
19 we start. That is the current law. 73 percent have a full
20 IRA.

21 What this bill does is to say, you get that deduction,
22 instead of cutting it off at \$50,000, below which 73
23 percent of the people are living, we raise it to \$120,000,
24 \$95,000 for singles, \$120,000 for couples.

25 Now, we can debate whether that is wise or not, but the

1 Chairman feels deeply about this amendment. He has fought
2 for this issue for a long time. But it has a third
3 component. The third component is the back-loaded IRA.
4 The back-loaded IRA has no income limitation. If you make
5 \$1 million a year you can get a back-loaded IRA.

6 The amendment that I would offer is to simply say that
7 we should put the same income limit on the back-loaded IRA
8 as we have for the IRA in the Chairman's mark, the regular
9 IRA, which is to say, \$120,000 limit for couples, \$95,000
10 limit for individuals.

11 I do not know why we should have no limit for a back-
12 loaded IRA but have a \$120,000 limit for a conventional
13 IRA. My amendment is fairly simple. It is to say, we want
14 those people with the \$1 million incomes to invest in all
15 these venture capital operations that Senator Hatch is
16 interested in.

17 We want them to invest, to build America, with small
18 companies that employ people. We do not think they should
19 benefit the same way a two-earner family with two workers
20 working hard and making \$110,000 a year benefit from the
21 IRA that is in this proposal.

22 So my amendment would cap the back-loaded IRA
23 eligibility at an income level of \$120,000 for a couple,
24 and \$95,000 for an individual.

25 Senator Moynihan. Mr. Chairman, I believe it is the

1 case that the proposal before us, the Chairman's mark, is
2 very heavily back-loaded. This would cost about \$4 billion
3 during the first five years, but almost \$34 billion by year
4 10, as I understand.

5 Senator Bradley. Well, the savings from this proposal
6 that I have offered, simply capping the back-loaded IRAs at
7 \$120,000, in the six- and seven-year budget window, is \$1.1
8 billion, but over 10 years it is \$8 billion. So you get an
9 idea of what the back-loaded IRA is going to cost the
10 taxpayer in terms of explosion of the deficit in the out
11 years.

12 But I am not attacking the concept here, I am simply
13 saying, even though I have some questions about it, that we
14 ought to at least limit it to \$120,000 for eligibility. If
15 we do that, we will decrease the deficit by \$8 billion over
16 10 years, and \$1 billion over the seven years.

17 The Chairman. Well, I must most respectfully disagree
18 with my friend from New Jersey. I am pleased that he sees
19 merit in the back-ended IRA. I would point out that
20 Senator Bentsen and I did get legislation through this
21 Congress that contained the back-ended IRA without
22 limitations.

23 The thing that bothers me is, people do not seem to
24 recognize the importance of promoting savings, promoting
25 savings both for the family and for the Nation. To me, it

1 makes little sense to try to get people on a course of
2 saving when they are young and then suddenly say, if they
3 are reasonably successful as they grow older, that they
4 cannot continue their program of IRAs. It just does not
5 make good sense.

6 Greenspan has said time and again that the most
7 important economic problem this Nation faces is to become
8 a savings Nation. We are miles behind the Japanese and
9 others with whom we are in competition.

10 Savings is not only good for the family, let me point
11 out; there are figures that show families in their 50s that
12 have only \$3,000 or \$4,000 worth of savings. They are
13 going to face old age without the means of maintaining a
14 reasonable style of life, and that is what we are trying to
15 correct.

16 But it is also good from the standpoint of the country.
17 We need these funds, we need this capital, we need these
18 means to make sure that we are competitive in this global
19 economy. So you have all heard me say this many times in
20 the past, but I must say, I do object to the amendment.

21 Senator Conrad. Mr. Chairman.

22 The Chairman. Yes, Senator Conrad.

23 Senator Conrad. Mr. Chairman, I think we have a
24 fundamental agreement with respect to the importance of
25 savings, because only with savings can you have investment.

1 But, frankly, we have a disagreement on how best to achieve
2 it.

3 The best way to increase the pool of societal savings
4 is to reduce the budget deficits that represent dissavings
5 that are soaking up the pool of savings. That is the best
6 thing we can do, and the proof is in the pudding.

7 When the Democrats passed a plan to reduce the budget
8 deficit in 1993, which has reduced the deficit from \$290
9 billion a year to \$260 billion a year, here is what the
10 economic results were: economic growth averaging 3.5
11 percent a year; economic growth averaged 1.3 percent a year
12 in the Bush years.

13 Job creation: 7.5 million jobs have been created.
14 Unemployment went from 7.1 percent to 5.6 percent.
15 Business investment increased at a rate of 14.8 percent a
16 year, the largest increase in business investment in 30
17 years.

18 So, Mr. Chairman, I would say to you, the best way to
19 increase the pool of societal savings is to stop the
20 dissavings of the deficit. That is exactly the direction
21 that the amendment of the Senator from New Jersey takes.

22 The Chairman. The time of the Democrats is out.

23 Senator Bradley. Mr. Chairman, 10 seconds.

24 The Chairman. Ten seconds.

25 Senator Bradley. This amendment simply limits the

1 individual who can get an IRA. If you earn more than
2 \$120,000 a year, which amounts to about four percent of
3 America, then you cannot have a back-loaded IRA. Under the
4 Chairman's mark, if you earn more than \$120,000 you cannot
5 have a conventional IRA. So if we limit it for
6 conventional, we should limit it for a back-loaded. It is
7 as simple as that. There is no policy reason why there
8 should be a difference for these two categories of ----

9 The Chairman. The 10 seconds has expired.

10 I would just say to my good friend, Senator Conrad,
11 that we are not only talking about national savings, but we
12 are talking about helping the family. What we are
13 interested in doing is providing the means, the capability,
14 the process by which young people can, through savings,
15 make sure that they have a comfortable old age.

16 All time has expired. The Clerk will call the roll.

17 The Clerk. Mr. Dole.

18 The Chairman. No, by proxy.

19 The Clerk. Mr. Chafee.

20 The Chairman. No, by proxy.

21 The Clerk. Mr. Grassley.

22 The Chairman. No, by proxy.

23 The Clerk. Mr. Hatch.

24 Senator Hatch. No.

25 The Clerk. Mr. Simpson.

1 Senator Simpson. No.
2 The Clerk. Mr. Pressler.
3 The Chairman. No, by proxy.
4 The Clerk. Mr. D'Amato.
5 The Chairman. No, by proxy.
6 The Clerk. Mr. Murkowski.
7 The Chairman. No, by proxy.
8 The Clerk. Mr. Nickles.
9 The Chairman. No, by proxy.
10 The Clerk. Mr. Gramm.
11 The Chairman. No, by proxy.
12 The Clerk. Mr. Moynihan.
13 Senator Moynihan. Aye.
14 The Clerk. Mr. Baucus.
15 Senator Baucus. No.
16 The Clerk. Mr. Bradley.
17 Senator Bradley. Aye.
18 The Clerk. Mr. Pryor.
19 Senator Pryor. Aye.
20 The Clerk. Mr. Rockefeller.
21 Senator Rockefeller. Aye.
22 The Clerk. Mr. Breaux.
23 Senator Breaux. Aye.
24 The Clerk. Mr. Conrad.
25 Senator Conrad. Aye.

1 The Clerk. Mr. Graham.

2 Senator Graham. Aye.

3 The Clerk. Ms. Moseley-Braun.

4 Senator Moseley-Braun. Aye.

5 The Clerk. Mr. Chairman.

6 The Chairman. No.

7 The Clerk. The ayes are 8, the nays 12.

8 The Chairman. The amendment is not agreed to.

9 Senator Moynihan. Mr. Chairman, I believe Senator
10 Pryor has an amendment.

11 The Chairman. Senator Pryor.

12 Senator Pryor. Thank you, Mr. Chairman. I believe
13 this is my last amendment, so I know you all will breathe
14 a sigh of relief.

15 The Chairman. I will not comment.

16 Senator Pryor. Mr. Chairman, this is truly going to
17 be a defining moment, because this is an amendment that I
18 think each of our Republican and Democratic colleagues can
19 agree on. This is the Pension Simplification Amendment.
20 It does not cost any revenue. In fact, over seven years,
21 Mr. Chairman, it raises \$92 million in revenue.

22 On June 30th of this year, Senator Hatch of Utah and I
23 introduced the Pension Simplification Act of 1995. We have
24 supporting this amendment today in my corner, and I hope in
25 our corner, the NFIB, the Association of Private Pension

1 and Welfare Plans, the Small Business Council of America,
2 the National Employee Benefits Institute, and the ERISA
3 Industry Committee.

4 This, for the first time, Mr. Chairman and colleagues,
5 would serve to simplify all of the pension laws that we
6 have spread out 50 different ways throughout the Tax Code
7 and other statutes of the country, and we just think that
8 right now is the time to simplify the pensions that we have
9 and to make it possible that smaller businesses would be
10 encouraged to engage in pension activity for their
11 employees.

12 In fact, we see today that in businesses with less than
13 25 employees, only about 25 percent of those employees
14 today had any type of employer-provided pension plan, and
15 only 15 percent of those employees participated in the
16 particular plan.

17 We think the Pension Simplification Plan is sound. It
18 has basically been passed by the Ways and Means Committee.
19 It is a bipartisan effort in the House, Mr. Chairman, and
20 I am very hopeful that this would pass. I have some
21 talking points, a handout, for each of our colleagues here.
22 I will try to answer any questions. I am just hoping we
23 can have a bipartisan effort here and support the Pension
24 Simplification Act of 1995.

25 Senator Conrad. Mr. Chairman.

1 The Chairman. Senator Hatch.

2 Senator Hatch. Mr. Chairman, I want to commend
3 Senator Pryor for the many years of working on this. I
4 want to be for this amendment. I think it is a good
5 amendment. But you said it would have a \$90-some billion
6 plus factor. I just chatted with our side, and it is
7 almost a half a billion dollars minus. It is in a state
8 of flux right now.

9 You have worked many years to reform and simplify the
10 pension laws. I support you in that, and I know that many
11 other share our opinion on this matter. I have long been
12 a sponsor of this bill, and, in fact, introduced last
13 year's version with Senator Pryor.

14 I would also commend the Chairman and Senator Dole for
15 their efforts to expand the purview of simplified employee
16 plans. It is interesting to note that President Clinton
17 has offered some very good ideas about needed pension
18 simplification, so this issue is obviously on many people's
19 minds.

20 I think most of us would agree, Mr. Chairman, that we
21 need to reduce the administrative burdens companies face in
22 setting up and administering pension plans on behalf of
23 their employees.

24 Because of the unnecessary legal complications, many
25 companies have thrown up their hands and have decided that

1 it is not worth it to submit themselves to the perplexing
2 complexities and hassles contained within our current
3 pension laws.

4 In fact, when you mention any of these pension laws
5 people throw their hands up in despair, whether they be
6 Labor, Management, or members of Congress. But that is
7 unfortunate because, as a result, many employees who would
8 otherwise have pensions currently do not have them due to
9 the disincentives contained within the law.

10 In addition, as the Chairman has noted, our national
11 savings rate is less than it would otherwise be, but for
12 these disincentives. Now, the problem is particularly
13 acute with small- and medium-sized companies, which is
14 where most of the employees in this country work. So
15 pension simplification is probably the best example of why
16 I think, if we cannot do it here, a second tax bill makes
17 sense.

18 But let me just say this. Mr. Chairman, I would
19 suggest that we keep this open and see if we can work at
20 it. If he is right that this is not going to cost any
21 revenue loss, there is no reason not to do it. If it is
22 close enough to where there is even a negligible small
23 loss, it is still worthwhile doing it. I have to admit, if
24 it is a half a billion, under these circumstances, we would
25 probably have to try to do it in a second bill. But why do

1 we not keep it open, see if we can work out those figures
2 and work out the language, and bring both sides together
3 and get this done?

4 Senator Pryor. Mr. Chairman, may I respond? I am
5 using the Joint Tax Committee's own figures and it shows
6 \$92 million in 1996 to 2002. I think I am looking in the
7 right column. The half a billion dollar deficit is a total
8 surprise to me.

9 Senator Hatch. Can you help us with that, Mr. Kies?

10 Senator Pryor. I wonder if Mr. Kies could respond.

11 Mr. Kies. You are both right. It is \$92 million over
12 seven years, and the 10-year number is minus \$617 million.

13 Senator Bradley. It is like that IRA.

14 Senator Conrad. Mr. Chairman.

15 The Chairman. Yes, Senator Conrad.

16 Senator Conrad. Mr. Chairman, if there was ever
17 anything we should agree on, it is this proposal, because
18 the Chairman has spoken eloquently about the need to
19 encourage savings. I have small business after small
20 business telling me, they do not have a plan because it is
21 so convoluted to be able to comply with the current law.
22 We ought to simplify the pension law so that more
23 businesses can have pension plans. This is just
24 fundamental. This is something that we all ought to agree
25 on unanimously, and I hope we would.

1 The Chairman. Let me make this suggestion. We are
2 all enthusiastic about what we are trying to accomplish;
3 the question is whether or not we can do it with this
4 legislation in its present form.

5 I am going to ask the staff to go back in the back room
6 and see whether or not it can be worked out and report back
7 here before we take final action.

8 Senator Moynihan. Very good, sir.

9 Senator Hatch. Mr. Chairman, I intend to support you.
10 I know how difficult it is to put a bill like this
11 together. As deeply as I feel about this, we have got to
12 solve this somebody. But if it turns out to be we cannot
13 do it, we cannot do it. But I would like to see us really
14 make the last-ditch, legitimate effort to get it done.

15 The Chairman. That is what we intend to do. I assure
16 you that I am as much interested in this as all the
17 bipartisan support, and if we do not do it today we will
18 certainly put that high on the agenda. So ordered.

19 Now we are ready for further amendments.

20 Senator Moynihan. Mr. Chairman, I have an amendment
21 which I am going to offer, but then eventually withdraw.

22 It has to do with Medicaid and the six States that have
23 received waivers under the Section 1115 provision. These
24 are demonstration projects designed to bring more people
25 into the system, lower costs, provide HMOs, and varying

1 useful experiments of the kind that we would want to have.

2 The six States are Arizona, Hawaii, Oregon, Rhode
3 Island, Tennessee, and Minnesota. Under our present
4 Medicaid proposal, suddenly all their plans would be
5 disrupted, all the benefits we would hope to see from the
6 completed five-year cycle would be lost, and generally this
7 would be no way to run a medical program of this kind.

8 In particular, Senator Hatfield has been concerned with
9 this matter. The Governor of Oregon came all the way east
10 yesterday to talk to a number of us about this. I know
11 Senator Chafee is interested and concerned, but cannot be
12 here at the moment.

13 The proposal would take money from the States who are
14 above the two percent Medicaid floor in order to let these
15 five-year experiments--they are obviously stacked in
16 various ways--proceed and be done as the government has
17 indicated would be done.

18 I do not know if this can be managed at this time, but
19 I do understand, sir, that very much like Senator Pryor's
20 measure, that we are still working on our Medicaid final
21 legislative language and it may be that something can be
22 done to accommodate Senator Hatfield, other Senators who
23 are concerned, and the governors who are concerned.

24 If I could hear that we would continue to keep this in
25 mind with the hope that we might do something, no

1 commitment ----

2 The Chairman. I will instruct the staff to take a
3 look at the problem and see if anything can be done.

4 Senator Graham. Mr. Chairman, if I could I would like
5 to speak strongly on behalf of the proposal that Senator
6 Moynihan has offered. The Federal Government has gotten
7 many of the ideas that are now incorporated in the various
8 reform proposals from these demonstration projects.

9 Senator Moynihan. Yes.

10 Senator Graham. Tennessee, for instance, is the
11 largest attempt to apply managed care in the Nation.
12 Hawaii has had a long experiment with a number of creative
13 health care initiatives. Again, the Nation has benefitted
14 by that laboratory of experimentation.

15 It would be perverse and cruel, after these States have
16 made such investment, for us to now pull the rug out from
17 under them and essentially increase the extent of their
18 distress because they had done exactly what we wanted them
19 to do, which was to be created. So I would hope that we
20 could incorporate this in the final Medicaid legislation.

21 The Chairman. We will take a very careful look at the
22 problem.

23 Senator Moynihan. I thank you, sir.

24 The Chairman. Senator Bradley.

25 Senator Bradley. Mr. Chairman, this is a small

1 matter, but I think it bears committee attention. That is
2 the matter that does apply to the football coaches, which
3 is thought to be in the nature of a technical correction,
4 but I think that it is a little more than a technical
5 correction. I wonder if Mr. Kies would explain to the
6 committee what the situation is and what the provision is
7 before the committee at the moment.

8 Mr. Kies. Well, Senator Bradley, can I, first, ask
9 the Chairman whether I can have permission to discuss this,
10 because I agreed when I took the job as the Chief of Staff
11 of the Joint Committee that I would not participate in any
12 discussion that related to this because I previously
13 represented the Football Coaches Association.

14 Senator Rockefeller. I think it represents an awkward
15 situation.

16 Senator Bradley. Well, then let us have somebody else
17 step up.

18 Senator Nickles. He may know what he is talking
19 about.

20 The Chairman. Is there someone else who can address
21 the issue?

22 Mr. Kies. I have asked that somebody else come.

23 Senator Bradley. Well, we can go on and come back to
24 this if you want.

25 The Chairman. All right. Why do we not do that,

1 because the pension people are working on the other
2 problem.

3 Senator Bradley. All right.

4 Senator Hatch. Could I ask one question on it,
5 though?

6 The Chairman. Senator Hatch.

7 Senator Hatch. Well, it is my understanding that the
8 waivers ---- if we continue as we are, I would be in favor
9 of keeping the waivers going, which is a good idea, because
10 we ought to be in favor of that. But, as I understand it,
11 if the block grant passes then these would have to go, even
12 though the block grant, they can do whatever they want to
13 under the block grant. That is my understanding.

14 Senator Moynihan. Sir, you are referring to the
15 proposal I offered?

16 Senator Hatch. Yes.

17 Senator Moynihan. Yes.

18 Senator Hatch. I mean, if the block grant passes, if
19 finally what the Republicans want to do passes, then the
20 individual States do not have to ask for waivers anymore
21 and we will not have to spend these additional funds.

22 Senator Moynihan. It is just, these States are in a
23 sequence of agreed experimentation which would conclude.

24 Senator Hatch. Right. But they would have the block
25 grant monies. If we pass your amendment, then even if the

1 block grant passes, which gives them total flexibility
2 to do what they want to as a State laboratory, for instance
3 ----

4 Senator Moynihan. They would have more money.

5 Senator Hatch. [continued]. They would still get
6 more money out of this, is what you are saying.

7 Senator Moynihan. Yes. Yes. This is not New York.

8 Senator Hatch. No, no. I understand.

9 Senator Moynihan. I am just making the case on behalf
10 of States who have done what we urged them to do.

11 Senator Hatch. I understand.

12 The Chairman. Senator Rockefeller.

13 Senator Rockefeller. Mr. Chairman, only one that
14 requires a vote. What I will propose and then withdraw is
15 something that we have been working hard on in our office
16 for almost a year, and this has to do with the Coal Act.

17 It has been our general view, choosing to be cautious
18 and mindful of the protection of retired coal miners'
19 benefits, that any surplus would be very modest. We have
20 tried to figure out, how could we best spend, if there is
21 a modest surplus which does not jeopardize coal miners'
22 benefits, to whom could we best apply that, to whom could
23 we make that available, who needs it?

24 Over a period of hundreds and hundreds of hours of
25 meetings, we had extensive conversations with small

1 companies. They were, in fact, companies that had once
2 produced coal but, in fact, partly because of
3 circumstances, sometimes because of potentially the Act
4 itself, which, as I indicated before, was not designed in
5 a way which was of my first choice but was given to us by
6 President Bush, that we should help small companies that
7 are non-coal producers. Why non-coal producers?

8 Mr. Chairman, if I could have the attention of the
9 committee I would be grateful.

10 The Chairman. The committee will please be in order.

11 Senator Rockefeller. The question was, why non-coal
12 producers, and small companies a that. The reason was,
13 these would be companies that had mined coal and were
14 either now holding companies, or were just not mining coal
15 anymore, but were small, and which had obligations and
16 which were under extreme duress because of those
17 obligations, and that, therefore, we wanted to help them.

18 We did not have much money to help them. We figured
19 there was no more than \$5-6 million a year. In a very
20 happy, wonderful year, maybe \$7 million. We did a lot of
21 work on this.

22 I just wanted to make the committee members aware that
23 a lot of the activity in my office in the last year has
24 been to try to figure out how we can soften the impact of
25 this Coal Act. That is how we want to do it. I am not

1 going to propose it here because it would not prevail, and
2 I do not strategically want to be in that position. But I
3 wanted the members to know that.

4 Second, if it has not been passed out, I would like
5 each committee member to have one. Each committee member
6 has before them the Coal Commission report, the report to
7 the Secretary of Labor and the American people, which was
8 chaired by Elizabeth Dole, Secretary of Labor, which was
9 not what we discussed before. She did this as Secretary of
10 Labor. Date, November 1, 1990.

11 Now, the reason I am passing it out is not to do
12 anything but to say to you that this is a genuine problem
13 involving real people with enormous stakes at risk, and who
14 are older and dying at the rate of 6,000 a year.

15 What the Coal Commission was trying to do was to find
16 out a way ---- and there is a whole series of areas of
17 contribution obligations, withdrawal liabilities, transfer
18 of pension surplus, state-of-the-art cost containment and
19 managed care, long-term financing.

20 In other words, it went into how they felt, this group
21 which unanimously voted to adopt the report, this problem
22 should be addressed. I would hope very sincerely that
23 committee members and/or their relevant staff members would
24 read this report. It is not onerous, it is extremely
25 helpful.

1 This is obviously a problem which is not going to go
2 away and needs to be addressed, although we are not doing
3 so at this series of meetings, but I offer that to my
4 colleagues in a spirit of helpfulness.

5 The final and only vote that I would ask, is a sense of
6 the committee that the Byrd Rule violations be stricken
7 from the mark.

8 The Chairman. Any comment?

9 Senator Bradley. I second that motion.

10 The Chairman. Do I understand the proposal that all
11 Byrd violations be stricken? I do not think any of us
12 really know exactly what that infers.

13 Senator Chafee. Mr. Chairman.

14 The Chairman. Senator Chafee.

15 Senator Chafee. Mr. Chairman, I do not know, without
16 the parliamentarian here, if we know, what is a Byrd Rule
17 violation. I have spent some time wondering about that,
18 myself, not only in connection with this measure, but the
19 Medicare/Medicaid bill we did the other night.

20 I personally would be hard put to be able to identify
21 what exactly is, as I say, a Byrd Rule violation. I think
22 probably the way we have got to go on the floor, to have
23 some expert, a parliamentarian or somebody, tell us, what
24 is a Byrd Rule, whether paragraph so and so is, indeed, or
25 provision so and so is, indeed, a violation. I think here,

1 just doing it overall, we would not know what we were
2 talking about. Not that that is totally unusual, but it
3 should be avoided.

4 Senator Rockefeller. Senator Chafee, I am not asking
5 that the definition be given here. The assumption is, of
6 course, that the interpretation would be made by the
7 parliamentarian, but it is simply a reminder. Also, the
8 Byrd Rule will be determined by the parliamentarian, not by
9 us. But the sense of the committee is that Byrd Rule
10 violations be stricken from the mark that will apply on the
11 floor.

12 Senator Chafee. And also, you have got to remember,
13 I believe I am correct, am I not, Mr. Kies--I am turning to
14 you because you sit there and look official--but you can
15 always appeal from the Byrd Rule with a 60-vote count.

16 Mr. Kies. That is correct.

17 The Chairman. Let me say, I think it would be a
18 mistake to adopt this proposal. There are a number of
19 issues that involve the Byrd Rule. But, as Senator Chafee
20 pointed out, nobody can speak definitively as to which ones
21 would be involved and which ones would not. We do have a
22 process to raise these issues on the Senate floor. That
23 seems to me to be the appropriate time rather than to try
24 to take this approach.

25 I respect Senator Rockefeller for what he is doing, but

1 I think it would only create an ambiguity in the
2 legislation that would not be in the best interests of any
3 of us who have had a hand in legislation before. So I
4 respectfully would object to that.

5 Senator Conrad?

6 Senator Conrad. Mr. Chairman, might we inquire of Mr.
7 Kies, Mr. Samuels, or whomever might respond, what are the
8 possible implications of the amendment that Senator
9 Rockefeller is offering? In other words, what provisions
10 might be a Byrd Rule violation? Certainly that has been
11 looked at in compiling the Chairman's mark.

12 The Chairman. First of all, let me say that time has
13 expired. I do not know that Mr. Kies is the one that could
14 speak definitively on this matter.

15 Senator Rockefeller. Mr. Chairman, I believe I have
16 made my point and I will withdraw my amendment.

17 The Chairman. Thank you. I was just going to make
18 the observation, Jay, that I am not sure your amendment
19 would not fall under the Byrd Rule.

20 [Laughter]

21 Senator Bradley. Mr. Chairman.

22 The Chairman. Yes, Senator Bradley.

23 Senator Bradley. Mr. Chairman, I have another
24 amendment. This goes to the estate tax portion of the
25 bill. Under the Chairman's mark, the estate tax relief in

1 this bill would give the owners of family businesses valued
2 in excess of \$5 million an average tax reduction--an
3 average tax reduction--of \$1.7 million.

4 Let me repeat that. The Chairman's mark, when it comes
5 to estate taxes, would give the families and individuals of
6 estates of more than \$5 million an average tax cut of \$1.7
7 million.

8 Now, who are these people? Well, only one percent of
9 the people who die pay any estate tax at all. Most of them
10 do not leave estates of more than \$600,000, so we have
11 already eliminated more than 99 percent of the people.

12 Only two-tenths of one percent of the people who die in
13 any given year have estates valued at more than \$2 million.
14 So we are talking about a very small number of people who,
15 under the Chairman's proposal, will get a tax cut at death
16 for their descendants of \$1.7 million, on average. Some
17 are much more than that, but that is the average.

18 Now, at the same time I think the Chairman's intent,
19 and I think many of the members on the other side and even
20 some of the supporters of this proposal on this side, do
21 not want to see family farms broken up, they do not want to
22 see small businesses that are family owned have to sell
23 off, and I think we should show some sensitivity to those
24 family situations.

25 So what I am proposing is not to strike the estate tax

1 provision, which, by the way, costs \$3 billion over five
2 years and \$5.5 billion over seven years. I am not going to
3 strike that. But what I am going to do is to try to give
4 these small businesses and farms some relief so that they
5 can keep their farm and business together, and I am going
6 to do that by suggesting three or four changes.

7 Under the current law, what you are allowed to do is
8 you are allowed to defer \$1 million of business property
9 from tax and you would pay a four percent interest rate on
10 deferral of that tax for 14 years.

11 What I am going to do is to double that. Say you can
12 defer \$2 million for 14 years. Not \$1 million, but \$2
13 million for 14 years. As it is currently, only the
14 corporate form is allowed this kind of deferral. I am
15 going to expand that to partnerships and limited liability
16 companies at the same time.

17 Then the third thing that I am going to do, as the
18 Chairman does, is permit current use valuation election to
19 cash lease the property to family members without
20 triggering recapture. In other words, you try to keep the
21 farm together by cash leasing it to the members without
22 triggering any kind of recapture of tax liability. So that
23 allows the family to keep the farm together, or the
24 business together.

25 Then I am going to allow for the normal correction for

1 errors. These four proposals, I think, go some way toward
2 providing relief for families that want to keep the farm
3 together, for small businesses that want to keep the
4 business in the family, while at the same time not opening
5 up this gigantic gap in the estate tax that results in an
6 average tax cut, for estates of more than \$5 million, of
7 \$1.7 million.

8 Instead of \$3 billion and \$5.5 billion for the five-
9 and seven-year number, this would lose \$700 million and
10 \$900 million, so it would save, over a seven-year period,
11 about \$4.5 billion in deficit reduction. We would reduce
12 the deficit by \$4.5 billion more, while I think going some
13 way toward addressing the concerns of families and small
14 business. So that is my proposal, Mr. Chairman.

15 Senator Moynihan. And a very fine proposal.

16 The Chairman. Senator Nickles.

17 Senator Nickles. Mr. Chairman, Senator Moynihan said
18 he had a very fine proposal. It may be a fine proposal,
19 but I think the proposal that we have in the bill that
20 Senator Dole, Senator Grassley, myself, and others have
21 worked on, I think, is a much better proposal. The
22 proposal that is in the Chairman's mark--and I want to
23 thank Chairman Roth for his support of this proposal--is
24 very positive, pro-family, pro-business. It does protect
25 small business people.

1 It does provide an opportunity to say that we are not
2 going to have the Federal Government come in with a very
3 heavy tax burden if property in a business is passed on
4 from one generation to another. It provides some estate
5 tax relief for basically all people by increasing the
6 exemption gradually from \$600,000 to \$750,000.

7 On the family-owned business, let me just say, Mr.
8 Chairman, not all family-owned businesses are cash cows or
9 have a lot of liquid assets. A lot of those assets can be
10 tied up in machinery, equipment, or other assets, that the
11 only way that you could pay the tax liability is to sell
12 some of those assets.

13 In some cases, Senator Grassley, you would have to sell
14 part of the farm. Some farms you might be able to divide,
15 other farms you cannot. Some businesses you might be able
16 to divide, some businesses you cannot.

17 The proposal that we have in the Chairman's mark is to
18 increase the exemption to \$1.5 million for family-owned and
19 operated businesses, and then to cut the rate in half
20 between \$1.5 million and \$5 million. I think that is an
21 excellent proposal.

22 Under current rates--and I am stretching part of this
23 in my memory--the estate tax rates range from 18-55
24 percent. They hit 55 percent, I believe, when you are at
25 \$3 million. That may sound like a lot, but if you take

1 somebody that builds a business and they may start it with
2 nothing but they build up plant, machinery, and equipment,
3 you can have valuation of \$3 million rather rapidly.

4 If the owner tries to pass it on to his children, if
5 you have Uncle Sam coming in saying, well, we want 55
6 percent of that, in many cases you are going to kill that
7 family-owned operation and I think that would be a serious
8 mistake.

9 So, I appreciate some of the comments that Senator
10 Bradley had. It may be an improvement over present law,
11 but I believe that the provision that we now have in the
12 bill, sponsored by Senators Dole, Grassley, Pressler,
13 myself, and others, I think, is much superior.

14 The Chairman. Senator Grassley.

15 Senator Grassley. Yes. I, too, cannot find fault
16 with what Senator Bradley wants to do in another
17 environment, but this is an environment where we have the
18 capability in a paid-for, revenue-neutral fashion to do a
19 lot better.

20 Since we do not do much with Estate tax very often--the
21 last time I know of serious change was in 1980 when we went
22 to the \$600,000 cap, now with inflation it can legitimately
23 be much more than \$600,000, probably \$750,000 is not
24 enough--we just can do better, and we ought to do better.

25 But I would like to make one comment in regard to

1 something Senator Bradley has said a couple of times, and
2 he is not in err, but I just want to make sure that we keep
3 everything in an historical perspective.

4 When he says that we are affecting one percent of the
5 estates, that is true. But you want to remember,
6 historically the estate tax has always affected about one
7 percent of the estates.

8 The only exception I can remember is during the highly
9 inflationary times of the mid- to late-1970s, at least in
10 agriculture, when, historically, we had about one percent
11 of the farms and estates paying a tax.

12 It eventually got up to a point where about 10 percent
13 of the farms were paying, and you did have to sell the farm
14 to pay the estate tax. Consequently, we did in 1980, and
15 we have kept it down to one percent, and we should keep it
16 at once percent. There should not be any insinuation that
17 it is wrong to have it at one percent of the estates paying
18 tax.

19 Senator Bradley. Mr. Chairman.

20 The Chairman. Senator Bradley.

21 Senator Bradley. I am prepared to go to a vote if no
22 one wants to talk anymore. But I just want to make the
23 point that I was conveying, as the Senator from Iowa
24 conveyed himself, what are the facts? The facts are, one
25 percent of the estates pay any estate tax at all, only one

1 percent, because 99 percent of the people who die, when
2 they pass on what they have managed to save over a lifetime
3 in America, it is less than \$600,000. So these are the
4 facts. Nobody is disputing that. I mean, that is not a
5 value judgment, it is simply a fact.

6 The question arises not by saying, what about those 99
7 percent, but it arises to say, what is the fairest way for
8 everyone to deal with the one percent? Now, only two-
9 tenths of one percent have estates of more than \$2 million.
10 That is really what we are talking about here, because I
11 doubled this to \$2 million. So, two-tenths of one percent
12 of the estates in America. What is the fairest way to do
13 that?

14 I am saying that the fairest way is to give them the
15 means to keep their family business and their family farm
16 together, through cash leasing and through doubling the
17 deferral, rather than giving them an average tax cut, for
18 estates over \$5 million, of \$1.7 million. That is the
19 purpose of the proposal.

20 I think that this proposal that I am offering is pro-
21 family, pro-growth, pro-small business, pro-keep the family
22 farm and a family business together, but do it in a way
23 that does not give such a gigantic tax break to very large
24 estates in America worth more than \$5 million.

25 The Chairman. Time has expired on both sides.

1 Senator Pryor. Mr. Chairman, did you not put in your
2 mark a \$5 million cap? Is there not a cap of \$5 million?

3 The Chairman. That is correct.

4 Senator Pryor. I thank the Chair.

5 Senator Bradley. That is why you have to do the
6 average. That is why it is \$1.7 million.

7 Senator Baucus. Also, Mr. Chairman, your provision
8 applies to family-held operations. That is, it is 40
9 percent, as I recall, ownership.

10 The Chairman. That is right.

11 Senator Baucus. Frankly, the problem I have with the
12 Senator from New Jersey's proposal is it completely
13 eliminates what is in the bill, and the bill's provisions
14 were targeted toward family-held operations.

15 Senator Bradley. Well, actually it keeps the
16 \$750,000. You raise it from \$600,000 to \$750,000. I keep
17 that. But I also allow you to defer for 14 years \$2
18 million, not \$1 million. I also allow you to do that if
19 you are a partnership or a limited liability company, not
20 simply a corporation. I also allow cash leasing. So, it
21 is a real attempt to try to keep these family farms
22 together.

23 The Chairman. I appreciate that, and I appreciate the
24 fact that both sides have had the opportunity to explore
25 the differences. Time has expired, and the Clerk will call

1 the roll.

2 The Clerk. Mr. Dole.

3 Senator Dole. It might be something to work on in

4 conference. No.

5 The Clerk. Mr. Chafee.

6 Senator Chafee. No.

7 The Clerk. Mr. Grassley.

8 Senator Grassley. No.

9 The Clerk. Mr. Hatch.

10 The Chairman. No, by proxy.

11 The Clerk. Mr. Simpson.

12 The Chairman. No, by proxy.

13 The Clerk. Mr. Pressler.

14 Senator Pressler. No.

15 The Clerk. Mr. D'Amato.

16 The Chairman. No, by proxy.

17 The Clerk. Mr. Murkowski.

18 The Chairman. No, by proxy.

19 The Clerk. Mr. Nickles.

20 Senator Nickles. No.

21 The Clerk. Mr. Gramm.

22 The Chairman. No, by proxy.

23 The Clerk. Mr. Moynihan.

24 Senator Moynihan. Aye.

25 The Clerk. Mr. Baucus.

1 Senator Baucus. No.
2 The Clerk. Mr. Bradley.
3 Senator Bradley. Aye.
4 The Clerk. Mr. Pryor.
5 Senator Pryor. No.
6 The Clerk. Mr. Rockefeller.
7 Senator Rockefeller. Aye.
8 The Clerk. Mr. Breaux.
9 Senator Breaux. Aye.
10 The Clerk. Mr. Conrad.
11 Senator Conrad. Aye.
12 The Clerk. Mr. Graham.
13 Senator Graham. Aye.
14 The Clerk. Ms. Moseley-Braun.
15 Senator Moseley-Braun. Aye.
16 The Clerk. Mr. Chairman.
17 The Chairman. No.
18 The Clerk. The ayes are 7, the nays 13.
19 The Chairman. The amendment is not agreed to.
20 Could I make one correction? I would like your
21 attention, Senator Rockefeller, because I tried to correct
22 this before. I think it is important that the record
23 reflect that Mrs. Dole was not the chairman of the
24 commission, she was Secretary of the department at the
25 time. Bill Usery was chairman of the commission that

1 issued the report. It is also my understanding that the
2 administration never endorsed the report, per se.

3 Senator Rockefeller. All I ever said was that Mrs.
4 Dole was an excellent commissioner.

5 Senator Moynihan. No, she was not. She was Secretary
6 of Labor.

7 Senator Rockefeller. As Secretary of Labor.

8 Senator Moynihan. We have commissioners around here.
9 There are not many Secretaries.

10 Senator Rockefeller. That is correct.

11 The Chairman. We have one matter we have to go back
12 to, and that is the question of the coaches.

13 Senator Bradley. Oh, right. The football coaches.

14 Senator Pryor. And pensions.

15 The Chairman. And pensions.

16 Senator Bradley. Well, who can explain what happened
17 to the football coaches.

18 The Chairman. Yes. Mark, can you do that?

19 Senator Bradley. So rudely discriminated against the
20 basketball coaches.

21 Mr. Prater. Senator Bradley, there was a provision in
22 a bill in 1988 that provided that the coaches' plan would
23 qualify as a multi-employer plan. It was not a tax bill,
24 so it did not change the Tax Code treatment. There was a
25 follow-up bill that also complicated this. Again, it was

1 not a tax bill.

2 So where we are at with this is that there is basically
3 a glitch, although Congress did intend for the coaches'
4 plan to qualify as a multi-employer plan. So what this
5 provision does is makes a correction, a technical
6 correction, to clarify that the coaches' plan is a multi-
7 employer plan.

8 Senator Bradley. Well, so what is that doing in the
9 Finance Committee?

10 Mr. Prater. Well, we have to correct the Tax Code as
11 well. The Tax Code is a part of ERISA.

12 Senator Moynihan. ERISA is part of the Tax Code?

13 Mr. Prater. Well, there is a tax title in ERISA and
14 this corrects the tax title portion.

15 Senator Bradley. You see, my point here only is that
16 I do not know the case very well, but it seems to me like
17 this is a provision that may or may not have merit, but
18 that it is certainly subject to the Byrd Rule because it is
19 changing the way certain pensions are treated. I think the
20 way that was attempted to get around the Byrd rule, which
21 is putting a \$25,000 fee on every plan ---- is that it?
22 How does that work.

23 Mr. Prater. It is on this plan, Senator.

24 Senator Bradley. All right. There is a \$25,000 fee
25 on this 401(k) plan that does not exist for any other plan,

1 to my knowledge. So why are we putting a \$25,000 fee on
2 the football coaches' plan? The answer is, because you
3 want to fix it in reconciliation and that is the way you
4 get it in reconciliation so that it is a budget matter.

5 Senator Dole. The thing is still subject to the Byrd
6 Rule.

7 Senator Bradley. It is still subject to the Byrd
8 Rule.

9 Senator Dole. We checked it.

10 Senator Bradley. Oh. Well, then I have no more
11 comments.

12 Senator Dole. Will you tell Mr. Byrd about it?

13 Senator Bradley. No. But the question is, really, if
14 it is still subject to the Byrd Rule then that is for the
15 floor.

16 Senator Moynihan. Mr. Chairman, I believe we have one
17 more amendment. Two.

18 Senator Bradley. Mr. Chairman, can we just confirm on
19 this? What is your view on this, Mr. Talisman?

20 Mr. Talisman. Well, previously this has been ruled a
21 technical by the Joint Committee on Taxation and had not
22 previously been scored. The only reason it is scored is
23 this \$25,000 excise tax so that if that is still subject to
24 the Byrd Rule, that would be correct.

25 Senator Bradley. All right.

1 Senator Dole. Could I raise something else?

2 The Chairman. Yes, Senator Dole.

3 Senator Dole. I know we are under constraint not to
4 offer amendments. I at least want to talk about one, and
5 that is phasing out the luxury tax on automobiles. We did
6 it for airplanes, we did it for boats, we did it for
7 everybody else.

8 We have an amendment which would actually raise \$143
9 million, so it is not helping the rich car dealers. These
10 are small car dealers who happen to sell luxury
11 automobiles. We did it for all the right reasons on boats,
12 airplanes, and everything else.

13 We have a proposal, which I will not offer because the
14 Chairman has some concern about somebody misinterpreting
15 it, but when we are raising \$143 million we are not making
16 the tax any smaller, we are actually increasing the total
17 revenue. But I did want to call that to your attention.

18 What we do with a 10 percent luxury tax, it is
19 scheduled to expire at the end of 1999. The amendment
20 would extend the tax through March 31st, 2002, but begin
21 phasing down the tax rate in 1996 one point a year.

22 We reduce budget receipts by \$4 million over seven
23 years, but we pick up additional money by extending it to
24 the year 2002. So, if anybody is short \$140 million that
25 they would like to pick up here, then we could join the two

1 amendments.

2 The Chairman. Well, I appreciate Senator Dole's
3 interest in the matter, and I particularly appreciate the
4 fact that he does not insist on a vote.

5 We are coming very close, I think, to the end.
6 Hopefully we are coming very close.

7 Senator Graham. Mr. Chairman.

8 The Chairman. Yes, Senator Graham.

9 Senator Graham. Mr. Chairman, I have two amendments
10 that I would like to offer.

11 The Chairman. Why do you not proceed then.

12 Senator Graham. First, is my amendment number seven
13 which relates to the provision in the Chairman's mark that
14 repeals the tax credit for contributions to certain
15 community development corporations.

16 In 1993, during the Omnibus Reconciliation Act, we
17 created a provision in which 20 community development
18 corporations around the country would be eligible to
19 receive a credit of up to 50 percent for the investments
20 made in those community development corporations. These
21 CDCs act as intermediaries and are required to target
22 investments raised by the credit to low-income areas and to
23 projects which create jobs and business opportunities for
24 low-income individuals.

25 If you will recall, we had a three-tiered system. We

1 had empowerment zones which were sort of the big areas and
2 a number of large cities were designated as empowerment
3 zones, then we had enterprise zones, which were for
4 somewhat smaller areas and rural areas, then we had these
5 20 CDC areas. It was part of an overall effort to see if
6 private capital and entrepreneurship could be encouraged by
7 lowering regulations, lowering taxes, and encouraging
8 investment.

9 We have now been about this business for little less
10 than two years. Admittedly, some of these CDCs have been
11 slow in the uptake in terms of securing this investment,
12 but I believe it would be very unfortunate and poor policy
13 at this point in time to undercut an effort that, just two
14 years ago, we thought had significant promise, and I
15 believe still has such promise.

16 The 20 CDCs were designated on July 1st, 1994, so they
17 are a little more than a year old in terms of their efforts
18 to attract investment. I will say, one of these 20 is the
19 DiCossi Economic Development Corporation in Miami.

20 It has been a superb organization over a number of
21 years, and with this incentive has attracted several
22 financial institutions' interest in becoming investors in
23 their efforts to create jobs and stimulate investment in
24 low-income businesses and low-income areas of ours and 19
25 other States. So I would offer the amendment which would

1 strike this repeal. I understand this has a revenue
2 estimate of ----

3 Mr. Kies. I believe it is \$12 million.

4 Senator Graham. [continued]. \$12 million.

5 The Chairman. Is there any further comment? Senator
6 Chafee.

7 Senator Chafee. Well, Mr. Chairman, I can remember
8 when we did these, it was in 1993.

9 Senator Graham. 1993. Yes.

10 Senator Chafee. There was considerable hope they
11 might do some good. We have not had any hearings on this,
12 I believe, have we? Not to my knowledge. The amount is
13 minimal. I do not have any further comment. There are
14 none in my State, to my knowledge. But I think we ought to
15 give some consideration to the proposal.

16 Senator Bradley. Mr. Chairman.

17 The Chairman. Senator Bradley.

18 Senator Bradley. I think this is very important. I
19 think it is too early to tell on the enterprise zones. I
20 think this holds out some promise. I think it is a small
21 amount of money. I think it is always nice to end a mark-
22 up by giving the other side just a little taste of honey.

23 [Laughter]

24 Senator Bradley. And it could not be for a more
25 worthwhile idea that benefits people who are trying to make

1 it under very tough circumstances. I really hope the Chair
2 could see his way clear.

3 The Chairman. I regretfully oppose the amendment.
4 The Clerk will call the roll.

5 Senator Chafee. Mr. Chairman, before we vote I just
6 want to make one statement, if I might. Mr. Chairman, I
7 will vote with you on this, but I must say that I think we
8 are going to conference. I am just not familiar enough
9 with these.

10 I can remember when we set them up. Somebody said
11 there has only been one set up since we started. I do not
12 know whether that is true or not. But I hope we might
13 preserve the chance to take another look as we go along in
14 here. Thank you.

15 The Chairman. The Clerk will call the roll.

16 The Clerk. Mr. Dole.

17 Senator Dole. No.

18 The Clerk. Mr. Chafee.

19 Senator Chafee. No.

20 The Clerk. Mr. Grassley.

21 Senator Grassley. No.

22 The Clerk. Mr. Hatch.

23 The Chairman. No, by proxy.

24 The Clerk. Mr. Simpson.

25 The Chairman. No, by proxy.

1 The Clerk. Mr. Pressler.
2 Senator Pressler. No.
3 The Clerk. Mr. D'Amato.
4 The Chairman. No, by proxy.
5 The Clerk. Mr. Murkowski.
6 Senator Murkowski. No.
7 The Clerk. Mr. Nickles.
8 Senator Nickles. No.
9 The Clerk. Mr. Gramm.
10 The Chairman. No, by proxy.
11 The Clerk. Mr. Moynihan.
12 Senator Moynihan. Aye.
13 The Clerk. Mr. Baucus.
14 Senator Baucus. Aye.
15 The Clerk. Mr. Bradley.
16 Senator Bradley. Aye.
17 The Clerk. Mr. Pryor.
18 Senator Pryor. Aye.
19 The Clerk. Mr. Rockefeller.
20 Senator Rockefeller. Aye.
21 The Clerk. Mr. Breaux.
22 Senator Moynihan. Aye, by proxy.
23 The Clerk. Mr. Conrad.
24 Senator Conrad. Aye.
25 The Clerk. Mr. Graham.

1 Senator Graham. Aye.

2 The Clerk. Ms. Moseley-Braun.

3 Senator Moseley-Braun. Aye.

4 The Clerk. Mr. Chairman.

5 The Chairman. No.

6 The Clerk. The ayes are 9, the nays 11.

7 The Chairman. The amendment is not agreed to.

8 Senator Graham?

9 Senator Graham. Mr. Chairman, I was going to offer
10 this second amendment as an offset, if someone had
11 requested it, to the amendment that I had just offered,
12 although actually this raises substantially more money than
13 the \$12 million than the CDC amendment would have required.

14 This is a modified Graham amendment and it is for
15 purposes of the pension reversion provision that we have
16 discussed on several occasions today. It would require the
17 mandatory inclusion into income of reverted excess pension
18 assets, regardless of whether the corporation is in a net
19 operating loss position at the date that it reverts that
20 excess.

21 What we have created is a potential situation in which
22 a firm would have an inducement to place excess funds in
23 its pension fund at a time that it was very profitable, and
24 then remove them in times when it was in a loss
25 circumstance and, thus, avoiding tax.

1 It would get a deduction at the time that it put the
2 excess money in the pension fund, and would not have to pay
3 taxes at the time it withdrew those from the pension fund.

4 This would just provide that at any time that a
5 corporation exercised its right to remove excess pension
6 funds, that those funds would be subject to taxation
7 without regard to the corporation's otherwise profit or
8 loss status in that particular tax year.

9 The Chairman. Any further comment on the proposed
10 amendment?

11 Senator Graham. I wonder if Treasury or the Finance
12 Committee or Joint Tax staff have any comment on that.

13 The Chairman. Secretary Samuels.

14 Secretary Samuels. Senator Graham, your proposed
15 amendment deals with the tax policy issue of funds that are
16 accumulated in pension plans not being taxed until they are
17 taken out, so the so-called inside build-up in the plan is
18 not taxed.

19 The tax policy justification for that is that that
20 amount of money should be used to pay pension benefits to
21 employees and other beneficiaries. We think it is very
22 important that that inside build-up benefit not revert to
23 the employer but be focused on the beneficiaries, and your
24 amendment goes towards trying to preserve that. It does
25 not solve the whole problem, but it is a step in the right

1 direction, so we would support that.

2 The Chairman. Mr. Kies, would you comment?

3 Mr. Kies. Mr. Chairman, the only comment is, I would
4 just point out that it appears that this would just have
5 the effect of changing when the taxpayer would get to use
6 the net operating losses. They would get to use them
7 anyway. It would adopt a rule that is somewhat different
8 from the rules that apply to the use of NOLs generally.
9 Net Operating Losses are generally available to offset
10 income of a corporation.

11 However, from whatever source, whether it is from
12 pension reversions or from other sources, it would not
13 deviate from the general rule with respect to the use of
14 Net Operating Losses.

15 The Chairman. I would oppose the ----

16 Senator Chafee. Could I ask a quick question, Mr.
17 Chairman? Under the amendment, if the withdrawn funds were
18 reinvested and put into an employee's cash health benefit
19 fund of some type, under this proposal they would still be
20 taxable, would they not?

21 Mr. Kies. Under the proposal ----

22 Senator Chafee. The proposal of Senator Graham.

23 Mr. Kies. The proposal of Senator Graham, as I
24 gather, would require that an employer pay tax on the
25 amount of the reversion and then, I guess, not be entitled

1 to a deduction when they use the amounts to pay for an
2 employee benefit. I am not really sure.

3 Senator Graham. As I understand the provision now, if
4 a corporation takes \$1 million out of its pension fund
5 because it has been declared surplus and the corporation is
6 in a profitable status in the taxable year in which it
7 makes that withdrawal, it would take that money into income
8 and pay tax on that as it would on any other income. Is
9 that correct?

10 Mr. Kies. Except, Senator Graham, under the proposal
11 before the committee you can only take those amounts out if
12 you use them for what effectively is a current year
13 expense.

14 Senator Graham. But the effect is, you avoid having
15 to use other corporate income. For the purposes of that,
16 you are substituting what you have withdrawn from the
17 pension fund from what you would have used in a regular
18 source of corporate revenue, so it is a fungible
19 circumstance. The effect is, you take it in income and you
20 pay tax, if, in fact, you are taxable.

21 My concern is that we are setting up an incentive here
22 for firms, particularly firms that have some cyclical
23 character to their operation, to over-invest in the pension
24 fund in the good years and withdraw it in the bad years,
25 and thus be able to take a deduction when it is

1 advantageous and not pay any tax when they are not
2 otherwise ----

3 The Chairman. All time is used up.

4 Senator Graham. I think, Mr. Chairman, Mr. Talisman
5 indicated he wanted to make a comment on this.

6 Mr. Talisman. I just wanted to indicate that the use
7 of NOLs may allow a company to freshen their NOLs and use
8 those NOLs that are expiring for other purposes later on,
9 so that the pension reversion would not be taken into
10 income, as I understand it. As a result, they would be
11 able to then use those NOLs for other purposes.

12 The Chairman. All time is used up. The Clerk will
13 call the roll.

14 The Clerk. Mr. Dole.

15 Senator Dole. No.

16 The Clerk. Mr. Chafee.

17 Senator Chafee. No.

18 The Clerk. Mr. Grassley.

19 Senator Grassley. No.

20 The Clerk. Mr. Hatch.

21 The Chairman. No, by proxy.

22 The Clerk. Mr. Simpson.

23 The Chairman. No, by proxy.

24 The Clerk. Mr. Pressler.

25 Senator Pressler. No.

1 The Clerk. Mr. D'Amato.
2 The Chairman. No, by proxy.
3 The Clerk. Mr. Murkowski.
4 Senator Murkowski. No.
5 The Clerk. Mr. Nickles.
6 Senator Nickles. No.
7 The Clerk. Mr. Gramm.
8 The Chairman. No, by proxy.
9 The Clerk. Mr. Moynihan.
10 Senator Moynihan. Aye.
11 The Clerk. Mr. Baucus.
12 Senator Baucus. Aye.
13 The Clerk. Mr. Bradley.
14 Senator Bradley. Aye.
15 The Clerk. Mr. Pryor.
16 Senator Pryor. Aye.
17 The Clerk. Mr. Rockefeller.
18 Senator Rockefeller. Aye.
19 The Clerk. Mr. Breaux.
20 Senator Breaux. Aye.
21 The Clerk. Mr. Conrad.
22 Senator Conrad. Aye.
23 The Clerk. Mr. Graham.
24 Senator Graham. Aye.
25 The Clerk. Ms. Moseley-Braun.

1 Senator Moseley-Braun. Aye.

2 The Clerk. Mr. Chairman.

3 The Chairman. No.

4 The Clerk. The ayes are 9, the nays 11.

5 The Chairman. The amendment is not carried.

6 Now, I do have some good news. I think we have worked
7 out the pension simplification. I will read the list of
8 modifications.

9 The Pryor-Hatch amendment with the following
10 modifications: 1) prohibited transactions penalty will
11 increase from six to 10 percent, versus 20 percent in the
12 original amendment; 2) exclude elected officials who
13 approve their compensation from provision which eliminates
14 the limits or benefits for State and local employees; 3)
15 eliminate provision regarding special rules for plans
16 covering airline pilots.

17 Any questions?

18 Senator Moynihan. I so move.

19 The Chairman. All those in favor, signify by saying
20 aye.

21 [A chorus of ayes.]

22 The Chairman. Opposed, nay.

23 [No response.]

24 The Chairman. The ayes have it. The amendment is
25 agreed to.

1 Senator Conrad. Mr. Chairman, I know you have held
2 the vote, but what was the airline pilots provision?

3 The Chairman. I will ask Mr. Kies to explain.

4 Mr. Kies. I believe it was a provision that related
5 to the non-discrimination rules applicable to airline
6 pilots, and it would have provided them an exemption from
7 certain of the non-discrimination rules. That provision
8 was deleted from the package.

9 Senator Conrad. I see. Thank you.

10 Senator Moynihan. Mr. Chairman, I do not think we
11 have further amendments on this side.

12 Senator Rockefeller. Mr. Chairman, can I make one
13 statement?

14 The Chairman. Jay?

15 Senator Rockefeller. I would just like to, if I
16 might, thank Majority and Minority staff for what is just
17 an unbelievable process for them: Mark Prater, Doug Fisher;
18 Ken, you and Bill Sutton and Bernie Schmidt have been
19 helpful. I guess I would reserve a very special thanks to
20 Joe Gale, who has been terrific in working with us and who
21 will be leaving shortly to go to the Tax Court, and who I
22 just think is a splendid, splendid person.

23 Senator Moynihan. If we ever finish this bill.

24 [Laughter]

25 The Chairman. I, too, want to publicly thank the

1 staff for the outstanding job on both sides. John, we are
2 delighted to have you here and we look forward to working
3 with you. I would like to express my personal
4 appreciation, not only to the personal staff members, but
5 to members of the committee. I think this is an historic
6 event. It is a significant step we are taking, and I
7 appreciate the patience and forbearance that each and every
8 one of you have shown.

9 Senator Moynihan. Mr. Chairman, if I could just
10 reciprocate, you have been, throughout this sometimes
11 difficult experience, thoughtful, careful, and very
12 generous in applying the rules to the Minority in a way
13 that we can only take to be a measure of your character and
14 your good sense, because otherwise we would be cranky,
15 awful, demanding, and this and that.

16 The Chairman. Thank you, Senator Moynihan.

17 Senator Moynihan. I thank Mr. Samuels, too, for his
18 contribution.

19 The Chairman. Yes. We do want to thank you for being
20 here.

21 Senator Conrad. Mr. Chairman?

22 The Chairman. Yes.

23 Senator Conrad. Might I also thank the Chairman, the
24 Ranking Member, as well as staff, for the many courtesies
25 that were extended to me during this period, and to share

1 with my colleagues a letter that I have just received from
2 June O'Neill, head of the Congressional Budget Office, on
3 this question of whether or not we have balanced the budget
4 or not by the year 2002.

5 I would just quote from the last sentence. "Excluding
6 an estimated off-budget surplus of \$108 billion in 2002
7 from the calculation, CBO would project an on-budget
8 deficit of \$98 billion in 2002."

9 So, despite all the brave talk about balancing the
10 budget, we have not balanced the budget. For that reason,
11 I think it is most unwise to cut taxes before we have
12 gotten the job done.

13 Senator Moynihan. Mr. Chairman, just a last comment.
14 The Treasury has produced a very striking table on the
15 distributional effect of the tax provisions and it is there
16 to be seen. Members have copies at their desk.

17 Mr. Chairman, we are ready. I believe you want a
18 rolling vote.

19 The Chairman. Yes. We are going to have a rolling
20 vote, if there is no objection.

21 Senator Moynihan. There is no objection.

22 The Chairman. The Clerk will call the roll.

23 The Clerk. Mr. Dole.

24 Senator Dole. Aye.

25 The Clerk. Mr. Chafee.

1 Senator Chafee. Aye.
2 The Clerk. Mr. Grassley.
3 Senator Grassley. Aye.
4 The Clerk. Mr. Hatch.
5 Senator Hatch. Aye.
6 The Clerk. Mr. Simpson.
7 Senator Simpson. Aye.
8 The Clerk. Mr. Pressler.
9 Senator Pressler. Aye.
10 The Clerk. Mr. D'Amato.
11 Senator D'Amato. Aye.
12 The Clerk. Mr. Murkowski.
13 Senator Murkowski. Aye.
14 The Clerk. Mr. Nickles.
15 Senator Nickles. Aye.
16 The Clerk. Mr. Gramm.
17 Senator Gramm. Aye.
18 The Clerk. Mr. Moynihan.
19 Senator Moynihan. No.
20 The Clerk. Mr. Baucus.
21 Senator Baucus. No.
22 The Clerk. Mr. Bradley.
23 Senator Bradley. No.
24 The Clerk. Mr. Pryor.
25 Senator Pryor. No.

1 The Clerk. Mr. Rockefeller.
2 Senator Rockefeller. No.
3 The Clerk. Mr. Breaux.
4 Senator Breaux. No.
5 The Clerk. Mr. Conrad.
6 Senator Conrad. No.
7 The Clerk. Mr. Graham.
8 Senator Graham. No.
9 The Clerk. Ms. Moseley-Braun.
10 Senator Moseley-Braun. No.
11 The Clerk. Mr. Chairman.
12 The Chairman. Aye.
13 The Clerk. The ayes are 11, the nays 9.
14 The Chairman. The legislation is favorably acted upon
15 and reported out.
16 [Whereupon, at 3:26 p.m., the meeting was concluded.]
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