

1 EXECUTIVE COMMITTEE MARK-UP SESSION ON BUDGET DEFICIT

2 REDUCTION PROPOSALS

3 WEDNESDAY, MARCH 14, 1984

4 U.S. Senate

5 Committee on Finance

6 Washington, D.C.

7 The committee met, pursuant to notice, at a.m. in
8 room SD-215, Dirksen Senate Office Building, Senator Robert
9 J. Dole (chairman) presiding.

10 Present: Senators Dole, Packwood, Roth, Danforth,
11 Chafee, Heinz, Wallop, Durenberger, Armstrong, Symms,
12 Grassley, Long, Bentsen, Matsunage, Moynihan, Baucus, Boren,
13 Bradley and Pryor.

14 Also present: John Chapoton, Assistant Secretary for
15 Tax Policy, and Ronald Pearlman, Assistant Secretary for Tax
16 Policy, U.S. Department of Treasury.

17 Also present: Roderick DeArment, Esquire; Michael Stern,
18 Esquire; Richard Belas, Esquire, Clint Stretch, Esquire;
19 David Hardee, Esquire; David Brockway; James Wetzler; Clint
20 Stretch; Randy Weiss; and George Pieler.

21

22

23

24

25

1 The Chairman. We have rather a long agenda this
2 morning. I'm not certain we can finish all these issues
3 this morning, but, hopefully, we can make a great deal of
4 progress because it is almost imperative that we conclude
5 sometime tomorrow night.

6 And I think some of these matters have been pending
7 here for a couple or three weeks. It's my hope that rather
8 than to take any more time trying to resolve it in open
9 committee that we just vote up or down, win or lose, and
10 move on.

11 And if it's something that needs discussions, obviously,
12 we are willing to do that. But we have seven items that were
13 carried over from yesterday; followed by five items that we
14 hope we can take up and tentatively approve, subject to
15 finding revenue offsets.

16 There are additional revenue options, and then there
17 are a number of nominations that we may take out of order
18 when more members are present. And then some items under
19 review by Treasury and the tax staff.

20 So let's start off on VEBAs. And I think Senator
21 Packwood would like to be heard.

22 And then, Treasury, I understand you have tried to reach
23 an agreement, but haven't been able to. So I think we need
24 to vote on it.

25 Senator Packwood. Mr. Chairman, VEBAs are simply a form

1 of fringe benefit plan that has been collectively bargained
2 since 1928. And, in addition, many, many employers provide
3 variable employee benefits to their employees, even if they
4 don't happen to be unionized, and, therefore, don't have
5 collective bargaining in the bargaining adversary sense, but
6 provide roughly the same benefits.

7 And VEBAs are used for a variety of benefits, not unlike
8 normal fringe benefits -- supplemental unemployment insur-
9 ance, life insurance, burial or death benefits, sick pay,
10 disability, workers compensation, child care, disaster loans,
11 education or training assistance and so on.

12 There has crept into the VEBAs an abuse by small,
13 closely held corporations or partnerships, not unlike the
14 pension abuses we have found before where you have a small
15 corporation and the variable employment benefit plan is
16 used to compensate the owners or the highly paid employees.
17 And because when an employer pays money into a reserve
18 account to take care of subsequent liabilities, it's a
19 deduction at that time for the employer.

20 And, clearly, there are occasions when you could abuse
21 it. What I offered to the Treasury Department last night,
22 and I will say again, Mr. Chairman, is that the AFL-CIO
23 strongly opposes the restrictions on the VEBAs; most of
24 your major employers oppose them. They were unaware of how
25 deeply we were intending to strike.

1 But what I offered to the Treasury Department last
2 night was to put in exactly the same limitations on VEBAs
3 that we have now on prepaid legal insurance, on day care,
4 on educational assistance, and almost identical to the 1982
5 TEFRA top-heavy pension limit so that this kind of a program
6 could not be used to compensate or overly compensate the
7 very wealthy employees or the owners.

8 I think there was no question in Treasury's mind that
9 at least those limitations would take care of the so-called
10 top-heavy abuses. For whatever reason that offer was not
11 acceptable, and I am strongly opposed, and will ask for a
12 vote if we have to come to that. I would prefer to put in
13 these limitations so that you cannot have top-heavy VEBAs,
14 but if the vote has to be up or down.

15 And on all VEBAs, with a few abuses, which have been
16 used to generalize from in areas where there are no abuses,
17 we don't have any evidence, any evidence of abuses of VEBAs
18 involving collectively bargained plans where you are talking
19 about a broad cross-section of employees, and normal
20 benefits that all of us would consider as part of an
21 employment benefit -- no evidence of abuse.

22 No evidence of abuse on the same kind of plan where it
23 is provided by an employer, although you don't have a
24 union contract.

25 The only evidence of abuse we have are from either these

1 top level, highly skewed VEBAs or a few allegations that
2 in some cases the reserves that employers set aside for
3 disability benefits, future disability liabilities, and the
4 reserves are greater than are needed. That can be cured
5 under present law. You don't need any change on that.

6 But, Mr. Chairman, I'm ready to vote on this. I just
7 think we are striking at the very heart of something that
8 has been part of the collective bargaining process of this
9 country for 60 years, and we are striking at it without
10 knowing what we are doing. And we are striking at it
11 because of a few abuses that have crept into it in recent
12 years, as where some very wealthy professional corporations
13 have tried to take advantage of this law.

14 Senator Moynihan. Mr. Chairman, just on this side of
15 the aisle you might say that I express my complete sympathy
16 with and support of Senator Packwood's position. I can't
17 speak for all of us, but I'm the only one here, but you have
18 got 100 percent support on this side.

19 (Laughter)

20 Senator Danforth. Mr. Chairman.

21 The Chairman. Senator Danforth.

22 Senator Danforth. Mr. Chairman, Senator Packwood had
23 discussions with Treasury yesterday afternoon, and I had
24 discussions with Treasury yesterday afternoon. And I think
25 that there are points of agreement and then very definite

1 points of disagreement.

2 And let me describe both. First with respect to the
3 points of agreement between Senator Packwood and me, we
4 both agree that we want to get at abuses. And Senator
5 Packwood recognizes that VEBAs have been abused and can be
6 abused, and he wants to correct that. And I want to correct
7 that.

8 The abuses are situations where, just for example, say,
9 a group of three dentists can incorporate, set up the VEBA,
10 and put in very large sums of money to fund what amounts to
11 an unqualified pension plan for themselves.

12 And Senator Packwood recognizes the abuses, and wants to
13 correct them. And I think that is fine.

14 Now beyond that point of agreement, there is a very
15 substantial point of disagreement. And I think that the way
16 to put it is: To what extent do we in the Congress want to
17 stack the tax laws so as to favor fringe benefits as opposed
18 to cash compensation.

19 Now we already do stack the tax laws in that regard.
20 That is, we provide for certain non-taxable fringe benefits.
21 So under any circumstance, I suppose we have made the
22 decision -- whether we actually thought it out, I don't know --
23 but we have made at least tacitly the decision that we like
24 fringe benefits better than we like cash contributions.

25 Now the question is how far do we want to go in

1 providing added incentives, added weight, for the creation
2 of fringe benefits as opposed to cash compensation.

3 Let me give you an example. If an employer was paying
4 cash to his employees and that was it, and the employer
5 decided, well, this year we have had a good year and we
6 have made a profit, and we are not sure we are going to have
7 a good year next year so we want to make sure we have got
8 our deductions maximized this year. What we would like to
9 do is to deduct next year's salaries.

10 The tax laws says that the employer can't do that. The
11 employer can only deduct the salaries that he is paying now.
12 By the creation of a VEBA, the employer can pre-deduct the
13 costs of future compensation, provided that compensation
14 comes in the form of fringe benefits.

15 And the ability to pre-deduct, the ability to decide
16 what year you are going to take your deduction, is a very
17 substantial advantage. And it is a very substantial reason
18 for the employer opting for the fringe benefit and opposed
19 to the cash method of compensation.

20 Now I think that Senator Packwood is correct in wanting
21 to get at the abusive situations. But I want to go farther
22 and establish a basic proposition that in addition to
23 getting at the abusive situations, we do not want an over-
24 funding of VEBAs. We do not want an over-funding of future
25 year fringe benefits with the deductibility presently of the

1 cost of future fringe benefits. And that really what is at
2 issue.

3 Finally, Mr. Chairman, let me just add one footnote.
4 And that is I believe that what we are going to see is a
5 proliferation of VEBAs in the future. And the reason is that
6 I -- I think the staff has copies of some of the tax
7 journal publications that have been put out which have, in
8 effect, put forth the argument for the creation of VEBAs.
9 And, therefore, I think that any potential for overdoing it
10 is going to be maximized by virtue of the fact that the
11 availability of VEBAs has been so widely publicized.

12 So we are going to have a loss of revenue, which is
13 going to escalate if we don't do something about the whole
14 concept of VEBAs. And that is what I propose. And I think
15 that Treasury is able to describe better than I could what
16 the recommendations are for getting at the concept.

17 The Chairman. Right. We have got about 50 items here
18 today, so I'm going to ask Treasury. If we are going to
19 move, we are going to move. If we are not going to move, we
20 will meet when you get back from China so let's speed it up.

21 Secretary Chapoton. Mr. Chairman, I will just make one
22 point by way of background or for information. The VEBAs
23 have been in existence for a long time. Prior to 1969, if
24 a VEBA had more than 15 percent of its income from investment
25 income, it did not qualify for tax exemption, which should

1 not allow VEBAs to be used for pre-funding on the tax free
2 basis of employee benefits.

3 They were, basically, employee contributions rather
4 than employer contributions at that time. We now have in
5 effect VEBAs being used in lieu of qualified retirement plans,
6 but have the same benefits -- in addition to, I should say,
7 qualified retirement plans, and have the same benefits as
8 qualified retirement plans even though we very jealously,
9 as you know, guard the benefits provided under qualified
10 pension and profit sharing plans.

11 The proposal would be that an amount would be allowed
12 into a VEBA. VEBAs would remain tax exempt. And amount
13 would be allowed in a VEBA as a current deduction for
14 benefits paid during the year, plus amounts necessary to
15 satisfy claims arising during the year. The VEBA would be
16 allowed to fund on a tax free basis an immediate deduction
17 or claims incurred during the year that would be estimated
18 to be paid in later years.

19 That is number one. And that would allow adequate
20 funding of current benefits.

21 The second part of the proposal would be that long-
22 term benefits, such as long-term disability, medical and
23 life, would have to be treated basically.

24 What we are saying is that life could be funded over
25 the employment, and, therefore, the amount funded could earn

1 tax free.

2 Okay. Let me amend that. We are broadening the
3 proposal to cover long-term disability, life and accident
4 and health to provide that the employer could fund that but
5 the VEBA would be -- it would be a taxable VEBA, and it
6 would have to be on a non-discriminatory basis.

7 And so the employer could fund for post-retirement
8 benefits, but could not earn to do it on a tax exempt basis.
9 That would be a change, but it would allow pre-funding. It
10 would mean that in addition to the current deduction when
11 those amounts are paid, that the tax system would not provide
12 an exemption for the amounts earned that will ultimately
13 go to pay the employee.

14 The Chairman. Could I ask this question? Is anybody
15 opposed to closing abuses? I mean could we do this in two
16 parts? Obviously, we have a disagreement.

17 Secretary Chapoton. I think Senator Danforth, Senator
18 Packwood and we are in agreement on that part of the package.

19 The Chairman. And vote on the other? Or would you just
20 re-offer the --

21 Senator Packwood. That would be satisfactory to me
22 because I would be delighted to close the abuses. I don't
23 like them; I don't support them. And they creep into these.

24 Senator Danforth mentioned some articles on tax planners.
25 I have got two of them here. These are both tax planning

1 VEBAs for small professional corporations. These are not
2 tax planning for the employees of Metropolitan Life or
3 General Motors.

4 Senator Moynihan. There is Dr. Smith at age 55 who
5 has annual salary of \$200,000.00. Is that what the --

6 Senator Packwood. That's just the average employee at
7 DuPont.

8 Senator Moynihan. Just one of those guys on the assembly
9 line.

10 Senator Packwood. All I'm saying, Mr. Chairman, is
11 this. We have not found any abuses in VEBAs that have mass
12 coverage. I'm perfectly willing to vote first, and say
13 let's limit the abuses and put into them those same --
14 although I will read them out so that we know what we are
15 talking about. They are the same limitations that we have
16 now in TEFRA and on day care, pre-paid legal care, and one
17 other.

18 But there is no need to go any further than that. There
19 is no evidence of any abuse in these in normal employment
20 situations.

21 Secretary Chapoton. Mr. Chairman, let me just add
22 that I think the term "abuse" is -- I think I agree with
23 Senator Packwood -- probably not an appropriate term. We just
24 have to recognize that VEBAs are being used for pre-funding,
25 as Senator Danforth said, on a current tax deduction, and the

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 earnings on that fund are tax exempt. And that is the
2 benefit we have heretofore reserved for qualified pension
3 and profit sharing plans. No question that the use of
4 VEBAs is going to grow in large plans as well as small
5 plans if you have that benefit continued and is virtually
6 an unlimited benefit.

7 So to do it now -- if you do it correctly, it doesn't
8 affect too many employers. To do it in a few years from
9 now, it is going to affect a lot of employers.

10 Senator Chafee. Well, Mr. Chairman, what is Senator
11 Packwood's response to this pre-funding? Is he for that or
12 where do we stand?

13 Senator Packwood. Yes. And Buck agreed last night.
14 We now have in the law the power to stop abusive pre-funding
15 in terms of reserve requirements. Isn't that right?

16 Secretary Chapoton. I think we theoretically can --

17 Senator Packwood. Let's take a look at some of the
18 benefits. Disability -- and you have got a reasonably good
19 actuarial basis as to how many people are going to be dis-
20 abled. And so what you do is you set up a reserve. Some-
21 times you will do it with an insurance company; sometimes you
22 do it internally. Then you have enough money to pay out the
23 disability claims as they come due. And you have got a
24 reserve for those. And, again, over-reserves can be corrected
25 under present law.

1 Your alternative to that is to say to every single
2 employer in this country -- "You are going to have to pay
3 those claims as they become due out of current income at
4 that time. You are not going to set aside any reserves for,
5 again, non-abusive benefits." And nobody is arguing these
6 are abusive.

7 But if you are going to say that you are only going to
8 pay them out of current income, disability benefits,
9 supplemental unemployment benefits, then you are saying to
10 an employer at the very time -- "When your business is down
11 and your unemployment is up, and your profits are down, you
12 are going to have to pay the supplemental unemployment
13 benefits out of current income rather than funding it."

14 Senator Danforth. Nobody is arguing that, Bob.

15 Senator Packwood. Buck is.

16 Secretary Chapoton. No. I'm saying you can pre-fund,
17 Senator, but you cannot pre-fund it on a tax exempt basis.
18 That's the difference. That's the argument here. Whether
19 you ought to be able to pre-fund these types of expenses on
20 a tax --

21 Senator Packwood. What you are saying is you can't
22 put aside what is recognized as a legitimate amount to put
23 aside, a legitimate amount. And where you have got to count
24 the income from it as part of the income of the reserve.

25 Jack, you and I have got a fundamental difference on

1 fringe benefits. But to strike out at VEBAs because of a
2 fundamental disagreement about whether we should use the
3 tax code to provide benefits that in most other countries
4 governments provide -- we provide them through business
5 through I think the wisdom of using the tax code. That's a
6 perfectly legitimate philosophical argument.

7 That is not an argument that ought to be used to strike
8 out at VEBAs here.

9 Senator Danforth. Well, here is an article in the
10 August 1983 issue of Financial Planner, and it's part of a
11 packet that was passed out, on how to provide low-cost
12 vacation benefits through VEBAs.

13 Senator Packwood. And this is aimed at small
14 professional corporations. These abuses we can strike.

15 Senator Danforth. It could be used by anybody.

16 Senator Packwood. Sure. And it also can be aimed at
17 the recreational facilities that a company provides for all
18 of its employees, a work-out room, a gymnasium. Now if you
19 want to say that that's an excessive, frivolous luxury
20 even though every single employee gets to use it, sure you
21 can cut those out.

22 Senator Danforth. I'm not attacking fringe benefits.
23 All I'm saying is that I think you really stack the deck in
24 favor of fringe benefits if you say that the employer can
25 over-fund future benefits for fringe benefits, but he can't

1 do the same for salary.

2 Senator Packwood. He cannot over-fund them. He can
3 set aside reserves for likely liabilities. But Treasury
4 has the power now in the Internal Revenue Service to
5 prohibit over-funding. You don't need to change the law
6 for that.

7 Senator Danforth. Then you have agreed to what we have
8 proposed.

9 Senator Packwood. No. I certainly do not agree to
10 what you propose.

11 Secretary Chapoton. The question is if you fund in
12 addition to current benefits long-term benefits, and allow
13 the accrual to be tax exempt, that is what we are proposing.
14 We would not allow that. And Senator Packwood would.

15 Let me point out that if the fringe benefit is not
16 taxable and you allow a deduction when it is paid, the
17 employer pays 54 percent of the cost and the government pays
18 46 percent of the cost. That's just the general rule if
19 you don't have a VEBA.

20 If you put that benefit in a VEBA and allow earnings
21 tax free to pay that additional cost, obviously, the
22 government is paying more than 46 percent of the cost,
23 depending on the length of time.

24 Senator Heinz. How much did the government contribute
25 to VEBAs last year? How much did it contribute to VEBAs ever?

1 Secretary Chapoton. Senator, I'm saying that if you
2 allow the tax exemption --

3 Senator Heinz. I guess I know what you are saying. I
4 just object to the way you are saying it. You know, there
5 is a notion -- and I'm listening to this argument. It's a
6 fascinating argument. But there is a notion that anything
7 that the government doesn't get got away from the government
8 and is somehow their's.

9 And when you say the government is paying 40 percent or
10 50 percent or 60 percent -- when the government isn't
11 putting in a cent, the employer is putting all of it in or
12 in some cases employers and employees. That suggests to me
13 a way of thinking that I --

14 Secretary Chapoton. I think you find, Senator, that
15 when the employer computes the cost of that payment, he
16 computes it in an after-tax basis.

17 Senator Packwood. About 10 years ago, we had marvelous
18 testimony from Ed Veevy who later became Attorney General.
19 And he came in to testify on this theory of the tax
20 expenditure, and the money belongs to the government.

21 And he said, you know, that's being banded about by
22 reformers as a new theory. He says that's not a new theory.
23 We used to call it "futilism." And the government owned
24 everything, and by grace and by grant you were entitled to
25 what the government gave you rather than the other way around.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Moynihan. Secretary Chapoton, you are guilty
2 of grave ideological non-conformity. And it's a good thing
3 that Mr. Meese is otherwise preoccupied. And you have
4 alarmed these gentlemen outrageously. Get to China fast.

5 (Laughter)

6 Secretary Chapoton. I was not trying to raise the tax
7 expenditure argument. I was simply pointing out what the
8 after-tax cost of providing compensation is. And you will
9 immediately see -- the employer will immediately see, whether
10 we see it or not, that the after-tax cost is less if you
11 do it through a VEBA rather than not through a VEBA.

12 Senator Long. Could I just get this straight? I'm not
13 sure I understood it. I got in it in the middle, I guess.

14 You said that the government, in effect -- 46 percent
15 of the cost of doing something is borne by the government in
16 the one instance, and is it more than 46 percent if they
17 use a VEBA?

18 Secretary Chapoton. Yes, sir.

19 Senator Long. Would you explain why?

20 Secretary Chapoton. Because if you use a VEBA, you can
21 accumulate pre-tax dollars to pay that same expense. And so
22 as compared with accumulating after-tax dollars to pay that
23 same expense. So over the years you accumulate tax free,
24 there is obviously lost federal revenues to pay the same
25 expense, and the expense is cheaper after-tax to the employer.

1 Senator Long. You mean what the money earns in the
2 trust?

3 Secretary Chapoton. That's correct. What the money
4 earns.

5 Senator Long. That is not being taxed and so the
6 government is --

7 Secretary Chapoton. That's right.

8 Senator Danforth. Let me just raise this. The
9 hypothetical is would it be reasonable for us to allow
10 employers to put money into a fund for future salaries,
11 cash salaries, and to get the immediate deduction for putting
12 the money into the fund for next year or the year after
13 salaries, and then the income that was created by the fund
14 would be tax free income. And I think the answer to that
15 would be no, we wouldn't allow it; and we don't allow it.

16 And if we don't allow that for cash salaries, why
17 should we allow the over-funding of VEBAs? Not the necessary
18 funding, but the over-funding of VEBAs. That they would be
19 deductible today. And further, why should we allow the
20 income derived from that over-funded portion, to be tax free?

21 I think that is a terribly strong incentive we are
22 providing for businesses to create these fringe benefits as
23 opposed to just paying cash to their employees.

24 Senator Packwood. And I would conclude, Mr. Chairman,
25 by saying what evidence have we had presented at all about

1 abuses in broadly based employer plans where they are
2 providing benefits for the broad cross-section of employees?
3 Rather, they are collectively bargained or given by the
4 employer because they don't happen to have a union contract.
5 But the same kind of benefits.

6 We have no evidence of abuses. That they are deliber-
7 ately building up pre-paid reserves in excess of what they
8 need for the normal judgment of what the benefits are to be
9 paid.

10 And until we have some evidence of abuse on that, that
11 cannot be corrected in any other fashion. To strike out in
12 this fashion because some members don't like fringe benefits,
13 is wrong.

14 Senator Heinz. Mr. Chairman, I have a question for
15 Senator Danforth. I find this a fascinating argument, but
16 I find at times people talk past each other.

17 And, Jack, let me ask you this. Bob Packwood says the
18 Treasury has the power to curb over-funding of VEBAs. You
19 say you are against the over-funding of VEBAs. As I under-
20 stand Bob, he says he is against the over-funding of VEBAs,
21 and that it's not happening but he wants to shut down any
22 abuses.

23 Why is there an argument? Why, if Treasury has the
24 power to curb it, do we need to do anything about it?

25 Senator Danforth. Well, as I understand it, Treasury

1 does not have the power to do it.

2 Secretary Chapoton. That's correct.

3 Senator Danforth. And that this really is a loophole;
4 not only for the three dentists who want to set up a kind of
5 substitute for a qualified pension plan, but also for all
6 kinds of programs.

7 I would like Buck to answer on that.

8 Secretary Chapoton. I think that's correct. Our
9 authority to curb over-funding is not clear. And that is
10 what this would do.

11 Senator Heinz. Well, let me ask Senator Packwood.
12 They say they don't have the kind of authority you claim
13 they have. How do we resolve that argument?

14 Senator Packwood. Buck, you indicated last night that
15 you had the legal authority to prohibit deliberate,
16 malicious pre-payment.

17 Secretary Chapoton. Well, I think we could always
18 prevent that, but to prevent just over-funding in the general
19 sense --

20 Senator Packwood. Well, let me ask you this. Over-
21 funding whereby any actuarial stretch of the imagination
22 the benefits to be paid out will never equal the amount you
23 have paid in, do you have the power to stop that?

24 Secretary Chapoton. I don't think we do.

25 Senator Packwood. That wasn't what you said last night.

1 The Chairman. Do you object to giving him that
2 authority?

3 Senator Wallop. Mr. Chairman, I would ask Senator
4 Packwood if it is your claim that it isn't happening, what
5 is the problem with prohibiting it?

6 Senator Packwood. I just want to make sure, because
7 this is what we do with pensions -- if we are going to get
8 to this, I want to make sure that their argument is the
9 fact the taxes are not being paid is of benefit to the
10 company and not simply in addition to the reserve which is
11 already committed to employees for benefits that they know
12 they are going to have to pay out. And if they have to pay
13 taxes on them, they are going to have to set aside greater
14 reserves.

15 Because I haven't seen, Malcolm, any evidence of abuse
16 of over-payment of reserves in broadly based employee
17 benefits. I'm not talking about the small professional
18 corporation.

19 Senator Wallop. To restate the question -- if there
20 isn't any abuse, there is no harm in prohibiting an abuse
21 that might occur.

22 Senator Packwood. And the answer, I am saying, is that
23 if you tax -- because we don't tax it for pensions. And any
24 money that is accumulated in a pre-paid pension fund to be
25 paid to employees is not taxed for the simple reason that if

1 you tax it, you are simply going to give part of it to the
2 government, and have to set aside additional money to pay the
3 same pension.

4 Secretary Chapoton. I think that is the nub of the
5 difference, Senator. And in pensions, of course, we have
6 limits. We have the Section 415 limits, which were
7 tightened in 1982. There are no such limits in VEBAs.

8 So what we are saying is the same benefits for
9 qualified pension plans would be allowed in VEBAs. We are
10 proposing some restrictions on those.

11 Senator Packwood. I want to make sure, Buck. You are
12 saying something. Are you saying that it's all right in
13 pensions? You don't have to pay taxes on the interest
14 because the money is being used for the pensions anyway.

15 Secretary Chapoton. That's right. That's the policy.

16 Senator Packwood. Now to the extent that you have
17 fringe benefits that are regarded as legitimate by people
18 who regard any fringe benefits as legitimate, do you have
19 any objection to the non-payment on the interest earned also,
20 so long as the money is paid out in the benefits?

21 Secretary Chapoton. For a reasonable accrual for
22 currently accrued benefits, it would be paid later? The
23 answer to that is no. But for funding of post-retirement
24 benefits, yes, we do have.

25 Senator Packwood. So you don't want to treat them like

1 pensions?

2 Secretary Chapoton. No, that's correct. Would not be
3 treated like pensions. That is our concern.

4 The Chairman. Do you just want to vote on the whole
5 package, then, and come back to the abuses?

6 All right. Let's call the role.

7 Senator Heinz. What are we voting on, Mr. Chairman?

8 Mr. DeArment. This is a vote on Senator Danforth's
9 proposal to restrict VEBAs.

10 The Chairman. The restriction is in the House bill?
11 Is that correct?

12 Mr. Belas. It is similar to the House bill, but there
13 are several provisions which are intended to make the
14 proposal to work a lot better, and conform to general usage
15 such as medical benefits, long-term disability and the like.

16 Senator Heinz. Mr. Chairman, can I just ask Buck if
17 these are stricter or less strict, let's say, than 415
18 limits on --

19 Secretary Chapoton. They really don't go to the 415.
20 The 415 is a dollar ceiling on the amount. These go to --

21 Senator Heinz. The way we treat accruals.

22 Secretary Chapoton. These would be a more direct
23 attempt at preventing over-funding.

24 Senator Heinz. All right.

25 Secretary Chapoton. A more tailored approach than the

1 House bill.

2 The Chairman. We are talking about revenue-wise here,
3 what? About \$500 million?

4 Mr. Weiss. The revenue is about \$600 million.

5 Senator Packwood. Over how many years?

6 Mr. Weiss. Three years. Three to four.

7 The Chairman. Let's vote.

8 Mr. DeArment. Mr. Packwood?

9 Senator Packwood. No.

10 Mr. DeArment. Mr. Roth?

11 Senator Roth. No.

12 Mr. DeArment. Mr. Danforth?

13 Senator Danforth. Aye.

14 Mr. DeArment. Mr. Chafee?

15 Senator Chafee. Aye.

16 Mr. DeArment. Mr. Heinz?

17 Senator Heinz. No.

18 Mr. DeArment. Mr. Wallop?

19 Senator Wallop. Aye.

20 Mr. DeArment. Mr. Durenberger?

21 Senator Durenberger. Present.

22 Mr. DeArment. Mr. Armstrong?

23 Senator Armstrong. No.

24 Mr. DeArment. Mr. Symms?

25 Senator Symms. No.

1 Mr. DeArment. Mr. Grassley?

2 Senator Grassley. No.

3 Mr. DeArment. Mr. Long?

4 Senator Long. No.

5 Mr. DeArment. Mr. Bentsen?

6 Senator Bentsen. No.

7 Mr. DeArment. Mr. Matsunaga?

8 (No response)

9 Mr. DeArment. Mr. Moynihan.

10 Senator Moynihan. No.

11 Mr. DeArment. Mr. Baucus?

12 Senator Moynihan. No, by proxy.

13 Mr. DeArment. Mr. Boren?

14 Senator Long. No, by proxy.

15 Mr. DeArment. Mr. Bradley?

16 (No response)

17 Mr. DeArment. Mr. Mitchell?

18 Senator Moynihan. No, by proxy.

19 Mr. DeArment. Mr. Pryor?

20 (No response)

21 Mr. DeArment. Mr. Chairman?

22 The Chairman. Aye.

23 On this vote the yeas are 4, the nays are 12. The
24 amendment is not agreed to. Now we can agree on the
25 "abuses?"

1 Senator Packwood. Well, I will read the abuses I would
2 like to correct. I'm not going to agree with Buck at the
3 moment about the interest free reserves for the benefits or
4 where the money is indeed paid out in benefits.

5 Secretary Chapoton. That's what we just voted no on,
6 I think, Senator.

7 Senator Packwood. I thought we just voted no on the
8 entire Danforth proposal.

9 Secretary Chapoton. I mean that's a part of it.

10 Senator Packwood. What I had proposed was two
11 restrictions would be applied to top-heavy VEBAs. One, the
12 tax exemption would be denied. And, two, the employer
13 deductions would be limited to payments from the VEBA for
14 that year. And a top-heavy VEBA is defined as one where more
15 than 25 percent of the benefits of the VEBA go to owners of
16 5 percent or more of the stock, or to officers up to 50, or
17 if less, then to 10 percent of the employees, or to 1 percent
18 of the owners who earn more than \$150,000.00. And those are
19 the same restrictions we have in pre-paid legal day care
20 and education, and very similar to the 1982 TEFRA pension
21 limits.

22 Secretary Chapoton. Yes. Those are the type of
23 restrictions that we might want to work with Senator
24 Packwood on on the technical aspects of it.

25 The Chairman. Without objection, they will be agreed to.

1 If you want to work them out in detail --

2 Senator Packwood. Buck, I very much want to meet with
3 you on the drafting of this.

4 Secretary Chapoton. Oh, sure. Right.

5 The Chairman. All right. Let's move onto church audits.
6 Senator Grassley? Did he drop off over there?

7 (Laughter)

8 The Chairman. I just saw him over there.

9 All right. What about number three while we are trying
10 to find Senator Grassley? Have we agreed on number three,
11 the exchange of information of New York City?

12 Secretary Chapoton. Mr. Chairman, I now understand the
13 IRS is somewhat concerned. Could we approve it with the
14 authority of the IRS to enter into the agreement if it's
15 confident that you do not have disclosure problems? Leave
16 the IRS discretion not to enter into the agreement if it is
17 concerned that you might not be able to protect
18 confidentiality of information. Frankly, that is the con-
19 cern of the IRS when you start dealing with the cities.

20 And I understand this proposal would be limited to
21 cities of over 2 million population?

22 Senator Moynihan. Of course, we would leave this matter
23 to the discretion of the IRS. If there is anybody who would
24 like, we could limit it to cities over 5 million. Mr.
25 Chairman, do you want to make a decision on that? Want to

1 make it \$1 million, \$5 million?

2 Secretary Chapoton. I would say that we would be
3 more comfortable with a larger number. Two or \$5 million,
4 certainly.

5 Senator Moynihan. Say 2 million. That's about the
6 point where cities begin to have income taxes.

7 Secretary Chapoton. And I would think we should say
8 the city would -- I'm assuming the city would have to have
9 an income tax. Otherwise, the change is not very meaningful.

10 Senator Moynihan. That's perfectly agreeable with me.

11 Mr. Chairman, for what it is worth -- now this may not
12 be so -- but it is the serious judgment of the City of New
13 York that the Internal Revenue will pick up \$150 million
14 in the three years on this. It's not a guess. It's a real
15 calculation.

16 The Chairman. We have the Joint Committee looking at
17 that.

18 Dave, do you have any figures?

19 Mr. Brockway. We don't have numbers on that yet. I
20 believe that New York City claims that that would be the
21 benefit to the federal government. I don't know that we are
22 convinced that would be the case.

23 The Chairman. We won't put down any gains until we have
24 an estimate.

25 Senator Bentsen. Let me ask on that. Does this mean

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 that the limitation is not just the \$2 million, but you say
2 the city has to have, what, an income tax?

3 Secretary Chapoton. Has to have an income tax, and
4 the -- that would be another limitation. Yes, sir.

5 Senator Bentsen. All right. Fine. Thank you.

6 The Chairman. Okay. Without objection.

7 What about number four? A strong foundation. I under-
8 stand Treasury has no problem with that.

9 Secretary Chapoton. Yes.

10 The Chairman. Clarification -- we still haven't
11 resolved that. Number six, we are --

12 Senator Moynihan. I thought we had resolved strong
13 foundation.

14 Secretary Chapoton. We have.

15 The Chairman. We are already on the next one.

16 Senator Moynihan. Thank you.

17 The Chairman. There is still some dispute on number
18 five.

19 Number six --

20 Senator Chafee. Mr. Chairman, on number six, the idea
21 was to defer it. Can I put a substitute in there on the
22 30 percent withholding on foreign investors?

23 The Chairman. Well, we have that on the agenda.

24 Senator Packwood. That's a substitute for the methanol
25 tax?

1 (Laughter)

2 Senator Chafee. No. Substitute for the item.

3 In four minutes equally divided.

4 The Chairman. Is there any objection? It's not on
5 the agenda.

6 Senator Wallop. Mr. Chairman, it may take longer than
7 four minutes.

8 Senator Chafee. Well, let's hear the arguments and
9 vote. I mean this has been around a long, long time and
10 I'm ready to vote on it.

11 The Chairman. I wonder if we might finish the -- how
12 about the clarification on sound recordings? Rod, you put
13 it on.

14 Secretary Chapoton. Yes. I think there is a general
15 agreement on this that -- I guess there are two aspects of
16 this. The first on sound recordings that --

17 Mr. Brockway. Mr. Chairman, there are two aspects of
18 the proposal. One is just clarifying the rules in connection
19 with movies and making it clear that for the future that
20 movies are not eligible for the 10 percent investment credit
21 as a recovery property as they get to 6-2/3 credits. And it
22 also made clear that they have a one-half basis adjustment.
23 And that embracing that at-risk rules apply in the case of
24 qualified -- the investment credit at-risk rules do not
25 apply because they have their own movie rules.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 In the case of sound recordings, it makes it clear that
2 sound recordings can take a 6 percent credit using the
3 ACRS three year schedule. Alternatively, they can use
4 income forecast methods without any investment credit.

5 The Chairman. But it is a clarification?

6 Mr. Brockway. It is a clarification. It just makes
7 the --

8 The Chairman. Without objection, we will agree to it
9 and put the rest of it in the record.

10 All right. Now we have left the methanol. And
11 Senator Grassley -- is he around?

12 (No response)

13 The Chairman. All right. Let's move onto number eight.
14 Two year extension of moratorium on allocations of domestic
15 research and development expense.

16 Secretary Chapoton. This, Mr. Chairman, is a proposal
17 in the administration's budget which simply says the
18 moratorium, which has been in effect, that no portion of
19 domestically performed R&D will be allocated for --

20 The Chairman. The administration supports it?

21 Secretary Chapoton. Yes, we support it.

22 The Chairman. Any objection?

23 Senator Wallop. Mr. Chairman, I would say that
24 Senator Bradley has a very direct interest in this. I would
25 also say that last year we had come to an agreement with

1 Treasury on a five year extension of it. And I think that
2 two years is really rather minimal if we are going to get
3 the benefit of domestic research and development and not
4 have it franchised overseas.

5 Secretary Chapoton. Well, Senator, I don't think we
6 reached agreement because this was considered -- this has
7 been a very much debated issue within the administration as
8 to exactly how we should handle this.

9 We had a report, as you know, on the impact of this.
10 It clearly showed that it helped companies in an excess
11 foreign tax credit situation, and that it did have an
12 adverse impact without the moratorium on domestically
13 performed R&D. So, therefore, it is an incentive for
14 domestically performed R&D.

15 Senator Wallop. You say it is not?

16 Secretary Chapoton. It is.

17 Senator Wallop. Yes.

18 Secretary Chapoton. And the question we had was whether
19 it was an efficient incentive, and we wanted to extend it
20 further while we got further response to our study.

21 Senator Wallop. Let me ask this then. Is it the
22 administration's position that domestic R&D is beneficial
23 to the overall economic structure of the United States?

24 Secretary Chapoton. Sure. The question is at what
25 cost.

1 Mr. Brockway. I think the issue here, Senator, is the
2 revenue on it on a two year moratorium -- it's \$250 million.
3 And on a five year moratorium it's \$500 million,
4 approximately through '87. Through '88, it's \$650 million.
5 And I think that's one of the concerns.

6 Senator Wallop. All right. But I mean we ought to keep
7 it within the timeframe of which we are talking. I don't
8 see '88 up there.

9 Mr. Brockway. Correct.

10 Senator Wallop. We don't want to goldplate the conflict
11 here. But I would just say, Mr. Chairman, that Senator
12 Bradley does have a very strong interest in this.

13 I'm disappointed in the two years, but I would rather
14 have two years than no years.

15 The Chairman. Why don't we agree to this, and then if
16 Senator Bradley wants to raise a question -- otherwise, we
17 have been putting off some of this stuff for weeks.

18 Senator Wallop. I understand that.

19 The Chairman. So without objection, we will agree to
20 that.

21 The next is one that Senator Danforth has an interest
22 in. That's the R&D extension. Can we hear the Treasury's
23 view on the three year extension?

24 Secretary Chapoton. We had wanted a three year
25 extension. We have attempted to work out some other -- well,

1 I guess if we are just talking about the extension -- we
2 have been regarding this as part of a broader package on
3 which we have been working with Senator Danforth.

4 I thought that we had agreement on all aspects of the
5 package, which would be a further slight liberalization on
6 software contributions and on contributions in connection
7 with gifts to colleges and universities for scientific
8 research. And a three year extension of the credit. That
9 would be from 86, 87 and 88.

10 And I'm not clear on whether that aspect that we had
11 opposed -- there were two aspects that we had opposed.
12 One is gifts of contributions of services would not qualify,
13 and depreciation on R&D equipment would not qualify for the
14 credit. I'm not clear where we are on that.

15 We had opposed both of those changes. We had supported
16 the new definition of R&E, and a three year extension of
17 R&E.

18 Senator Danforth. I think we are in disagreement on
19 this, on those three points.

20 The Chairman. What are the three points?

21 Secretary Chapoton. The three points are whether the
22 extension should be limited to three years or made permanent.
23 Secondly, whether contributions of services to higher
24 education related to scientific research, contribution of
25 services, would qualify as a deduction. And, then, thirdly,

1 whether depreciation would qualify for the R&E credit when
2 that depreciation is with respect to equipment used for
3 R&E purposes.

4 And in '81, we excluded depreciation from the credit.
5 So those are the three issues.

6 The service, contribution of services, we have taken
7 the position forever that contributions of services should
8 not qualify for a charitable deduction.

9 The Chairman. What was the estimated three year cost
10 based on? Is that based on including those two items or not?

11 Secretary Chapoton. Our estimate is based on excluding
12 those two items.

13 The Chairman. What if we include them?

14 Secretary Chapoton. The depreciation -- just a minute,
15 Mr. Chairman. I do have that.

16 Senator Durenberger. Mr. Chairman, while he is checking
17 that out, may I ask a clarifying question?

18 The Chairman. Sure.

19 Senator Durenberger. Are we looking at the larger
20 picture, including S. 2165 in this discussion, or are we
21 just talking about the extension? Because I have a couple of
22 questions that I would like to ask.

23 Secretary Chapoton. I think this is the larger. I
24 am discussing the larger picture.

25 The Chairman. Have you got it in there?

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Secretary Chapoton. Yes.

2 The Chairman. All right.

3 I might suggest we have a number of these items in the
4 revenue, subject to approval of offsets. We are in the area
5 now where it's easy to give away money.

6 Senator Danforth. Mr. Chairman, on this R&D tax
7 credit, this is not a new question. This, of course, is in
8 the law now. And we had hearings on it. We had an array
9 of business people and academics testify on the importance
10 of the R&D tax credit to them.

11 And I think that in the high tech research oriented,
12 academic communities this is the most important thing that
13 we have going in Congress right now. With respect to whether
14 it should be permanent or whether it should be three years,
15 the arguments for making it permanent are as follows:

16 First, we have already had a trial run. This was first
17 put into the law in '82.

18 Secretary Chapoton. Eighty-one.

19 Senator Danforth. Eighty-one.

20 Secretary Chapoton. Effective July 1 of '81.

21 Senator Danforth. First put into law on July 1 of 1981.

22 So we have had a trial run already.

23 Secondly, I think all the arguments that go against the
24 sunseting of provisions in the tax laws go against this.

25 There are those of us who believe that sunseting provisions

1 in the tax laws is a bad idea. And it's a bad idea because
2 it makes planning impossible.

3 We have heard testimony that the average length of one
4 of these research oriented projects is six years. And if
5 you provide a three year credit, it just doesn't provide
6 enough planning to cover the program.

7 Furthermore, if you had, say, a longer time -- five
8 years, six years -- then another two years from now you would
9 be in exactly the same soup we are in right now.

10 So I think it's just terribly important that we make
11 this permanent in order to get the certainty that is viewed
12 to be necessary by those who are involved in research.

13 Senator Chafee. Mr. Chairman?

14 The Chairman. Yes, Senator Chafee.

15 Senator Chafee. We had the high tech people in here
16 testifying on this. And as you know, they have some con-
17 cerns about the ACRS and what it didn't do for them. They
18 have concerns about venture capital and getting more. But
19 they set all those aside and zeroed in on this as their
20 number one priority. And I would hope we would do it and
21 make it permanent.

22 Secretary Chapoton. Let me emphasize that we are
23 very supportive of extending the credit. Our only point is
24 that we have had some experience, and, frankly, the experience
25 has not been very -- maybe not been too good is one way to

1 look at it. Certainly has not been very informative. And
2 even ... companies that we talk to agree that the incentive
3 affect of the credit, the way it is now designed, is not
4 at all clear.

5 We want to design a credit that does have the incentive
6 affect. We think we need to reexamine it and Congress needs
7 to reexamine it again. So the fact that it will be in the
8 law permanent doesn't bother us. What we want to force is
9 a reexamination and a redesign, if necessary.

10 The Chairman. Senator Bentsen.

11 Senator Bentsen. Mr. Chairman, if it's a good idea,
12 then it ought to be permanent. And I certainly think it is
13 something that we ought to try to encourage. And the idea
14 that we stall it or sunset it because we might want to change
15 it -- nothing stops us from changing one that we have put
16 in force actually on a long term basis. If we see something
17 that can be done to improve it, we will do that.

18 And you put the incremental point in here so they don't
19 get rewarded for something that is a status quo where they
20 have to continue to try to build up the R&D. I don't know
21 how many of you have read this new book -- "The World After
22 Oil" -- but it gets to the point about what has to be done
23 on R&D and how we are moving ahead in this country, and must
24 continue to, and the competition that we are having with
25 the Japanese in that regard, and the fact that the Germans are

1 not doing what has to be done on R&D. We have an advantage
2 and we ought to try to accelerate that advantage.

3 And I certainly support Senator Danforth in his
4 proposal. And I think very much we should make it permanent.

5 The Chairman. Have you gotten the revenue figures?

6 Secretary Chapoton. The revenue on this point would
7 not change because we are talking about the same period,
8 provided we have a redefinition.

9 On the other point, I would like to get the revenue
10 on the depreciation part. I had a table last night, and
11 I simply cannot locate it. There was a significant revenue
12 concern about that. When you add depreciation to the credit
13 base.

14 The services, I don't have that. I don't think it as
15 significant, though.

16 Senator Danforth. Just to explain what the services
17 are, this has to do with, for example, a computer company
18 that gives a computer to a university. The question is
19 whether or not the servicing of the computer would be covered
20 by the provision.

21 The Chairman. It's pretty hard to act unless we know
22 what the revenue impact is going to be. Because if it is
23 going to be substantial, then we had better pass it. We
24 are going to find ourselves with about \$30 billion in revenue
25 in this package.

1 Mr. Brockway. We will help you do some work on the
2 estimate on this, Mr. Chairman. A straight extension would
3 have been \$1.8 billion. And then it is cut back some. And
4 I just don't know how to quantify that at the moment.

5 Secretary Chapoton. We have a straight extension without
6 the other changes at \$1.1 billion, with the limits on the
7 definition of the credits, with the redefined credit. It
8 would be \$1.1 billion. But the addition of the --

9 The Chairman. I thought everything was agreed on except
10 the duration.

11 Secretary Chapoton. I thought that too, frankly,
12 Senator. I thought the agreement was to -- when the college
13 situation was cleared up, I thought these other points were
14 agreed to as well, except I knew that there was not agreement
15 on the three year or permanent.

16 The Chairman. Obviously, that's not the case. I think
17 we had better wait.

18 Senator Danforth. You and I weren't negotiating so I
19 don't know what was agreed or what wasn't agreed. But my
20 understanding was that there were at least three points
21 still open -- the duration, the services, and depreciation.

22 Senator Symms. Why don't we just vote on it?

23 The Chairman. Well, until we get the revenue figures on
24 the other, I think we might as well just pass it.

25 Senator Bradley. Mr. Chairman, may I inquire? I

1 understand we addressed the 861 issue.

2 The Chairman. Right.

3 Senator Bradley. And I understand we approved it,
4 which I think is positive. The question is: Did we approve
5 it for three years, four years?

6 The Chairman. Two years.

7 Senator Bradley. For two years?

8 The Chairman. Two years.

9 Senator Bradley. Is there any chance that we could
10 extend it to three years.

11 The Chairman. I think we agreed to extend it to two
12 years for reasons expressed by Treasury.

13 Secretary Chapoton. And the revenue impact. Just to
14 state briefly, Senator Bradley, we are supporting an
15 extensive. Our own question is because it is an incentive
16 for domestically performed R&E, our question is whether it is
17 the most efficient incentive given the cost, and the cost
18 is -- there is cost involved. And there would be further
19 cost for a further extension.

20 The Chairman. I think there is another question that
21 might satisfy Senator Bradley. When will you have -- will
22 you be in a position next year to address this in more detail?

23 Secretary Chapoton. Yes. I think what we really need
24 is more reaction to our study. We have released a study on
25 the affect of the 861.

1 The Chairman. I think what their concern is wait until
2 the end of the two years, and then we say, well, because
3 there are a lot of people wanting to make decisions -- if we
4 can get some indication from Treasury that we can even start
5 looking at it later this year.

6 Secretary Chapoton. I think this is a part of the
7 overall R&E package, which is the other thing we are looking
8 at here. Yes.

9 Senator Bradley. Mr. Chairman, I think that as you
10 know, I mean these research decisions are made five, ten years
11 in advance, and you make them based upon certain assumptions
12 of what your tax bill is going to be. And I think the longer
13 it could be, the more benefit we are going get in increased
14 research.

15 The Chairman. I don't quarrel with that except if, in
16 fact, there is something underway now at Treasury that can --

17 Secretary Chapoton. Yes. There is.

18 The Chairman. And everybody wants these things
19 permanent. If they are bad, they never want to change them.

20 Secretary Chapoton. We have to recognize this has been
21 described as an incorrect allocation. I think now most
22 parties, if not all parties, would agree it is not an
23 improper allocation from a question of relating expenses to
24 the income they earned. It is, instead, a reallocation of all
25 expenses against domestic income as an incentive for R&D. I

1 think that is how it has to be viewed. As an incentive.

2 And the question is: Is the incentive best when that
3 incentive is limited to a few companies that happen to be
4 in an excess tax credit position? And the larger companies,
5 as opposed to the smaller start-up companies, which are the
6 companies that we effectively do not allow much benefit from
7 that provision or much benefit from the R&E credit. And that
8 is Commerce's concern, and that is our concern.

9 We design a credit that is not helping the smaller
10 start-up companies.

11 Senator Bradley. So that what we are going to do is
12 look at this issue in the next year. And we have gone two
13 additional years. Until what date?

14 Secretary Chapoton. I believe it's two years from
15 August of '83.

16 Senator Bradley. August of '85.

17 Secretary Chapoton. August of '85.

18 Senator Symms. Mr. Chairman, if that's the best we
19 can do, that's the best we can do.

20 The Chairman. I understand the problem. I think if
21 Treasury is willing to make that commitment to the committee

22 Secretary Chapoton. Yes, sir.

23 The Chairman. I know Senator Wallop expressed the same
24 concern.

25 All right. Now phase-in of administration's spousal IRA

1 proposal.

2 Senator Symms. Mr. Chairman, before we go on, I thought
3 we were going to have a vote on the Danforth proposal.

4 The Chairman. No, we are not.

5 Senator Symms. Well, in that case, then, I thought
6 Senator Matsunaga had a good suggestion yesterday when he
7 discussed with me that if a company makes a commitment that
8 then they got an additional year.

9 Senator Danforth. Well, that goes to the duration. I
10 wonder if we could just -- I would like to hang tough for
11 the permanent.

12 Senator Symms. Well, that's what I would like to do.

13 The Chairman. If we agree on the permanent, can we
14 drop the other two?

15 Senator Danforth. Well, I would like us to at least
16 look at the revenue figures as opposed to the other two and
17 see what difference it makes. I would like to have them if
18 I could.

19 I think, for example, if a business is giving a
20 university a computer, the university is going to thank the
21 business, but it's also going to say what do we do when it
22 breaks down.

23 The Chairman. Fix it.

24 Senator Danforth. What?

25 The Chairman. You fix it.

1 Senator Danforth. That's right. And the question is
2 whether the cost of fixing it, whether the business can
3 provide that along with the computer.

4 The Chairman. I don't think the service things is a
5 matter of concern. I think it's the other -- depreciation.
6 Is that correct?

7 Secretary Chapoton. Well, the service is a matter of
8 concern. We just have to recognize that if we start saying
9 in this case that services are deductible as a charitable
10 contribution, there will be no holding the line on services
11 in general because there are a lot of very worthwhile
12 contributions of services in this country, and not everyone
13 agrees that only those for research and development related
14 are worthwhile.

15 Senator Durenberger. Mr. Chairman, can I ask two
16 clarifying questions?

17 The Chairman. Sure.

18 Senator Durenberger. One is on the computation of the
19 tax credit. As I understood 2165, it provided a maintenance
20 of effort floor which related back either to a company's
21 historic '81 through '83 research purchases or 1 percent of
22 the average research expenses during those same years,
23 whichever was greater.

24 Secretary Chapoton. That's correct.

25 Senator Durenberger. Is that still the situation or has

1 that been changed? I have been led to understand that 1
2 percent is pretty high as a figure. The average is
3 substantially less than 1 percent.

4 And what we are trying to get out of this is not, as
5 Jack said, the average length of these purchases is six
6 years, and we are not trying to get this sort of thing going
7 in the system.

8 Secretary Chapoton. That's right. And that is what
9 this is designed to do. We propose an alternative which
10 said you could make a grant in one year, and treat it as
11 though it were made over a number of years for purposes of
12 a base. But the groups that were concerned about this liked
13 this proposal better.

14 And so we have signed onto that approach, making it
15 clear that you simply can't reallocate contributions in
16 computing the base. Excuse, in future contributions and
17 away from other uses to scientific research.

18 Senator Durenberger. The second question: Do we still
19 have Section 203 in there with the tax forgiveness for
20 scholarships, fellowships and student loans?

21 Secretary Chapoton. Yes.

22 Senator Durenberger. Maybe you want to tell us to
23 whom it applies.

24 Secretary Chapoton. It, in effect, says that if you
25 would be entitled to a tax free scholarship, that a

1 forgiveness of the loan on those same terms would be also
2 tax free.

3 It is limited in this bill to scientific features. We
4 suggested that it -- we don't necessary agree that it ought
5 to be so limited.

6 But I want to emphasize it's not forgiveness of all
7 scholarship educational loans. It is loans where there is
8 no quid pro quo. The forgiveness where there is no
9 employment related forgiveness, which would be compensation.

10 Senator Durenberger. Well, this is some kind of an
11 indirect way to finance certain scientific disciplines.
12 The education of certain scientific disciplines. Is that
13 right?

14 Secretary Chapoton. That's right. It is making these
15 rules consistent with the scholarship rules.

16 Senator Durenberger. And it doesn't apply to social
17 sciences or education or anything else?

18 Secretary Chapoton. That's correct. We don't neces-
19 sarily sign onto that distinction. That if it's correct
20 as a scholarship, then we wouldn't necessarily limit it to
21 this. The bill would limit it, but we testified that we
22 don't necessarily see the reason for so limiting it.

23 While we are talking about it, I don't know the revenue
24 impact, if any, of broadening it. So the bill would limit
25 it to that scientific rule.

1 Senator Durenberger. But your position is that you
2 wouldn't mind applying this to all --

3 Secretary Chapoton. A broader range of educational
4 loans. That's right.

5 The Chairman. All right. How soon can we have the
6 revenue estimates?

7 Mr. Brockway. Hopefully this afternoon if we can have
8 a chance to talk to the member staffs and go over the details
9 of the proposals. And also attempt to reconcile a difference
10 in the basic estimates between those of Treasury and ours.
11 We are looking at more updated information, I think.

12 The Chairman. All right.

13 Senator Armstrong. Mr. Chairman?

14 The Chairman. Yes.

15 Senator Armstrong. Before we leave the issue that
16 Senator Durenberger raised, my interest is aroused because
17 the committee and the Senate has put through a two year
18 moratorium on taxing the forgiveness of loans for medical
19 and dental students. And I believe it's the same issue we
20 are addressing here.

21 We ought to broaden this provision in here to make that
22 permanent, in my opinion. And if the Treasury has no
23 objection to broadening it even beyond medical and dental,
24 we ought to at least find out what the cost of that is and
25 perhaps do it.

1 Secretary Chapoton. Let us look into that, Senator
2 Armstrong.

3 The Chairman. We will do that. Thanks.

4 If there is no objection, let's move to page two
5 quickly and see if we can take up nominations one through
6 five. Mr. Fred Goldberg to be chief counsel; Julian
7 Jacobs to be judge of the United States Tax Court; Alfred
8 Kingon to be Assistant Secretary for Treasury; Stephanie
9 Lee-Miller to be Assistant Secretary for Health and Human
10 Services; Dr. David Gampbell Mulford to be Deputy
11 Undersecretary of the Treasury.

12 We will not act on six and seven at this time. Is
13 there any objection to reporting those nominations?

14 Senator Long. Would you read those names again? I
15 don't think so.

16 The Chairman. Nominations one through five on page two.
17 Fred Goldberg to be chief counsel of the Internal Revenue
18 Service.

19 Senator Long. No objection.

20 The Chairman. Julian Jacobs to be a judge of the United
21 States Tax Court.

22 Senator Long. No objection.

23 The Chairman. Alfred H. Kingon to be Assistant
24 Secretary of Treasury.

25 Senator Long. No objection.

1 The Chairman. Stephanie Lee-Miller to be Assistant
2 Secretary for Health and Human Services.

3 Senator Long. No objection.

4 The Chairman. Dr. David Gambell Mulford to be
5 Deputy Undersecretary of the Treasury.

6 Senator Long. No objection.

7 The Chairman. And we will withhold the other two for
8 the time being.

9 Without objection, we will report those nominations.

10 Thank you.

11 Now we are back to number 10 -- phase-in of
12 administration's spousal IRA proposal.

13 Senator Moynihan. Mr. Chairman, on that could we hear
14 specifically what the proposal is? I had a bill in of no
15 large consequence, but there is a problem with the
16 administration proposal which is simply that it is of
17 necessity biased in favor of higher income families.

18 A \$2,000.00 deduction from a 50 percent bracket family
19 means one thing, and from a 25 percent bracket family it
20 means another thing.

21 And a possibility exists of giving a tax credit, which
22 would be proportionate to the contribution, and the same for
23 everybody. I don't want to detain the committee, but this is
24 an issue of fairness in the tax code.

25 The Chairman. I might say I have raised that same

1 question with Treasury of how we could design this so it
2 would not have the affect you have suggested.

3 One thing that I thing Treasury will do, if not to
4 go the whole distance immediately -- Senator Grassley has
5 a direct interest in this. We are trying to locate him.
6 He, I think, several years ago in the House introduced this
7 proposal.

8 And, Susan, do you want to try one more time? Are you
9 sure he didn't drop off over there?

10 (Laughter)

11 The Chairman. Buck, would you explain the spousal IRA,
12 and how we might address the obvious problems.

13 Secretary Chapoton. The rules now are that any person
14 including both members of a married couple may contribute up
15 to \$2,000.00 to an IRA out of their earnings. And if they
16 don't earn -- if one of the members does not earn \$2,000.00,
17 then that member can contribute up to the amount he or she
18 earns. If he earns nothing, can contribute up to \$250.00.
19 So people think generally the spousal IRA rule now is
20 limited to \$2,250.00.

21 We are proposing in the budget to take that all the way
22 to \$4,000.00, if the non-employed spouse can make the same
23 contribution out of the husband's earnings -- it has to be
24 out of earnings -- that she or he could make if employed.

25 Senator, the beauty of the individual retirement account

1 mechanism is its simplicity. And it's simplicity is that
2 the institutions can sell it as a savings vehicle. You put
3 the limit at a certain amount. And we have seen what has
4 happened. It has been highly marketed. We think it is going
5 to have a beneficial affect on savings in the country. And
6 we think this will add to us.

7 It has its most impact, if it affects people, at the
8 margin so they have an incentive to save the additional
9 dollar. We think there is a definite an inequity problem
10 involved when it is denied the non-employed spouse to set
11 aside amounts for her benefit, for her future retirement,
12 and we have the spector of what happens in the case of a
13 divorce. Typically, the wife would then not have her own
14 individual retirement account.

15 So we think this is an equity change. Now when we have
16 tax deductions, they always have different affects than tax
17 credits. But when you look at other ways to handle this
18 through the credit system, it becomes, frankly, awfully
19 complicated. And I think it will not sell as well.

20 And so most of the benefit is going -- it fluctuates
21 across the income scale. Seventy-three percent of the
22 benefit is under \$50,000.00; 56 percent is for incomes under
23 \$40,000.00.

24 So we are modifying the proposal in the budget, taking
25 into account the revenue consequences to make the -- instead

1 of going to \$2,000.00 immediately as we had proposed from
2 \$250.00, to go up in \$500.00 increments for '85 and '86.
3 It would be \$500.00 in '85 and it would stay that way for
4 two years.

5 So the spousal IRA for '85 and '86 would be \$2,750.00.
6 Then in '87 and '88, it would be \$3,250.00. And then on up.
7 But ultimately reaching the full \$4,000.00.

8 Senator Moynihan. But it's your view that no
9 adjustment -- there is an inequity here. The 50 percent
10 taxpayer gets a thousand dollar tax benefit, and the the
11 25 percent taxpayer gets a \$250.00 one. And so, therefore,
12 there is a lesser incentive at lower income levels, which
13 you might want to --

14 Secretary Chapoton. There is a --

15 Senator Moynihan. You can't solve it, is that it?
16 A tax credit would solve it.

17 Secretary Chapoton. You could obviously go to a credit
18 mechanism. You could change the entire mechanism and deal
19 with that situation. There is a difference in incentive.
20 There is no doubt about it. The incentive is still quite
21 strong, as we are seeing, but there is a difference in
22 incentive.

23 Taxpayers that are in higher taxes, are paying higher
24 taxes, if you give them a tax benefit, they save more in
25 dollar amount than other taxpayers.

1 Senator Moynihan. Does anybody else on the committee
2 as I do that it is a problem?

3 Senator Danforth. I do, Senator Moynihan. My
4 preference would be to just drop the proposal. I think
5 that this really is adding something new. And I think that --
6 my guess is that the people who are going to save would be
7 doing it anyhow at about the same amount.

8 And it would seem to me that in these cases where you
9 have the non-working wife and IRAs which do operate as a
10 incentive to high income people to save, you would have
11 people who would probably be likely to be putting the money
12 away anyhow. Therefore, it would seem to be doubtful that
13 the revenue loss would be justified by any offsetting value
14 to the economy.

15 Senator Bentsen. Mr. Chairman.

16 The Chairman. Senator Bentsen.

17 Senator Bentsen. Mr. Chairman, let me speak for the
18 proposal. I understand some of the concerns of Senator
19 Moynihan. But I must also say that you have got 30 to 50
20 million people reaching retirement age in this country
21 without any kind of a retirement program other than social
22 security. That you have got -- this would help ease some
23 of the pressure on social security.

24 And I think it also shows the economic contribution that
25 is made by, and I quote, "the so-called non-working wife."

1 Time and time again with situations of divorce where
2 a husband is taken care of on his pension, the wife suddenly
3 finds that she is of an age where she finds it very difficult
4 to find employment and she doesn't have so-called market-
5 able skills.

6 And I really think it's a travesty in that kind of a
7 situation. And this helps take care of it.

8 Savings in this country are still low. They are not
9 anything like what they should be or compared to what is
10 true in other nations around the world. Nothing like the
11 European nations.

12 This will contribute to additional savings. So overall
13 I think it's a meritorious piece of legislation. I intro-
14 duced this years ago. Senator Grassley and I are co-sponsors
15 of the legislation. I'm pleased to see the administration
16 adopt that approach and present it to us.

17 Senator Chafee. What are the revenue affects? Have
18 we had those?

19 The Chairman. Well, it depends on how we phase it in.
20 Starting with \$500.00 increments.

21 Secretary Chapoton. If you start with \$500.00 incre-
22 ments over \$200.00, the revenue affect over the period of
23 '85 through '87 is .9 or \$9 billion.

24 Senator Chafee. Point nine?

25 Secretary Chapoton. Yes, sir.

1 Senator Chafee. Billion?

2 Secretary Chapoton. Billion, yes, sir.

3 Senator Moynihan. Nine hundred million.

4 Secretary Chapoton. Nine hundred million.

5 Senator Moynihan. One year or three years?

6 Secretary Chapoton. For three years.

7 The Chairman. I'm going to call on Senator Grassley.

8 Secretary Chapoton. Our original proposal, which would
9 have been straight to \$2,000.00, was \$1.8 billion over the
10 three year period.

11 The Chairman. Senator Grassley, I think you and Senator
12 Bentsen co-authored this several years ago when you were in
13 the House so we want to hear from you on it too.

14 Senator Grassley. Yes.

15 I have to thank Senator Bentsen for his leadership in
16 this area over this period of time. I would come at the
17 issue from two directions, and understanding that we are
18 talking about a revenue loser here when we ought to be
19 thinking in terms of the other. And also with the prospect
20 that I would have to vote for a revenue raiser to
21 accommodate it.

22 But I think viewing the three years that I have been
23 on this committee, and also what I hear at the grass roots,
24 it seems to me there is an awful lot of concern among
25 politicians, policymakers about middle income taxpayers.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 And this is something for middle income taxpayers.

2 Now what this does is it recognizes the economic con-
3 tribution to our economy by a large segment of our
4 population that contributes so much, but we don't recognize
5 it because it doesn't have a dollar value, and that is
6 basically the homemaker. And this is one way to do that,
7 both for any income level, but particularly for middle income
8 people.

9 And I listen so often when I am driving home at night
10 to Bruce Williams on WRC. And I would commend him to all
11 of you. He's got a lot of sound advice.

12 And I remember him saying night after night that the
13 middle income or that the IRA -- and he would also include
14 in that the spousal IRA -- the best little middle income
15 tax shelter to come down the pike in a long time. Those are
16 his words.

17 And I think that we ought to look at this in terms of
18 stimulating savings, doing justice for the middle income
19 taxpayer because they are the ones that really do not have
20 tax shelters, can't take advantage of them. This is a
21 real incentive to do that.

22 It also brings equity to the women of this world, of
23 this nation who don't want to and who are not working outside
24 the home. It gives them an opportunity to provide for their
25 retirement independent of their husband for all sorts of

1 insurance reason and pension reasons that that would give.

2 And, then, lastly, and a third reason, I would give
3 that this is just beginning to be the institutionalized
4 offset to where social security is coming up short and for
5 the people in their 20s and 30s now are going to come up much
6 more short in the next century than it is in this century
7 because people drawing out of social security today are
8 going to draw out many times more than they pay in.

9 But for the person who is 20 and 30 working today and
10 going to be paying into that social security system for 40
11 years, he will be lucky he draws out of it what he puts into
12 it. And it's still only partial retirement. And an IRA
13 either for the wage earner or for the spousal fits into that
14 category of making complete a retirement package that
15 otherwise is not complete.

16 Senator Durenberger. Mr. Chairman.

17 The Chairman. Senator Durenberger.

18 Senator Durenberger. Buck, may I ask you a question
19 about what affect this has on the \$3,000.00 earnings,
20 spousal earnings? Does that change that amount? Or are
21 we applying this only to the non-working, non-income earning
22 spouse?

23 Secretary Chapoton. We are allowing the non-employed
24 spouse to claim a deduction against the employed spouse's
25 earnings.

1 Senator Durenberger. The maximum stays the same on
2 the \$3,000.00?

3 Secretary Chapoton. No, there's no \$3,000.00. There is
4 a \$2,000.00 now, and a \$250.00 for a spousal IRA. This
5 increases the \$250.00 ultimately to an equal \$2,000.00. It
6 does it in \$500.00 steps.

7 Senator Durenberger. Mr. Chairman, let me just make
8 this comment. In principle, I think this is great for all
9 the reasons that have been stated here. But if we really
10 want to do something for the mothers of America and the
11 women of America in general, I think we ought to go back to
12 our 1981 position on dependent care tax credits. We ought to
13 go back and look at some of the things like the targeted
14 jobs tax credit for displaced homemakers. We ought to look
15 at the zero bracket adjustments for head of household if
16 we have some money here that we want to bestow on these
17 people.

18 But if we want to do this and that, then I would
19 suggest that we go to Chuck's theory, which is do some good
20 for middle income taxpayers. And let's go back to a
21 proposal where we give them the benefit of the savings on
22 the IRA, but we take away just a little bit of the current
23 benefit, a consumption, which is the proposal that staff
24 gave us here some weeks ago on limiting non-housing, non-
25 business, non-investment interest deduction on the other side.

1 If you put a \$4,000.00 for a married couple, a limit,
2 on the deductibility of non-business, non-investment,
3 non-housing interest, you raise substantially. I think
4 you raise a little bit more than nine hundred. And then
5 you can come over on this side and say now we are doing some
6 good over on the other side in terms of investing that
7 income. Not penalizing anybody. Everybody gets at least
8 \$4,000.00. It has nothing to do with your home; nothing to
9 do with your business; nothing to do with your investments.

10 It's your finance charges; it's your Mastercard charges;
11 it's all that sort of stuff. You put a little crimp into it.
12 But the government is saying it's good policy to give you --
13 you know, put some money in savings. The trade off is to
14 eliminate a little bit of the consumption incentive that we
15 give you in the present tax code.

16 So if the President wants to pay for this --

17 Senator Moynihan. Mr. Chairman, could I speak in
18 support of that idea?

19 The Chairman. Sure.

20 Senator Moynihan. There is a basic problem, which is
21 everytime we have changed the tax code in the last three
22 years it has been to the advantage of upper income people
23 against lower income people.

24 And inevitably and unavoidably this is an advantage to
25 that middle income person in the 50 percent bracket which

1 starts at \$153,000.00 a year.

2 I wish I knew more middle income people like that. But
3 there is probably a skewing of interest payments of the kind
4 that Senator Durenberger speaks of toward a higher income
5 bracket. Would you know? Would you know how to know?

6 Secretary Chapoton. I'm sorry. On the spousal IRA
7 proposal?

8 Senator Moynihan. No. Senator Durenberger is speaking
9 of --

10 Secretary Chapoton. Consumer interest, in effect.

11 Senator Moynihan. -- of limiting an interest structure
12 for certain items or rather saved for certain items. Would
13 it be your inclination to think that such interest
14 deductions tend to be higher in high income brackets? Or
15 that there would be some compensatory effect here?

16 Secretary Chapoton. Because they are limited to people
17 who would otherwise itemize, you are talking about basically
18 higher middle or higher income taxpayers. So to some extent
19 they would offsetting. We might be able to give you a --

20 Senator Moynihan. It seems to me that kind of off-
21 setting affect would resolve the question of fairness here.

22 The Chairman. I think we have some figures on
23 limitation of deduction of non-business interest, don't we?

24 Secretary Chapoton. Yes. I think Senator Moynihan is
25 going to the point of distribution across income classes.

1 One of the concerns you always have about such a
2 proposal is that taxpayers who can have ample capital
3 assets and therefore can borrow against investment assets
4 probably will not be affected by such a proposal. In other
5 words, it's hard to trace. That's just a given, but it's --

6 The Chairman. Are there any limitations? I think
7 Senator Long wondered about that.

8 Senator Long. I just wanted to ask a couple of
9 questions. If someone merely takes money that he has in a
10 checking account or savings account and puts that into an
11 IRA, does he get the deduction?

12 Secretary Chapoton. Yes, sir.

13 Senator Long. So that insofar as a person merely shifts
14 his investments from his savings accounts or from whatever
15 investment -- stocks or bonds or whatever -- and just shifts
16 it over into an IRA, he gets the investment.

17 Secretary Chapoton. Gets the deduction. Yes, sir,
18 that's true. Some amounts going into IRAs now are clearly
19 transferred wealth.

20 Senator Long. That does not then amount to any increase
21 in savings at all. It's just shifting from one form of
22 savings into another form of savings. You get a tax
23 deduction.

24 Secretary Chapoton. That is correct. And we know there
25 is some of that. We know there is some new savings, and we

1 know there is --

2 Senator Long. There has got to be a lot of it.

3 Secretary Chapoton. But the longer the IRAs have
4 been in place -- and if this comes in, the longer this is
5 in place -- you will have people running out of existing
6 savings. And, therefore, you will be rewarding new savings.
7 You have to look at the long haul.

8 But, clearly, there will be some transferred savings.

9 Senator Long. Now here is a problem that is bothering
10 me also. And that is that we need to be developing energy.
11 We need to developing sources of energy. Can these IRAs
12 invest in a drilling program to drill oil and gas wells?

13 Secretary Chapoton. I think there are no specific limits
14 to prevent use of an IRA investing in oil or gas wells or
15 other -- there are limitations on investment and
16 collectibles that Senator Moynihan knows about. But no
17 specific limitations otherwise.

18 Senator Long. Do we have a prudent man rule problem
19 there to keep them from investing in a drilling program?

20 Secretary Chapoton. No. IRAs are not subject to the
21 ERISA rules. I might check this further, but I believe
22 there is no prudent man rule applicable to individual
23 retirement accounts.

24 Senator Long. So they could invest in energy just like
25 anything else then?

1 Secretary Chapoton. That's correct.

2 Senator Long. I see.

3 Now it would occur to me that there would be enormous
4 cost if you just look at the amount of savings out there
5 that have not yet been shifted over into IRAs. So far you
6 have picked up a huge amount of money in IRAs that were just
7 taken from savings accounts and various other investment,
8 buildings and loans or whatever, various accounts that people
9 had, they simply shifted over into an IRA.

10 Now how long would it take us to run out of all of
11 that?

12 Secretary Chapoton. Well, Senator, we really cannot
13 say. We have tried to see if we can determine how much
14 new savings is going into individual retirement accounts.
15 We are interested in the fact that they have been very, very
16 successful. That has been a positive result we think.

17 But we cannot give you good hard figures about how much
18 of it is new savings. We would like to be able to but --

19 Senator Long. Now is it fair to say that that was not
20 the purpose of the IRA? None of this, it seems to me --
21 it seems to me that the purpose of the IRA was to encourage
22 people to save out of current income and to invest it in the
23 IRAs. I wasn't under the impression that we were trying to
24 encourage the mere taking of money from one account and
25 putting it into another account.

1 Secretary Chapoton. Well, the purpose of the
2 provision is to give a vehicle for tax preferred savings.
3 And even if it is transferred wealth, it is transferred into
4 a long-term savings vehicle which has its own benefits.

5 But it was clearly recognized that there would be some
6 transferred wealth involved.

7 Senator Bentsen. If it is transferred, then, as you
8 say, have a long-term.

9 Secretary Chapoton. That's correct.

10 Senator Bentsen. Or they pay a penalty.

11 Secretary Chapoton. So even to the extent you are
12 talking about simply shifting from one account to another,
13 you have decided that to an account for practical purposes
14 is long-term. You cannot get it out before retirement. And
15 so you are committing those funds, unlike the other funds
16 in your portfolio, to retirement.

17 The Chairman. The clerk will call the roll.

18 Senator Bradley. Mr. Chairman, before we take this
19 vote, I would like to just raise another issue. This would
20 be a vote on the --

21 The Chairman. On the phased-in spousal IRA. And I
22 have asked the staff to put Senator Durenberger's suggestion
23 on the afternoon agenda.

24 Senator Bradley. Could I raise just a point before
25 we vote on the spousal IRA? I think Senator Moynihan raised

1 the fairness question of who benefits and so forth, and I
2 have no problem with the spousal IRA. But what I would
3 like to raise for the committee's attention is the fact that
4 people at the lower end of the income spectrum. not only
5 will not be able to benefit from this, but will be paying a
6 higher tax. People in poverty in 1985 without any changes
7 in current law are actually going to be taxed.

8 So from an equity standpoint, I would like us to
9 consider perhaps increasing the earned income tax credit
10 from say 10 to 11 percent and raising the base say from
11 \$10,000.00 to \$12,000.00. And I'm curious what that would
12 mean.

13 Last year when I suggested raising it from 10 to
14 10-1/2 percent, I was told by Treasury that was \$100 million.
15 Simultaneously, I think we would be able to address the
16 concerns of both middle income people and lower income people
17 without a significant increase in loss of revenue.

18 (CONTINUED ON NEXT PAGE)
19
20
21
22
23
24
25

1 The Chairman. It wouldn't prevent what Senator
2 Moynihan suggested -- I mean, the transfer of money at
3 the top. That is not going to address that.

4 We can have staff look at that. It is a separate issue.
5 I don't have any objection to taking it up.

6 Mr. Chapoton. I believe we can certainly look at it.
7 I believe it is a separate issue, Senator. It is an
8 incentive for savings, and you are saying that it will not
9 be a benefit for people who don't save, and that is certainly
10 true.

11 Senator Bradley. My point is that the spousal IRA is
12 aimed at essentially women -- wives -- and I am saying for
13 the working poor that are, in many cases, female heads of
14 households, that we have essentially not adjusted their
15 income tax credit since 1977. And I think that, while we
16 are looking at this issue in its proper context as an issue
17 that will benefit the women of America, I think we have to
18 look at all of the women of America in the context of how
19 the Tax Code either benefits them or penalizes them.

20 So, I hope that we would be able -- maybe as soon as
21 this is disposed of -- to deal with the income tax.

22 The Chairman. If we can't deal with it then, I will
23 have the staff and Treasury get the information and we can
24 put it on the afternoon agenda.

25 Senator Long. It would seem to me that he has got a

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 very good point there. In the matter of tax fairness, it
2 doesn't seem fair that we start out by saying at any
3 particular point -- middle income or wherever or at the
4 upper side -- and never get around to ever getting down to
5 where you touch ground with it.

6 It seems to me as though it ought to go from ground zero
7 on up to wherever you want to go with it. I think the
8 Senator has got a good point -- that we shouldn't take care
9 of the middle income and then wait around to find that the
10 low income -- oh, it is too bad, the money is all gone --
11 so we can't do anything for them.

12 Senator Heinz. Mr. Chairman, I would just like to ask
13 how we are doing on the regular old IRAs. My understanding
14 is that the revenue loss estimated for IRAs in fiscal 1985
15 is roughly \$9.8 billion. Is that right, Buck?

16 Mr. Chapoton. Senator, that sounds about right, but
17 I don't have those figures with me.

18 Senator Heinz. And I am told that that is more than
19 double the loss estimated in the fiscal 1984 budget for
20 fiscal 1985 -- \$4.2 billion.

21 That is to say, last year we estimated the revenue loss
22 at \$4.2 for fiscal 1985. This year we are estimating it
23 at \$9.2 -- a \$5 billion increase in revenue loss.

24 Now, do you know whether or not those are valid numbers?

25 Mr. Chapoton. I am surprised if it is that quick. I

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 know that our estimate in 1981 of the IRA use was low, and
2 the contributions to IRA were more than two and a half
3 times what we estimated the contributions to be.

4 Senator Heinz. That is fine, but I hope you will check
5 and find out whether we are -- within the last 12 months --
6 that far off.

7 Mr. Chapoton. We will check that out.

8 Senator Heinz. If my staff is wrong, we apologize.

9 The second point I would make is -- and it has been
10 made by somebody -- the utilization rates of IRAs on
11 families -- not poor families, not moderate income families
12 -- but families \$20,000 and below -- is very tiny. Most
13 utilization is families of \$50,000 and above.

14 This makes them neither good nor bad. It is logical
15 that upper income people are going to be able to save more,
16 and IRAs certainly increase savings.

17 Senator Moynihan. And they are savings that the tax
18 rate makes it pronouncedly more attractive decision.

19 Senator Heinz. That is correct. But if we are going
20 to look at this whole proposition in terms of revenues,
21 we can either look at them the way Dave Durenberger has
22 proposed -- which is set some priorities as to the best
23 way to use loss revenues -- and/or realize that perhaps
24 the IRAs that we have have been a little more successful
25 than we had planned or maybe even wanted, and in order to be

1 fair to spouses, take some of the anticipated revenue loss
2 away from the existing program -- not changing the rules in
3 the middle of the game -- but sharing some of the wealth, if
4 you will, in the anticipated revenue losses with existing
5 law with spouses.

6 Maybe we don't have to have an add-on. Maybe all we
7 need to do is share the wealth.

8 In that way, we do not increase the revenue loss. We
9 would probably adjust downward for the time being existing
10 IRA law in some amount, and so my question to all of you is,
11 can you work out a tax neutral revenue loss neutral way of
12 doing that?

13 Mr. Chapoton. Sure, it would be possible. You would
14 have to lower the \$2,000 for existing IRAs.

15 Senator Heinz. You would have to figure out the best
16 options, but clearly, if my numbers are right, we are in
17 a sense overperforming on existing law, and there is some
18 logic to doing that -- to having something that doesn't
19 cost as much money.

20 The Chairman. Senator Roth?

21 Senator Roth. Mr. Chairman, it seems to me -- and I
22 regret that I missed the early discussion about IRAS -- but
23 it seems to me that people are overlooking the basic purpose.
24 The basic purpose of IRA was to promote savings, because
25 we felt that savings were important if we were going to

1 modernize our industrial plants.

2 One of the reasons we have fallen behind is that we
3 don't have a new capital that countries like Japan and
4 elsewhere have because they have tremendous incentives for
5 saving.

6 Now, there is no point in trying to give an incentive
7 for savings if it is going to be tax neutral. We are not
8 promoting anything.

9 And the thing that bothers me as we sit here is that
10 the only thing we are looking at as we go through these
11 tax meetings is loss of revenue. Nobody is considering
12 what is going to happen to the economy -- to the recovery.

13 Now, I happen to think that we ought to be extending
14 savings. It was my original idea back in 1975 that we ought
15 to expand it to housewives, and just let me say that
16 housewives have never been recognized -- never been
17 recognized in any degree.

18 And so, I would hope that we would support them. I
19 would like to go all the way, but I recognize that with
20 our deficit problem it is difficult.

21 I think the compromise is a reasonable one, and I
22 would hope that we would support it.

23 The Chairman. Let's vote on it.

24 Mr. DeArment. Mr. Packwood?

25 Senator Packwood: Aye.

1 Mr. DeArment. Mr. Roth?
2 Senator Roth. Aye.
3 Mr. DeArment. Mr. Danforth?
4 Senator Danforth. No.
5 Mr. DeArment. Mr. Chafee?
6 Senator Chafee. No.
7 Mr. DeArment. Mr. Heinz?
8 Senator Heinz. No.
9 Mr. DeArment. Mr. Wallop?
10 Senator Wallop. Aye.
11 Mr. DeArment. Mr. Durenberger?
12 Senator Durenberger. No.
13 Mr. DeArment. Mr. Armstrong?
14 Senator Armstrong. Aye.
15 Mr. DeArment. Mr. Symms?
16 Senator Symms. Aye.
17 Mr. DeArment. Mr. Grassley?
18 Senator Grassley. Aye.
19 Mr. DeArment. Mr. Long?
20 Senator Long. Aye.
21 Mr. DeArment. Mr. Bentsen?
22 Senator Bentsen. Aye.
23 Mr. DeArment. Mr. Matsunaga?
24 Senator Matsunaga. Aye.
25 Mr. DeArment. Mr. Moynihan?

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Moynihan. No.

2 Mr. DeArment. Mr. Baucus?

3 Senator Baucus. (No response)

4 Mr. DeArment. Mr. Boren?

5 Senator Boren. Aye.

6 Mr. DeArment. Mr. Bradley?

7 Senator Bradley. Aye.

8 Mr. DeArment. Mr. Mitchell?

9 Senator Mitchell. (No response)

10 Mr. DeArment. Mr. Pryor?

11 Senator Pryor. (No response)

12 Mr. DeArment. Mr. Chairman?

13 The Chairman. Aye.

14 On this vote, the ayes are 12, the nays are 5, and the
15 amendment is agreed to, but we are going to bring up Senator
16 Durenberger's suggestion and also Senator Bradley's this
17 afternoon some time.

18 If we keep adding things to the agenda, we are never
19 going to finish this agenda. They will be on the agenda
20 this afternoon. If we can move along, we might even get
21 to them.

22 Let's go to number eleven. Senator Chafee?

23 Senator Chafee. Yes. Mr. Chairman, this is not new.

24 We have had hearings on this. The Administration is
25 strongly supportive of this. What it provides, Mr. Chairman,

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 is that there be over a three-year period 75 enterprise
2 zones in the nation which are selected by the mayor or
3 the county commissioner, with the approval of the governor,
4 and they are submitted to the Secretary of HUD and then,
5 within that zone -- which, of course, has to have the support
6 of the mayor -- there are various tax breaks that are
7 provided by the Federal Government.

8 No more than 25 a year can be--the idea is 25 a year.
9 And it is an experiment. There are many that think it is
10 going to succeed. I personally think it is worth a try.

11 The revenue implications are relatively modest, and
12 it is really designed to do something about the inner cities.

13 Now, the provision we have provides that, I think, a
14 20 percent -- or something like that -- has to be for
15 rural communities.

16 Ron, do you know -- is it 25 percent for the rural?

17 Mr. Pearlman. It is one-third.

18 Senator Chafee. It is one-third rural. Okay. So,
19 that is it, Mr. Chairman. It encourages the local
20 communities to do something. They cannot waive fire or
21 safety regulations. Some people have been leary of this
22 because it provided for -- or people thought -- a subminimum
23 wage. That is not in the bill at all.

24 Senator Moynihan. What is in the bill? Do we have a
25 piece of paper showing that?

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Chafee. Yes.

2 The Chairman. We will pass that out. The Joint
3 Committee, have you addressed this? We passed this a
4 couple of times in our committee.

5 I guess we are trying to reduce the cost of it this
6 time. Ron, is that correct?

7 Mr. Brockway. We are looking at some proposals to
8 reduce the cost. To date, we have not put a revenue estimate
9 on it because we can't identify what the size of a zone is.
10 So, neither we nor CBO has --

11 The Chairman. I think one thing, at the outset, we
12 want to make certain that there will be no designations
13 of zones prior to January 1985. Otherwise, I think it
14 becomes a political --

15 Senator Moynihan. That is what President Johnson did
16 when the OEO legislation passed in 1964.

17 The Chairman. I think there is some concern that the
18 President would spend the next two months just announcing
19 zones.

20 Mr. Brockway. On the second page, there are listed a
21 number of options that would reduce the revenue impact.
22 That is on the second page of the handout -- five possible
23 options to reduce the revenue impact.

24 The Chairman. I might say that I have talked to
25 Secretary Pierce, who doesn't want to reduce it at all.

1 He feels that he is sort of caught here. Here is a measure
2 that has been passed by this committee -- by the Senate -- on
3 two other occasions -- at least two -- and now we are coming
4 in with a lot of new add-ons, and he is being asked to pay
5 for them.

6 I think he makes a legitimate point that, since we have
7 addressed this before, we have indicated what the revenue
8 loss might be, and now we are coming back and saying that
9 we are not going to let you have what we indicated before
10 because we have got a deficit problem.

11 My own view is that we are going to have to find some
12 more revenue, and I would hope that we might just go ahead
13 and pass what we passed before, and if we can't come up
14 with the revenue, then we can go back and scale these down.

15 Is there any objection to that? I am certainly willing
16 to do that.

17 Senator Bradley. Is this the proposal we have in front
18 of us? Is that essentially what we did before?

19 The Chairman. Yes. That is right. Is there any
20 objection to that, John?

21 Senator Chafee. No. That is fine. I think that is
22 fine. With the January 1, 1985 starting date.

23 The Chairman. But I think we ought to make certain
24 that we are not setting up something that someone would
25 view as political. There would be no designation prior to

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 January 1, 1985 -- in fact, there would be no announcement
2 that it would be January 1, 1985. It doesn't mean that you
3 can't go look at some between now and January 1985, but we
4 can go together. At least, there will be one in Kansas,
5 I hope.

6 Senator Symms. Mr. Chairman, all I want to say about
7 this is that I am not going to oppose this issue, and I
8 have discussed this with Senator Chafee. But I think at
9 least we ought to consider my position on the enterprise
10 zone which is that I think we ought to do this for the
11 whole United States.

12 And by having these enterprise zones, we do put the
13 Government in a position of deciding where growth and so
14 forth is going to go. And I think there is some risk in it.

15 I hope that we will consider this as we move into it.
16 We should be working immediately, once this is passed, to
17 expand it to everywhere in the country.

18 Senator Chafee. Mr. Chairman, the answer to that is
19 that we don't know. We think these are going to succeed.
20 There has been a lot of testimony. Congressman Garcia
21 from the Bronx has been very active in this, as has
22 Congressman Kemp and Senator Durenberger and others.

23 Let's give it a try. I don't know whether it is going
24 to be a panacea, but it is worth a try.

25 Senator Moynihan. Mr. Chairman, can I speak to this

1 now? We have had a lot of enthusiasms around in urban
2 affairs and in economic affairs, -- meant we weren't going
3 to have a deficit, if you remember, not long ago.

4 But the idea of enterprise zones is specifically an
5 idea proposed first by a British professor, and it has been
6 very slowly commenced in Britain, and I don't think there
7 are any results. I went around to the Ministry where it is
8 being done -- about two years ago -- and they have nothing
9 much to say.

10 Two. The idea of enterprise zones is to substitute for
11 positive -- in this present political climate, having cut
12 back so sharply so many urban programs -- this is the way
13 to do through tax policy what you won't do through positive
14 programs. Very well.

15 Three. The numbers involved -- very much like model
16 cities which began about 15 and ended up by the magic
17 number of 435 -- I observe already one-third of these are
18 going to be rural.

19 So, I won't oppose this, but I have a long experience
20 in these things, and it seems to me that we really ought
21 to write into this language a serious requirement that
22 the Secretary of Housing and Urban Development build into
23 the program a research component that can give us some idea
24 whether anything is happening.

25 Remember what enterprise zone means -- it means on one

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 side of a street you can earn \$3.10 an hour, and on the
2 other side of the street, you earn \$3.60 an hour, and the
3 people are not supposed to notice across the street.

4 Senator Chafee. There is no subminimum wage, if that
5 is what you are talking about.

6 Senator Moynihan. No. No, I am not.

7 Senator Chafee. You are going to have to draw
8 boundaries. Those things happen in UDAG areas and every
9 other place now, and no one is standing here and saying
10 this is the mellinium. All we are saying is give it a
11 try, and there are plenty of people who are more experienced
12 in urban affairs and have been deeper into the inner city
13 than I have, such as Congressman Garcia who is
14 enthusiastically behind this, and think it will do good.
15 and will work.

16 I personally am prepared to give it a go.

17 Senator Moynihan. My question was can we build a
18 serious research component into this?

19 The Chairman. Treasury, would you be willing to draft
20 something? I think he makes a good point.

21 Mr. Pearlman. Sure. Treasury and HUD would be happy
22 to undertake a research component of this and report back
23 to you.

24 The Chairman. Knowing about the model cities disaster
25 -- I used to be a strong supporter of this enterprise zone,

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 but I must say that I have some serious concerns about it.
2 But I do know there is a lot of interest in the
3 Administration, there is a lot of interest on the House side
4 -- some on the Ways and Means Committee with Charlie Wrangle
5 and others.

6 Maybe at least this time, in conference, we can finally
7 end up with a few pilot projects. I am not certain what
8 the House is willing to do, but I share the concern
9 expressed by Senator Moynihan.

10 If there is no objection, let's go ahead and do what
11 we have done in the past. Then, when we finish our action
12 on all these things, we are going to have to come back and
13 make some adjustments, and if that is the case, we will
14 have to develop an option.

15 Senator Moynihan. Could I ask just one more question?
16 When did one-third of these inner city enterprise zones
17 turn out to be rural?

18 Senator Chafee. Right in this committee.

19 Senator Moynihan. But is that not part of the problem?

20 Senator Chafee. You have seen it in our other committee
21 where 85 percent of the country is eligible for disaster or
22 distressed area loans.

23 Senator Moynihan. That is precisely what happened in
24 the model cities, if you will remember.

25 Senator Chafee. I think we are lucky to hold it to

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 one-third.

2 Mr. Brockway. Mr. Chairman, I take it you have also
3 adopted it with the proposal to add a research component
4 with Treasury and HUD?

5 The Chairman. Right. Let's just have a vote on it.

6 Mr. DeArment. This is the proposal that is described
7 as modified by the research component?

8 The Chairman. Right.

9 Mr. DeArment. Mr. Packwood?

10 Senator Packwood. Aye.

11 Mr. DeArment. Mr. Roth?

12 Senator Roth. Aye.

13 Mr. DeArment. Mr. Danforth?

14 Senator Danforth. Aye.

15 Mr. DeArment. Mr. Chafee?

16 Senator Chafee. Aye.

17 Mr. DeArment. Mr. Heinz?

18 Senator Heinz. Aye.

19 Mr. DeArment. Mr. Wallop?

20 Senator Wallop. (No response)

21 Mr. DeArment. Mr. Durenberger?

22 Senator Durenberger. (No response)

23 Mr. DeArment. Mr. Armstrong?

24 Senator Armstrong. (No response)

25 Mr. DeArment. Mr. Symms?

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Symms. Pass.
2 Mr. DeArment. Mr. Grassley?
3 Senator Grassley. Aye.
4 Mr. DeArment. Mr. Long?
5 Senator Long. Aye.
6 Mr. DeArment. Mr. Bentsen?
7 Senator Bentsen. (No response)
8 Mr. DeArment. Mr. Matsunaga?
9 Senator Matsunaga. Aye.
10 Mr. DeArment. Mr. Moynihan?
11 Senator Moynihan. Aye.
12 Mr. DeArment. Mr. Baucus?
13 Senator Baucus. (No response)
14 Mr. DeArment. Mr. Boren?
15 Senator Boren. Aye.
16 Mr. DeArment. Mr. Bradley?
17 Senator Bradley. Aye.
18 Mr. DeArment. Mr. Mitchell?
19 Senator Mitchell. (No response)
20 Mr. DeArment. Mr. Pryor?
21 Senator Pryor. (No response)
22 Mr. DeArment. Mr. Chairman?
23 The Chairman. Aye.
24 The eyes are what?
25 Mr. DeArment. 12.

1 The Chairman. And no nays, and one pass.

2 Mr. DeArment. That is correct.

3 The Chairman. That will leave the record open.

4 Senator Heinz -- targetted jobs credits?

5 (Pause)

6 Senator Heinz. Mr. Chairman, as I think most of our
7 colleagues know, the Administration has proposed a one-year
8 extension of the targetted jobs tax credit.

9 There are a number of us on the committee who would
10 like to see us give the program substantially more
11 continuity than that, and we proposed a five-year extension
12 of the program.

13 And we had testimony a week ago Friday when we had a
14 hearing on the targetted jobs tax credit, and in addition
15 to hearing from a number of people who have experience
16 with the program -- people who hire under the program -- we
17 heard from a number of experts who did not have any
18 particular axe to grind.

19 And I think the most significant thing that we learned
20 about the program was that if you analyze the cost of
21 placement under this program -- which in 1983 served as
22 an employment lever into the work force for some 431,000
23 Americans who had been disadvantaged and unemployed, on AFDC,
24 handicapped physically, blind, disabled in some way -- the
25 experts testimony indicated that we were successfully placing

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 them -- in the case of other than the summer employment
2 people -- at a cost of about \$470.00 per job gross cost.

3 The experts also estimated that in terms of the net
4 cost to the Federal Government, by getting these people
5 off of welfare programs and other programs onto employment
6 rolls, and including the revenue generated, that it cost
7 the taxpayer about \$100.00 -- on a conservative analysis --
8 for each of the 431,000 people so helped.

9 So, what we have got is a program that appears to
10 be helping about 431,000 people as of the end of 1983
11 for a total cost to the taxpayer -- the Treasury -- of
12 about \$40 million a year.

13 That is an extraordinary record of performance for a
14 program. Would that every program that we had helped
15 431,000 deserving people at a cost of \$40 million.

16 So, it is my hope -- based on the other testimony we
17 had -- again from experts -- that this program could be
18 substantially more effective if, rather than kind of renewing
19 it for one or two years at a time, as we have done on
20 several occasions, that we give it a much more secure lease
21 on life and extend it for five years.

22 Senator Symms. Why not make it permanent?

23 Senator Heinz. I am not opposed to making it permanent,
24 but I think that it is good to keep programs like this on
25 some kind of a leash because we may find out something within

1 within the next five years that would cause us to want to
2 change it.

3 I am not going to oppose the Senator's suggestion, but
4 I would rather we consider a five-year extension. Maybe
5 unemployment will be so low five years from now that we
6 won't need it. I don't know.

7 But I appreciate the Senator's suggestion. If he
8 doesn't mind, I would rather just keep it at five years,
9 but if the will of the committee is to increase it more
10 than that, I wouldn't oppose that. And I thank him for
11 his support.

12 Mr. Pearlman. Mr. Chairman?

13 The Chairman. Yes?

14 Mr. Pearlman. This was a proposal that is included
15 in the Administration's budget. It was included on the
16 suggestion that it be a one-year extension. It was done
17 that way for two reasons.

18 Number one, because we believe -- as Senator Heinz
19 believes -- that programs like this should be reviewed on
20 a regular basis. In addition to that, there is a rather
21 substantial revenue difference between extending the credit
22 for one year where the cost is \$900 million and extending
23 it for five years, where the cost is \$1 billion \$600 million,
24 over the period 1985 through 1987.

25 Senator Heinz. I would like to agree with what he has

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 just said. Mr. Chairman, I think that is very significant.
2 He points out correctly that a one-year program will cost
3 \$900 million, and a five-year program will cost only \$700
4 million dollars more.

5 Mr. Pearlman. During the first three years. Obviously,
6 there is substantial additional cost in the --

7 Senator Heinz. Through 1987.

8 Mr. Pearlman. That is correct.

9 Senator Heinz. That is correct.

10 The Chairman. You are talking about a three-year cost
11 of --

12 Mr. Pearlman. A three-year cost. The total cost
13 would add another \$1.3 billion on a five-year extension.

14 The Chairman. I understand there was also some testimony
15 -- in fact, I was here for part of the hearings -- on how
16 we might modify the program and still make it more efficient,
17 more effective.

18 George, do you have any information on that?

19 Mr. Pieler. Mr. Chairman, the Joint Committee has
20 estimated what you would save in the program from changing
21 it to a first-year credit from a 50 percent of the first
22 \$6,000.00 of wages to 25 percent, and that was a
23 recommendation made at Senator Heinz' hearing by John Bishop,
24 who has done some research on the program.

25 And I believe the Joint Committee has revenue numbers on

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 that particular option.

2 The Chairman. Randy?

3 Mr. Weiss. If you essentially cut the first-year
4 credit to 25 percent, it would cut the revenue cost by
5 about 45 percent of whatever the extension was. So, if
6 it was a one-year extension, revenue costs would come down
7 to about \$500 million. If it were a five-year extension,
8 the revenue costs would come down to about \$900 million,
9 by making that change.

10 The Chairman. All right.

11 Senator Heinz. Mr. Chairman, it is accurate to say
12 that Mr. Bishop testified in favor of cutting back from
13 50 to 25 percent, but he also testified in favor of
14 reimbursing employers for training costs in addition,
15 which is not now done by this program.

16 So, we are getting half of Mr. Bishop's recommendation.

17 The Chairman. He made a number of recommendations, I
18 was told.

19 Senator Heinz. Yes, but the one that the staff is
20 referring to, Mr. Chairman, is a combined recommendation.
21 He said if you are going to cut it from 50 to 25, you have
22 got to cover training costs in addition to this credit for
23 the otherwise difficult-to-employ person.

24 The Chairman. I support the program, but again, it is
25 like everything else. Who benefits from this program?

1 MacDonal'd's, Pizza Hut, who else?

2 Senator Symms. Unemployed kids.

3 The Chairman. I am not sure they benefit as much as
4 the employers. It is a wage subsidy program.

5 Senator Heinz. Mr. Chairman, do you want me to supply
6 that information?

7 The Chairman. Yes.

8 Senator Heinz. It benefits economically disadvantaged
9 youths -- 18 to 24 -- economically disadvantaged Vietnam
10 era veterans --

11 The Chairman. I know that classification.

12 Senator Heinz. I am sorry, Mr. Chairman. I
13 misunderstood your question.

14 The Chairman. Which employers benefit the most from
15 this program?

16 (No response)

17 Everybody rushes in here saying it is a great thing,
18 if they are a beneficiary -- that hasn't changed in this
19 committee for 100 years.

20 Senator Symms. Mr. Chairman, I would say this. In
21 defense of some of those employers, I don't think any have
22 benefited that much. A lot of this is a hassle to have to
23 go through all the red tape -- hire these people, hire these
24 young people, try to train them, and they are unskilled.

25 They can go out and hire a regular employee.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 The Chairman. But they don't hire them if they can
2 avoid it. Do we have any information on who the big
3 beneficiaries are?

4 Mr. Weiss. When the targetted jobs credit was first
5 enacted, the original provision called for a report to be
6 submitted to the Congress in 1981, giving information about
7 who used it, and that report has still not been sent.

8 Unfortunately, therefore, there isn't really any data
9 that is publicly available.

10 The Chairman. Who is supposed to file the report?

11 Mr. Weiss. The Secretaries of Treasury and Labor are
12 jointly supposed to deliver this report.

13 Senator Moynihan. Mr. Chairman, could I comment on
14 that point? We have been trying to use the Tax Code in a
15 number of specific social purposes that previously had
16 involved actual expenditures.

17 The urban programs of the 1960s and 1970s have pretty
18 much been dismantled, and we are going to enterprise zones,
19 and the employment training and so forth. It has been very
20 much cut back, and we are going to targetted tax credits.

21 Now, at minimum, we owe ourselves some information on
22 whether there is simply a displacement. I mean, the thing
23 about enterprise zones is -- the central question is --
24 does it simply move activity from here to there without
25 making it more profitable without increasing the net.

1 And the question of targetted job credits is the same.
2 What is the answer from the staff and from the Treasury since
3 we have not got the study? The Department of Labor was to
4 do it for us, wasn't it?

5 The Chairman. Where is it stuck? In which department,
6 or is it both?

7 Mr. Pearlman. Sorry, Mr. Chairman, I can't answer you.
8 We will be happy to find out but I just don't know.

9 Senator Heinz. Mr. Chairman, one point. Your question
10 about who uses it is partly answered, I guess, by some of
11 the people who came forward and testified at the hearing.

12 We didn't invite a lot of people who didn't use the
13 credit because they didn't know much about it. I think one
14 of the issues involving the tax credit is how do you get it
15 to be more successful? We know, for example, there were
16 294,000 AFD recipients vouchered, but only 50,000 of them
17 certified and employed.

18 Now, the significance of that is that we could have
19 even greater savings to the taxpayer if we could get those
20 244,000 vouchered AFDC recipients off of AFDC and onto
21 payrolls if the program had broader acceptance, and part
22 of acceptance is being around for a while and being perceived
23 as a program that has a track record so that it is a plus
24 and so that any initial stigmatization -- and there was
25 some initial stigmatization under this program -- is overcome

1 by success.

2 One other point -- may I yield to my friend in a
3 second?

4 The Chairman. Yes. I just wanted order.

5 Senator Heinz. Oh, I thank you. The other point is
6 that we had some testimony -- I don't think the chairman
7 was present for this part of it -- which was that while
8 there is some disagreement as to how many additional new
9 jobs this program creates -- we got testimony from some
10 people who said we would never have opened this outlet in
11 Jersey City if we hadn't had this program -- we did get
12 some testimony like that.

13 One of the things I think -- irrefutable on the record
14 -- was that we heightened levels of employment through this
15 program that would not otherwise have been heightened
16 without the program.

17 And that is significant because this means you are
18 not substituting one person for another. You are bringing
19 people into the work force for those jobs that exist but
20 that don't, for one reason or another, get filled -- the
21 ones that President Reagan was fond of pointing to in the
22 Help Wanted ads two and three years ago, and it also means
23 that, from the standpoint of the Treasury, their analysis
24 probably excludes the benefit to the Treasury of having
25 done that, namely the money the Treasury doesn't have to lay

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 out in AFDC, and Voc Rehab and all the other costs.

2 My question, I guess, is to the Treasury. Does your
3 so-called cost of the program include the other direct
4 savings to the Treasury in terms of payments you don't have
5 to make and taxes you do get in as a result of the increased
6 employment levels?

7 Mr. Pearlman. Our revenue estimates do not include
8 those, Senator.

9 The Chairman. Wasn't there a GAO study on this program?

10 (No response)

11 Senator Moynihan. Can I just say to Senator Heinz, if
12 I may, that we may be onto something very good here and
13 not know it. It may be that a tax system of providing
14 incentives for certain kinds of employment does work and
15 does not have a very significant substitution effect.

16 But we ought to know it. I mean, we ought to be keenly
17 interested in it. Do we have any idea where that report is?

18 Mr. Weiss. Senator Moynihan, I think -- to the best
19 of our knowledge -- we have not yet seen a carefully
20 designed statistical study that would get at this
21 displacement question.

22 Senator Moynihan. It is not an easy study.

23 Mr. Weiss. There are certainly some businesses that
24 can say that they may well have been influenced to increase
25 employment, but what we don't know is whether there are

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 other businesses that would have been hiring those same
2 people had the credit not induced the first group of
3 businesses to hire them.

4 It is possible that there would have been, and therefore,
5 looking at the economy as a whole, not only is there no
6 net increase in employment for the economy but not even
7 a net increase employment for this particular group.

8 It is only a small fraction of these groups that ever
9 enter the program.

10 The Chairman. If we were asking this committee to
11 appropriate \$3 billion for a jobs program, I bet you
12 wouldn't get five votes, but here we are doing it to the
13 Tax Code, so it doesn't make any difference.

14 We wouldn't spend that money, but we are willing to do
15 it through the back door that nobody understands. We don't
16 know whether it is an effective program or not.

17 I introduced a similar bill when I was in the House
18 about 18 years ago called "The Human Investment Credit Act."
19 It was a big Republican strategy. It never passed.

20 (Laughter)

21 The Chairman. But it would seem to me that if we are
22 going to continue the program, whether it is one year or
23 three years or whatever, there ought to be some evidence
24 that it is actually putting people to work.

25 Obviously, it is a wage subsidy. You build MacDonald's

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 with an IDB, and then you get a wage subsidy, and it is
2 pretty hard to lose.

3 Senator Symms. Mr. Chairman, if I could just make one
4 comment on that?

5 The Chairman. Are you for SITA jobs? Did you vote
6 for that?

7 Senator Symms. No, sir, I don't because I don't think
8 it is an efficient allocation of our resources, but this
9 is. What we are asking people to do is to hire employees
10 that come from a disadvantaged group of society who are
11 less educated, who are less skilled, and who are less
12 motivated, and that costs the business money.

13 And as one who has -- before I came to Congress -- that
14 is what I did mostly -- was employ unskilled workers, and
15 the capital cost of the job is more important to the
16 decision of hiring them than the tax credit.

17 Now, I would venture to say that the MacDonald's of
18 the world could care less whether we have this program.

19 The Chairman. Oh, no, you are wrong.

20 Senator Symms. But they will survive with or without
21 this. It won't hurt them, but the people that are going
22 to get hurt are these disadvantaged young people that might
23 have an opportunity to learn some on-the-job training.

24 So, I think we ought to move ahead with this. It is an
25 efficient way to do it. It is better than having a SITA

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 program by far.

2 Senator Matsunaga. Mr. Chairman, does the Treasury
3 have any figures as to how many have claimed the tax credit,
4 that is how many employers and how many employees have?

5 Mr. Chapoton. The Joint Committee has the figures.

6 Senator Matsunaga. You have the figures?

7 Mr. Weiss. We have data for the activity in the
8 targetted jobs credit for fiscal year 1983. And what it
9 shows is that there were approximately 430,000 new hires
10 during that year for whom employers requested a targetted
11 jobs credit certification.

12 Senator Matsunaga. I see. Involving how many?

13 Mr. Weiss. 430,000.

14 The Chairman. I understood we were in a recovery
15 period. Is that right?

16 Mr. Weiss. That is right. What we don't know is how
17 many of these new hires would have occurred anyway because
18 there are always lots of new hires in the economy, and lots
19 of these people certainly would get jobs and did get jobs
20 even before there was a targetted jobs credit.

21 So, what we don't know is the question of whether this
22 represents an increase.

23 Senator Heinz. Mr. Chairman, on that point, if I may.

24 Senator Matsunaga. One question first. How many
25 employers involved?

1 Mr. Weiss. Unfortunately, we don't have any information
2 on the number of employers that claimed this.

3 Senator Heinz. Mr. Chairman, just on that point. Most
4 of the people who went back into the work force last year
5 were, as I understand it, people who did not fall into
6 these categories. They were mostly people who, if they had
7 fallen into the category, we would have found on unemployment
8 compensation, the purpose of which is to keep people out
9 of these categories.

10 So, while that is only anecdotal, circumstantial
11 evidence, I think it is fair to say that one could make a
12 decent case that a lot of these people who, by and large,
13 come from groups of very high unemployment rates.

14 Take economically disadvantaged youths 18 to 24 -- their
15 unemployment rate is 50 percent. It is today 50 percent.
16 It was then 50 percent.

17 This program seems to work best for those people who
18 do not normally enter into an economic recovery the way we
19 would like.

20 Senator Chafee. It seems to me that the best thing that
21 we could do for this country is to reduce the deficit.

22 The Chairman. Oh, we have forgotten that already.

23 (Laughter)

24 Senator Chafee. And that seems to have fallen by the
25 wayside here. We have got spousal IRAs and a few other things

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 and, indeed, I supported the enterprise zone.

2 Senator Moynihan. The enterprise zone only costs
3 \$150 billion over the period.

4 Senator Chafee. Well, that is not quite accurate.

5 Senator Moynihan. And that wouldn't balance the budget.

6 Senator Chafee. Let's not quarrel over decimal points.

7 (Laughter)

8 The Chairman. But obviously, this program has to be
9 extended. I am not quarreling with that. It is just a
10 question of what we do.

11 And what we have been trying to do with some of these
12 programs -- I think we made it clear on the agenda -- revenue
13 losers are subject to approval of revenue offsets.

14 Now, I know it is easier to vote for the losers and
15 probably not get the votes for the offsets, but we don't
16 have to report out any bill at all, as far as I know.

17 Senator Chafee. Mr. Chairman, it seems to me that,
18 as I understand it, Treasury has recommended one year.
19 Senator Heinz wants five years.

20 Why don't we take a couple of years and get the thing
21 over with, and go onto something else?

22 Mr. Chapoton. Let me add one thing. I was checking
23 this proposal. One of the bases of our thought about the
24 one year is that we all feel that we don't have sufficient
25 information on the targetted jobs tax credit. And the Labor

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Department is conducting a further study of the impact of it.

2 So, a limited extension is to await that study.

3 Senator Chafee. Yours is one year?

4 Mr. Chapoton. One year.

5 Senator Heinz. Mr. Chairman? I hear what Senator
6 Chafee is saying, and maybe we will want to decide at some
7 point to reduce the number of years from five to a lesser
8 number, but I would caution my colleagues that the House
9 has no such provision.

10 And if we agree to three years now, they are going
11 to nickle and dime us down to a year and a half, which
12 really is, for all practical purposes, what the Administration
13 is asking for.

14 We know what the real weakness is with keeping the
15 program on that short a tether because it tells everybody
16 -- it tells all the State employment offices -- don't count
17 on this program being around, and it really becomes
18 counterproductive.

19 So, I would hope that we wouldn't put ourselves in
20 a nickle and dime position with the House.

21 The Chairman. The thing that I am primarily concerned
22 about is not so much the extension time, but whether or
23 not we are going to be locked into a program that we don't
24 have any answers to many of the questions raised for five
25 years, three years, or one year.

Moffitt Reporting Associates

2849 Lafora Court

Vienna, Virginia 22180

(703) 573-9198

1 Obviously, every witness who comes before the committee
2 is going to tell you how great the program is. They are
3 all benefiting -- it is a wage subsidy program. It helps.
4 It pays part of the cost of their labor.

5 Senator Heinz. Mr. Chairman, I have to tell you. We
6 have made a lot of changes in the Tax Code here today.
7 The one benefit I would claim for this one over most of the
8 others is that we had a full afternoon of hearings on this
9 one.

10 The Chairman. Yes, but they were all testimonials.
11 That is what that was.

12 Senator Symms. If I could just make one more comment.
13 I know you don't want to delay this, Mr. Chairman, but
14 if I could, I will keep it as brief as possible.

15 The Chairman. All right.

16 Senator Symms. I happen to support what Senator Heinz
17 is trying to say here and what he is trying to do here.
18 The Department of Labor did testify that this is the most
19 efficient way we can help these disadvantaged, undereducated
20 underskilled, undermotivated groups to get into the employment
21 sector and start becoming part of our society.

22 Now, we have passed these minimum wage laws over the
23 years that have been very detrimental to these same people
24 because they cause them to be unemployed, and here is one
25 way that we can try to offset some of the bad impacts of

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Government minimum wage laws by doing this and giving a tax
2 credit.

3 And I will tell you, as a personnel manager that used
4 to hire 500 people, the personnel managers of MacDonal'd's
5 may come in here and testify, but just so that the committee
6 understands what I am saying -- it will not make one bit of
7 difference to the fast food chains, the corporations of
8 America, whether we have this program or not.

9 They are cooperating with the Congress to try to help
10 some of these groups out, and this tax advantage makes up
11 the difference of what it costs you to hire a less
12 motivated worker and train them on the job.

13 So, I just don't think that there is anything really
14 negative about this program. And as far as this budget
15 closing thing, you know, it is going to take a lot more
16 than this bill to make a big difference on this deficit,
17 anyway.

18 I know what the chairman is trying to do. We will
19 cut spending by \$700 million more.

20 The Chairman. No, I think all of these people are
21 going to move into these enterprise zones. That would be
22 another subsidy. And then they will have the IDBs, the
23 enterprise zones and wage subsidies, and then there are
24 surely two or three other things we have forgotten.

25 Or the luxury cars -- they drive to work in their

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 luxury cars --

2 (Laughter)

3 The Chairman. I am not quarreling with MacDonald's
4 or anyone else. If the tax laws are there to take advantage
5 of, they ought to do it.

6 I just wonder if it works. Not that we are going to
7 reduce the deficit with this one provision, but if we don't,
8 these little job credits aren't going to keep people working
9 anyway. They are going to be out on the street again.

10 So, why don't we come back at 3:00 and work out some
11 compromise.

12 (Whereupon, at 12:36 p.m., the hearing was recessed.)

13 (Continued on next page.)

14

15

16

17

18

19

20

21

22

23

24

25

AFTERNOON SESSION

(3:33 p.m.)

1
2
3 The Chairman. To go back to the nominations, on page 2
4 there are two nominations pending for the International
5 Trade Commission -- David B. Rohr and Susan Wittenberg
6 Liebler. And I understand that Senator Long now indicates
7 we can go ahead with those?

8 Senator Long. No objection, Mr. Chairman.

9 The Chairman. Any objection?

10 Senator Long. No objection.

11 Senator Heinz. Beg your pardon, Mr. Chairman?

12 The Chairman. We are approving the two ITC nominations
13 on page 2.

14 Senator Heinz. Mr. Chairman, I don't object, but I
15 either want to record myself against Susan Liebler, who I
16 don't believe to be qualified for the job, or I would prefer
17 we would just vote on both of them. I imagine they will
18 both past.

19 Is there anybody else who wants to be recorded on
20 Liebler?

21 Senator Long. I want to be recorded for her.

22 Senator Heinz. Why don't we just have a rollcall vote?

23 Senator Moynihan. Vote.

24 The Chairman. Is anybody opposed to the first nominee?
25 Let's don't waste any more time than we have to.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Heinz. I don't think there is any opposition
2 to the first one.

3 The Chairman. Is there any opposition to the second
4 one, except to record you in the negative?

5 Senator Heinz. You can record me in the negative. If
6 someone else wants to vote, we'll have it. If not --

7 The Chairman. All right. Without objection.

8 All right, let's go back. We were on the targeted jobs
9 credits. Does the Treasury have any more information on
10 this?

11 Mr. Chapoton. Mr. Chairman, I don't think we have much
12 to add to the revenue figures this morning. There is still
13 a great deal of uncertainty about what the effect of the
14 targeted jobs credit is, and I talked to my people over the
15 lunchtime about who was benefitted and whether one can say
16 it increases total employment. We clearly do not have data
17 that would lead one way or the other.

18 They point out, of course, that a certain amount of the
19 workforce, either the new workforce or entering the workforce,
20 comes from economically disadvantaged families; so we can
21 expect an increased use of the targeted jobs tax credit.

22 We also estimate that about 15 percent of the potential
23 eligible persons are claiming the benefit of the targeted
24 jobs tax credit, so that we could expect a significant
25 increase in the claims under the credit. And we have seen

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 a very significant increase in the last quarter of Calendar
2 1983, and a large increase from 1982 to 1983.

3 I don't know that that adds much to what we knew this
4 morning. No one can really say, without a lot more
5 information than is even being collected now, much less
6 being studied, but that is even being collected on what the
7 impact of the targeted jobs tax credit is.

8 The Chairman. All right.

9 Does the Joint Committee have any additional information?

10 Mr. Chapoton. I just might mention that the
11 certifications -- I said "calendar," but this is Fiscal 1983
12 -- in Fiscal 1983 were 31,000 certifications. That does not
13 include economically disadvantaged co-op students, because
14 the Labor Department is not collecting that information on
15 the economically disadvantaged. We don't know, because they
16 are not collecting that information separately; however it
17 is 431,000 in Fiscal 83 as compared to 202,000 in Fiscal 82,
18 so we are seeing a significant growth in the program.

19 Senator Heinz. Mr. Chairman, what do you want to do?
20 Shall we vote?

21 The Chairman. I would suggest we accept the three-year
22 extension.

23 Senator Heinz. I wouldn't object to that on one
24 condition: Do we have any assurance that we are not going
25 to be nicked and dimed by the House on that?

1 The Chairman. I don't think the House -- I am also
2 going to suggest that we get a GAO study on this program and
3 that we take a look at it before the three years expires;
4 but beyond that, I am certainly willing to extend it for
5 three years.

6 I think we are going to have to extend it -- I am not
7 quarreling with the extension concept.

8 Senator Heinz. No, I understand that.

9 My only concern is -- and otherwise I would accept your
10 offer quite happily -- that the House, which has no provision
11 in it, and I don't know how they are disposed on this issue,
12 might force us to compromise on it further. And I would
13 rather have more leverage to compromise in conference.

14 I would not object to compromising in conference at
15 three years, but I am a little reluctant to compromise on
16 it now without knowing where the House stands.

17 The Chairman. Well, I don't know how we are going to
18 know until we get over there. Do you have any idea, Dave?

19 Mr. Brockway. No, I don't know what the reaction will
20 be to this item.

21 Senator Heinz. Well, put it this way, Mr. Chairman.
22 If you want to cut it down to three years in conference, I'll
23 support you. But I would prefer to stick with five right
24 now. There is no difference in the revenue estimates.

25 Senator Chafee. Well, Mr. Chairman, I was going to

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 two, and if we can't settle on that then lets have a vote
2 on three and get it over with, and go on to the next one.

3 The Chairman. Well, we are giving things away. I
4 know how easy it is to vote for everything we give away in
5 here. We haven't won one yet, so I am just trying to work
6 it out in advance.

7 The savings, as Senator Heinz pointed out, for a three-
8 year program, or the revenue loss, is \$1.6 billion. Is that
9 correct?

10 Mr. Brockway. Well, anything with three years or more,
11 in that three-year period it would be \$1.6 billion.

12 The Chairman. That's what I mean.

13 Senator Heinz. And the one-year extension is the 900?

14 Mr. Brockway. Nine hundred. And two years is 1.4;
15 then three years and longer is all 1.6, because everything
16 is occurring afterwards. You have substantial revenue in
17 plus-nine years.

18 The Chairman. I am willing to stick with the three
19 years, but it seems to me we are almost getting into the
20 realm of permanency without even knowing what the program
21 does. We've had a study due for three years; we don't have
22 it yet.

23 Senator Heinz. Mr. Chairman, I am willing to make a
24 public commitment to support, in conference, three years
25 on the program, if we can get five years here, so we have

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 something to give the House in conference.

2 The Chairman. They may not want anything. If you are
3 giving money away, they would take it over there.

4 Senator Heinz. Well, I am just telling you what I am
5 willing to do, Mr. Chairman.

6 The Chairman. Yes.

7 Senator Heinz. If you don't want to do it, let's
8 vote on it.

9 The Chairman. The Administration has asked for a
10 one-year extension so they might look at the program. You
11 have suggested five, and half-way between is three. I hope
12 we might vote on a three-year program for the targeted jobs
13 credit.

14 Senator Heinz. Mr. Chairman, do you want to have a
15 vote on an amendment reducing the five-year proposal to
16 three years? Let's vote on that.

17 I am going to vote No on it, for obvious reasons. I
18 will still stick by my commitment, however, to work with
19 you to reduce it in conference

20 The Chairman. Well, I will stick by mine, too.

21 Senator Heinz. But I would like to go to conference
22 with five, and I would urge my colleagues to vote No on your
23 amendment, then vote Yes on what survives.

24 Senator Chafee. Mr. Chairman, I move we extend it for
25 one year, and ask for a rollcall vote.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Heinz. Now, as I understand what Senator Chafee
2 is proposing, he is proposing to cut my proposal from five
3 to one year.

4 Senator Chafee. Right. Let's vote.

5 Senator Bradley. Could reason prevail here, and let's
6 just go with what the Chairman has suggested. I mean, we've
7 got one and five. We are going to have two votes, and we
8 are going to end up where the Chairman is anyway. Let's just
9 do what the Chairman suggests.

10 Senator Chafee. I asked for a vote. Let's vote.

11 Senator Heinz. Let's vote on the Chairman's proposal
12 first.

13 Well, Mr. Chairman, you decide what we want to vote on.

14 (Laughter)

15 The Chairman. I think one year is not a bad idea.

16 (Laughter)

17 Senator Moynihan. Mr. Chairman, we should be allowed
18 to vote for the longest period that is before us, in order
19 that we do not vote in a tactical way No against a shorter
20 period. That is fair to those of us who want this program
21 to continue.

22 Senator Chafee. Mr. Chairman, I made a motion. I asked
23 for a rollcall vote; why don't we vote on it?

24 Senator Heinz. The Chairman did, too, John.

25 Senator Moynihan. Mr. Chairman, I offer a substitute

1 amendment.

2 (Laughter)

3 Senator Moynihan. The substitute motion is five years.

4 The Chairman. How many want to extend the program at
5 all? Let's vote on that.

6 (Showing of hands)

7 The Chairman. All right. Now we will vote on how many
8 want to extend it for one year.

9 (Showing of hands)

10 Senator Moynihan. Only one.

11 Senator Heinz. Only one year.

12 The Chairman. Well, one is one.

13 (Laughter)

14 The Chairman. How many did you have there?

15 (Laughter)

16 Mr. DeArment. Six.

17 The Chairman. Six? Three? How many are left?

18 Senator Bradley. I supported the three years, because
19 that's what the Chairman suggested.

20 The Chairman. Three years?

21 (Showing of hands)

22 Senator Heinz. Well, I wish you would do it the other
23 way around, Mr. Chairman. I don't know when a deal's a
24 deal.

25 The Chairman. Well, I was trying to make a deal with

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Heinz, but I couldn't work it out.

2 (Laughter)

3 Senator Bradley. You know, I would take that three
4 years if I were you.

5 Senator Heinz. Mr. Chairman, if I may say so --

6 (Laughter)

7 Senator Heinz. And I want to be serious for a minute.
8 Normally I don't object to the procedures of this committee.
9 I am going to object to the procedures of this committee,
10 because there is a normal way to proceed, Mr. Chairman.

11 Normally there is a method that is far, where you
12 decide, upfront, how you are going to proceed. There is an
13 item before the committee that has been made available to
14 everybody, and it is normal to amend it.

15 Now, normally we don't stand on a lot of formality. But
16 using the procedures you used, I find it a little tricky.

17 The Chairman. Well, we don't want to be tricky.

18 (Laughter)

19 The Chairman. We don't even want to reduce the deficit;
20 I am about convinced of that. But we want to vote on a lot
21 of good things, so let's vote on -- yours is a five-year
22 extension; Senator Chafee has offered a substitute for one
23 year, I assume.

24 Senator Heinz. Oh, I have a perfecting amendment for
25 Senator Chafee, of three years.

1 Senator Moynihan. Mr. Chairman, it would be so simple
2 to do a cascade -- five, three, one -- and see where we are.

3 The Chairman. All right, let's vote on five. That,
4 hopefully, won't pass.

5 Mr. DeArment. This is on five years?

6 The Chairman. Yes.

7 Mr. DeArment. Mr. Packwood?

8 Senator Packwood. No.

9 Mr. DeArment. Mr. Roth?

10 Senator Roth. No.

11 Mr. DeArment. Mr. Danforth?

12 Senator Danforth. No.

13 Mr. DeArment. Mr. Chafee?

14 Senator Chafee. No.

15 Mr. DeArment. Mr. Heinz?

16 Senator Heinz. Aye.

17 Mr. DeArment. Mr. Wallop?

18 (No response)

19 Mr. DeArment. Mr. Durenberger?

20 Senator Durenberger. No.

21 Mr. DeArment. Mr. Armstrong?

22 (No response)

23 Mr. DeArment. Mr. Symms?

24 Senator Heinz. Aye, by proxy.

25 Mr. DeArment. Mr. Grassley?

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Grassley. No.

2 Mr. DeArment. Mr. Long?

3 Senator Long. No.

4 Mr. DeArment. Mr. Bentsen?

5 Senator Bentsen. No.

6 Mr. DeArment. Mr. Matsunaga?

7 Senator Matsunaga. No.

8 Mr. DeArment. Mr. Moynihan?

9 Senator Moynihan. No.

10 Mr. DeArment. Mr. Baucus?

11 (No response)

12 Mr. DeArment. Mr. Boren?

13 (No response)

14 Mr. DeArment. Mr. Bradley?

15 Senator Bradley. No.

16 Mr. DeArment. Mr. Mitchell?

17 (No response)

18 Mr. DeArment. Mr. Pryor?

19 Senator Pryor. No.

20 Mr. DeArment. Mr. Chairman?

21 The Chairman. No.

22 So now it is not extended at all. It expires, right?

23 Now we will have a vote on one year.

24 Senator Heinz. Oh, Mr. Chairman, I thought we were

25 going to vote on three.

1 The Chairman. Eleven Nays and three Yeas. The
2 amendment is not agreed to.

3 Senator Heinz. Can we vote on three?

4 The Chairman. It is all right with me. We could have
5 started it about a half-hour ago.

6 Three years.

7 Mr. DeArment. This is the vote on extending it for
8 three years.

9 Mr. Packwood? No.

10 Mr. DeArment. Mr. Roth?

11 Senator Roth. No.

12 Mr. DeArment. Mr. Danforth?

13 Senator Danforth. No.

14 Mr. DeArment. Mr. Chafee?

15 Senator Chafee. No.

16 Mr. DeArment. Mr. Heinz?

17 Senator Heinz. Aye.

18 Mr. DeArment. Mr. Wallop?

19 (No response)

20 Mr. DeArment. Mr. Durenberger?

21 Senator Durenberger. No.

22 Mr. DeArment. Mr. Armstrong?

23 (No response)

24 Mr. DeArment. Mr. Symms?

25 Senator Heinz. Aye, by proxy.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Mr. DeArment. Mr. Grassley?

2 Senator Grassley. Aye.

3 Mr. DeArment. Mr. Long?

4 Senator Long. Aye.

5 Mr. DeArment. Mr. Bentsen?

6 Senator Bentsen. No.

7 Mr. DeArment. Mr. Matsunaga?

8 Senator Matsunaga. Aye.

9 Mr. DeArment. Mr. Moynihan?

10 Senator Moynihan. Aye.

11 Mr. DeArment. Mr. Baucus?

12 (No response)

13 Mr. DeArment. Mr. Boren?

14 (No response)

15 Mr. DeArment. Mr. Bradley?

16 Senator Bradley. Aye.

17 Mr. DeArment. Mr. Mitchell?

18 (No response)

19 Mr. DeArment. Mr. Pryor?

20 (No response)

21 Mr. DeArment. Mr. Chairman?

22 The Chairman. No.

23 The Yeas are 8, the Nays are 7. Temporarily it is
24 three years -- a three-year extension.

25 Voice. Senator Boren votes Aye.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 The Chairman. It is now tied. No -- it loses.

2 Excuse me.

3 Mr. DeArment. That makes it 8-to-8, and the motion
4 would fail.

5 Senator Chafee. I move one year, Mr. Chairman.

6 Senator Heinz. Well, I think the rollcall is still
7 open, isn't it, Mr. Chairman?

8 The Chairman. Well, we would need to conclude it. Let's
9 just go for two years, a voice vote.

10 (Chorus of Ayes)

11 The Chairman. All right.

12 Senator Heinz. Report me in the negative, Mr. Chairman.

13 The Chairman. All right.

14 Senator Heinz. I don't want to cut it for all three.

15 The Chairman. What about the church audits? Is that
16 ready, Chuck?

17 Senator Grassley. Just about.

18 Senator Bradley. Mr. Chairman, how is our blackboard
19 doing?

20 The Chairman. Has it been updated?

21 Mr. DeArment. It is current. The revenue losers that
22 we have adopted tentatively presumably are subject to
23 approval of revenue offsets, so --

24 The Chairman. But how much have we adopted?

25 Mr. DeArment. Let me just look.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 (Pause)

2 Mr. DeArment. Approximately \$4 billion in revenue losers.

3 The Chairman. That's a pretty good start.

4 Senator Bradley. Over three years.

5 The Chairman. Over three years.

6 What about church audits?

7 Mr. Chapoton. I think Senator Grassley said he was not
8 quite ready.

9 The Chairman. Oh, all right.

10 Let's move to the energy tax credits.

11 Senator Wallop. Mr. Chairman, as far as I know, Buck
12 and I and my staff and the committee staff have agreed on
13 those which basically call for a three-year extension of the
14 15-percent energy investment tax credit for business solar,
15 wind, geothermal, and oceanthermal property; and a 10-percent
16 energy tax credit for biomass is also extended for three
17 years.

18 The affirmative commitment rule for synthetic fuel
19 projects would be extended until 1-1-87, at which point the
20 Synfuel Project, in order to continue to qualify for the
21 credit --

22 The Chairman. I think we ought to notify -- I think
23 Senator Pryor and Senator Baucus wanted to be present on
24 this, and Senator Boren. I think they have staff here,
25 so go ahead.

1 Senator Wallop. The tar sands and oil shale
2 hydrogenation equipment, which were previously covered, will
3 also qualify for the energy tax credit at the 10-percent
4 level. And the 5-cent a gallon exemption from the Federal
5 Fuel Exise Tax for alcohol fuel would be increased by 1 cent.
6 That is one that the Chairman and Senator Durenberger and
7 Senator Grassley are interested in.

8 And the credit ordering proposal that was in H.R. 4170
9 will also be part of that amendment. I think Dave Brockway
10 can explain that better than can I.

11 Mr. Brockway. The credit ordering proposals are simply
12 the proposals that were discussed in the committee before
13 and have been approved by the House. It would combine all
14 of the business tax credits into one credit and allow
15 100 percent against the first \$25,000 of income, and 85
16 percent of the rest of the tax liability.

17 Senator Wallop. Mr. Chairman, I would say that the
18 energy tax credit package for 1984 through 1987 has a total
19 revenue loss of \$654 million, and the credit ordering
20 provisions raise \$656 million; so we are in effect adding
21 \$2 million to the revenue pie. It is as close to neutral
22 as we can get in this thing.

23 Mr. Chapoton. Yes. We have worked with Senator Wallop
24 and his staff. We had proposed allowing the credits to
25 expire. This is a limited extension of the credits, and we

1 think it works out a package that we certainly can accept.

2 Senator Matsunaga. Mr. Chairman, I offer an amendment
3 to extend by one year, through an affirmative-commitment
4 rule -- that is, on condition that the permit applications
5 were filed and design plans completed by December 31, 1988.--
6 That is before the expiration of the three-year term -- and
7 significant expenditures were contracted for or made by
8 July 31, 1989. Then it would have one additional year.

9 This was in the original bill in 1983; that is, last
10 year, and the Treasury had approved it.

11 Mr. Chapoton. Senator Matsunaga, as I understand it,
12 I think this would just extend the affirmative-commitment
13 rule one year. And in an attempt to reduce the revenue
14 package, I think Senator Wallop had generally agreed that
15 the affirmative-commitment rule would be restricted, as he
16 has just described.

17 Senator Wallop. Sparky, I am sympathetic with it. We
18 were trying the best we could, and we came down to a choice
19 of extending the affirmative-commitment rule or just a pure
20 extension, but not both of them.

21 Senator Matsunaga. But the cost is very minimal,
22 because this would only cover those projects which have been
23 started within the period.

24 As you well know, and as a cosponsor of the measure with
25 you -- and we have practically every Member of this committee

1 as a cosponsor of the original bill.

2 Senator Wallop. That is true, and I agree with that,
3 and I tried with the McDonnell Douglas wind projects thing
4 to do it. I am more than sympathetic. I was simply trying
5 to get into the envelope --

6 Senator Matsunaga. I just wanted to bring out the fact
7 that the cost is minimal, that we have practically every
8 Member, as I said, of this committee as a cosponsor, and it
9 would merely mean an extension of one year and an affirmative
10 commitment, and only extend it to those who have already
11 made commitments and entered into contracts for construction,
12 et cetera.

13 Senator Wallop. I understand what it would do.

14 Do you have a revenue figure?

15 Mr. Chapoton. No, we don't. That's what I was just
16 asking for. I think we will, definitely. I understand the
17 proposal now, and I think we ought to see what it costs in
18 revenue.

19 The Chairman. Well, what does that mean, the
20 "affirmative-commitment rule"?

21 Mr. Chapoton. As I understand it, it means -- Ron,
22 maybe you had better speak to that.

23 Mr. Pearlman. Well, the affirmative-commitment rule is
24 a rule in the present law that will be extended, if I
25 understand Senator Matsunaga correctly, which simply says

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 that in developing one of these projects -- in this case, a
2 renewable energy project -- if the taxpayer accomplishes
3 certain things, does its engineering at certain points
4 and then gets its plans and specifications to do the project
5 at another point, that even though the project is out some
6 years from the date that the credits would otherwise not be
7 effective, that the credits would be available.

8 If you take a couple of small steps during that period,
9 then you are eligible for the credit out several years in
10 the future.

11 Senator Wallop. This has to do with projects having
12 enormously long lead times. They are sometimes hampered by
13 Federal regulation not to desire the company.

14 Just for example, with the synthetic fuels affirmative
15 commitment, they have to have completed their engineering
16 studies and their permit applications by 1987. Then three
17 years later it requires that half of the specifically-defined
18 equipment has been ordered. And the third part of it is
19 that the project has to be placed in service by three years
20 after the second date. So there is an ordered sequence of
21 such things which are necessary with these large lead time
22 projects, and the complications of environmental law and
23 the Federal Energy Regulatory Commission, and others.

24 Senator Matsunaga. That's right, EPA and others take
25 time. It takes anywhere from two to six years in order to

1 get the project developed. And we are talking about
2 major commercial-sized renewable energy projects which will
3 cost the sponsors anywhere from \$100 million to \$400 million
4 in 1984 dollars.

5 The Chairman. Do you have any idea at all what the
6 revenue will be?

7 Mr. Pearlman. Mr. Chairman, if those numbers are
8 accurate the credit is 10 percent. So it could be
9 significant.

10 I would suggest, if you can, let us get a handle on
11 what Senator Matsunaga's extension will cost, and we will
12 report that back.

13 We had to cut the affirmative-commitment rule down in
14 order to make this package revenue neutral. That was part
15 of the discussions with Senator Wallop and his staff.

16 Senator Bradley. Mr. Chairman?

17 The Chairman. Senator Bradley?

18 Senator Bradley. While you are getting those numbers,
19 Mr. Pearlman, could you also get the number that would
20 demonstrate the degree of Federal subsidy to these projects
21 that have affirmative commitments, and the degree of Federal
22 subsidy -- total Federal subsidy, not just the investment
23 tax credit but also the loan guarantee and everything
24 else that comes out of the synthetic fuel corporation?

25 Now, last year we had this debate in here, and we aired

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 it fully. I think is important that maybe in the time when
2 we are looking for a little revenue, that we should refocus
3 on whether we want to allow synthetic fuel projects to
4 double-dip into the Federal Treasury, because that is
5 precisely what they are doing. On the one hand we appropriate
6 money to synthetic fuels corporations, and on the other
7 hand we give them investment tax credits. So we lose on
8 both ends of the deal.

9 Now, last year in the committee that view didn't
10 prevail, but maybe this year it might. And I would hope
11 they would get those numbers, at least, when we come back
12 so the committee might know the degree of subsidy.

13 Mr. Pearlman. We will be happy to.

14 Let me point out, though, Senator, that the affirmative
15 commitment rules can apply to projects that are not
16 to synfuels subsidies, or other government subsidies.

17 Senator Bradley. I am asking you specifically for
18 those projects that are recipients of synthetic fuel
19 subsidies.

20 Mr. Pearlman. All right. We will try to provide those.

21 The Chairman. I think that is a good idea. That can
22 be readily obtained, right?

23 Mr. Pearlman. I assume that information is readily
24 obtainable. We will try to do that.

25 The Chairman. Sparky?

1 Senator Matsunaga. I might point out that the amendment
2 is necessary, because many of the projects would not even
3 be started unless we have this.

4 I will give you an example. In my home State, the
5 wind energy. We have proposed the 80-megawatt windfarm,
6 and that is a major project which would cut down the ohm
7 imports. Yet, because the energy credits were running out
8 and the Administration had proposed termination of the
9 energy tax credits, they just withdrew and abandoned the
10 project altogether.

11 The Chairman. I wonder if we might do this, unless
12 there is some objection, and I know Senator Durenberger
13 has some amendments, but go ahead and approve the basic
14 amendment and then let Treasury get back to us on
15 Senator Matsunaga's concerns. And if it is true that it
16 is a minimal revenue loss, I don't know any problem with it.

17 Senator Matsunaga. As a matter of fact, Mr. Chairman,
18 we are going to enjoy a profit, because the energy tax
19 credit -- experience has shown that for every dollar credit
20 given, we have enjoyed \$9 in revenues. It is a profitable
21 venture.

22 I would be amenable to having this postponed, provided
23 we have a vote on it.

24 The Chairman. Well, if we get the revenue figures
25 first, maybe there won't be any need for a vote on yours.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Matsunaga. Oh, I see. All right.

2 Senator Packwood. Mr. Chairman?

3 The Chairman. Senator Packwood?

4 Senator Packwood. What is your intention in dealing
5 with the residential alternative energy credits that run
6 out at the end of 1985?

7 Senator Wallop. The residentials are not a part of the
8 package.

9 Senator Packwood. No. I understand that.

10 Senator Durenberger. I intend to offer an amendment,
11 if this is the appropriate time.

12 Senator Packwood. Well, I would like to offer an
13 amendment, too; but that is why I was asking the Chairman.
14 I don't know how many vehicles we are going to have to offer
15 these two, but if we are going to extend the business credits
16 I would like to add the extension. There would be no change
17 in the percentages, just extend the present residential
18 credits.

19 The Chairman. Right. I think if you can find an offset,
20 maybe VEBAs or something, we could probably take care of it.

21 (Laughter)

22 Senator Wallop. Over the three years it is 1.5 billion.

23 The Chairman. How much?

24 Senator Wallop. One and a half billion.

25 The Chairman. Well, that's a profit.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Symms. Mr. Chairman, I had some questions on
2 geothermal energy, whenever it is appropriate. I would
3 like to ask him about this.

4 The Chairman. Go ahead.

5 Senator Symms. I have two sets of questions; one on
6 geothermal energy, and then I have one on the 1-cent alcohol
7 exemption that I wanted to inquire about.

8 But first of all, on geothermal energy, I introduced a
9 bill earlier this year, S. 1237, which was to clarify the
10 Internal Revenue Code of the definition of "geothermal
11 energy."

12 As you know, I believe it was in 1978 when the committee
13 and the Congress passed the Energy Tax Act, there was some
14 reference in that to what geothermal energy tax credits and
15 so forth were allowed.

16 But there is a requirement, a temperature requirement,
17 in the language of the IRS regulations.

18 Mr. Chapoton. Is this on the depletion question,
19 Senator?

20 Senator Symms. Not on the depletion question, just on
21 whether you can get a tax credit.

22 The IRS has arbitrarily said that a certain temperature,
23 I think they say 122° -- if your water temperature is below
24 122° you are not qualified. But there are a lot of people
25 out there who have 95 or so degree water that would work.

1 Senator Wallop. If I can say, under this the water
2 temperature threshold qualifying geothermal property is
3 reduced from the present level of 50° to 40°.

4 Senator Symms. Well, what is 40° -- 106?

5 Senator Wallop. Yes.

6 Mr. Stretch. It is 104, I believe, Senator.

7 Senator Symms. Could we bring that down to 90°
8 Fahrenheit without any trouble?

9 Mr. Chapoton. Senator, I don't have any idea. I would
10 have to see what is involved. I am sure there is a reason
11 for picking a temperature level, but I am not sure what the
12 effect of it is.

13 Senator Symms. And then, say, what if they mixed
14 geothermal with another source of energy, some kind of
15 biomass or something?

16 Senator Wallop. This adopts the provisions of the
17 Packwood Bill, as I understand it. It is substantially more
18 attractive than it was where we are. You know, going from
19 there really gets into some problems.

20 Mr. Chapoton. I would assume it substantially enlarges
21 the property that is eligible for the credit; but I don't
22 know what is involved or what the logic of the cut-off now
23 is.

24 Senator Symms. Well, we had some hearings on it. I
25 don't think it would be much different. But what I am

1 talking about is more of a technical question, where you
2 put the temperatures and so forth, of who is eligible and who
3 isn't. I would be interested in having you look at it to
4 see if that could be included.

5 Mr. Chapoton. We would be happy to look at it.

6 Senator Symms. I don't want to interfere with what
7 Senator Wallop is trying to do here, or in any way impose
8 on what he is trying to do; except, if we could do it all
9 at once, I don't think it would make a lot of difference.

10 Mr. Chapoton. Well, I will be happy to look at it.

11 Senator Symms. The way I understand it right now, if
12 you use biomass and geothermal you don't qualify; if you
13 qualify under geothermal under present law, you do.

14 I don't know how Senator Wallop's amendment would
15 affect this.

16 Mr. Chapoton. I don't think it would affect that at
17 all. Evidently you are talking about an existing law
18 restriction, and I think Senator Wallop's amendment does
19 not change those rules.

20 But Senator, I am just not aware of this problem, and I
21 will have to look at it.

22 Senator Symms. Well, we might go ahead and accept his
23 part, and then take a look at this to see if maybe it
24 wouldn't be a problem.

25 Mr. Chapoton. All right.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 The Chairman. Well, Senator Packwood has raised a
2 question, a legitimate question, if we are going to extend
3 expiring provisions in one area, maybe we had better focus
4 on the expiring residential provisions.

5 I am wondering if we might get Treasury to take a careful
6 look at all the expiring residential credits. Some may have
7 been very effective; there may be some that we want not to
8 renew. And let us know.

9 Is there somebody who could start working on that
10 this afternoon?

11 Mr. Chapoton. Yes, sir.

12 Senator Symms. And then the other question I have is
13 on this one cent for the gasohol exemption. Is that going
14 to be treated so only the alcohol gets the one-cent
15 exemption, or when they pour it in with nine gallons of
16 petroleum they get the exemption on all 10 gallons?

17 Mr. Chapoton. We went through this, I remember, in the
18 gas tax rate. I think the entire gallonage gets the
19 exemption, not just the alcohol content.

20 Senator Symms. I would just say to my colleagues, I
21 don't think everyone in the Congress has always fully
22 understood what the gasohol exemption is. I know, for those
23 of us who come from farm States, they do make some alcohol.
24 But when they mix that with nine gallons of petroleum, they
25 are getting an exemption on 10 total gallons.

1 I would prefer to see us give the alcohol exemption to
2 the full 9 cents, and do it on just the alcohol, and not give
3 it on the mix; because what we are trying to do it to go out
4 and make the market do something that the market may not
5 want to do. And what happens is, the trust fund always comes
6 out with less money on these deals.

7 Mr. DeArment. Gasohol is a product that is at least
8 10 percent alcohol. And when it is blended in that way,
9 then it is eligible for the exemption.

10 So you are right. It goes on each gallon of gasohol,
11 which is the blend.

12 Senator Symms. We are talking about a lot of money to
13 the trust fund. That is what we all need to understand here.

14 Mr. Chapoton. Yes. Well, the point you are making has
15 been made before, Senator. I think you translate the
16 benefit off of the entire mix into the benefit to the
17 alcohol component, and you just see what the value is to the
18 alcohol component. I think this question has been discussed
19 before.

20 The Chairman. Can we get a quick fix on Sparky's
21 revenue estimates?

22 Senator Matsunaga. This measure has been before us,
23 Mr. Chairman, since last year.

24 Mr. Chapoton. I did not know it was coming up today,
25 Senator. We do not have a number.

1 Senator Matsunaga. But then, you see, in working out
2 the compromise, the Wallop-Matsunaga Bill --

3 The Chairman. Do you think it is less than 50 million?

4 Senator Matsunaga. It would actually be a profit,
5 because unless we give the credit, they won't go into
6 business. And if they won't go into business, we lose all of
7 that revenue.

8 It is an incentive to get people to go into business to
9 produce electricitiy on a large scale. That is what we want
10 in order to become energy self-sufficient.

11 Mr. Brockway. We have somebody on the phone with the
12 estimate. Because it was up before, we should be able to
13 get something back in another 10 minutes or so.

14 The Chairman. I think we can get it very quickly.

15 Senator Matsunaga. You see, many of the Members here
16 would like to vote on it. They came here specifically to
17 vote on this, and I would hate to lose the forum.

18 The Chairman. Well, if it is a low revenue, you don't
19 even need to vote. If it is a high revenue, you may not want
20 to vote.

21 Senator Matsunaga. According to the experts providing
22 me with my information, and these are people who represent
23 the Renewable Fuels Association, the American Wind Energy
24 Association, the Geothermal Industry Group, the National
25 Hydropower Association, et cetera, it is minimal.

1 The Chairman. That's what they all say when they
2 want something.

3 Senator Bradley. Did we dispose of Senator Symms'
4 amendment on the --

5 The Chairman. Room temperature?

6 Senator Bradley. The lukewarm energy tax credit?

7 (Laughter)

8 The Chairman. Have we figured out how hot the water
9 had to be?

10 Mr. Chapoton. No. Senator Symms said to go ahead and
11 dispose of the other, and we would get back to him on
12 the effect of this.

13 Senator Bradley. The average temperature of water in a
14 whirlpool is about 105, just as a point of reference, in
15 case you want to know that. You are suggesting it is
16 geothermal at 90°?

17 The Chairman. No, it is higher than that, isn't it?

18 Senator Symms. When Congress passed the Act, they
19 didn't set a temperature threshold. And the IRS set a
20 temperature threshold at 122 Fahrenheit. There is a lot of
21 90-degree water that can be used in geothermal, but it is
22 being cut out of the use of it by an arbitrary setting of
23 the temperature. And that's the question I have.

24 If you could look at S. 1237 -- to the Treasury people
25 -- and see how much it would affect this amendment, that is

1 what I would like to know. But I don't want to interfere
2 with what Senator Wallop is trying to do.

3 The Chairman. All right. Can we agree to the basic
4 amendment? And then we are checking on Sparky's deal, and
5 we will check on Senator Symm's, and I will recognize
6 Senator Durenberger.

7 Without objection, then.

8 Senator Symms. Did they have an answer on how much
9 that costs the trust fund?

10 The Chairman. Oh, that one little penny there? It's
11 not as much as you have cost me this morning, so far.

12 (Laughter)

13 The Chairman. Senator Durenberger?

14 Senator Durenberger. Mr. Chairman, when we get around
15 to the residential energy investment tax credits, I am going
16 to support the Senator from Oregon in his efforts to extend
17 those credits.

18 But now I would like to move that we extend the
19 exemption from the gas tax for ethanol fuel to 9 cents from
20 the existing 5.

21 This is a proposal that went through this committee in
22 the Surface Transportation Act last December, got cut back,
23 passed on the floor of the Senate and got cut back in
24 conference with the House. So we have already approved a
25 9-cent ethanol exemption, along with an increase to 90 cents

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 in the tariff on imported alcohol fuels.

2 I can make the national security arguments, or I will
3 make the PIC argument, or I can say we are in the process of
4 banning leaded fuel, and this as a tremendous way to go back
5 to a higher octane fuel to replace the difference between
6 leaded and unleaded fuel. I can make any of those arguments,
7 but I hate to take your time to make them, because we have
8 made them before in this committee. And this committee has
9 approved.

10 The Chairman. But I think we do have to address
11 Senator Symms' question: If you go up to 9 cents, how do
12 we replenish the trust fund?

13 Senator Durenberger. Well, we have a couple of ways
14 of doing it, I suppose. One is the one where you have got
15 to trust the folks at the State level. If you look, this
16 is commonly called out there the "federalization of the
17 exemption." And most of the States in this country have
18 told us that if we pass a 9-cent exemption at the federal
19 level, they're going to get out of the State exemption
20 business.

21 One of the problems that they have bought for themselves
22 with their State exemptions is that they will have their
23 State exemption apply only to alcohol fuels purchased in
24 that State, and they end up discriminating against fuels
25 from other States.

1 So, most of the States would like to get rid of their
2 exemptions, if only we had an economical tax exemption at
3 this level. And I think that is going to end up going into
4 highways at the State level, as the States get rid of their
5 own exemptions. So it may not help the trust fund directly,
6 but it is going to go into highways.

7 We could look at the blender credit, too, I suppose.

8 Senator Symms. Let me ask a question on that. Don't
9 you think -- many of you have been in the State
10 legislatures, I haven't. But I would think that the pressure
11 would be on them if we give the exemption, then all the
12 political pressure from the same interests who want the
13 exemption will be on them, saying, "You've got to have a
14 gasohol exemption." So, they will lose money.

15 Right now, Senator Grassley knows this better than I
16 do, but Iowa has written me letters. They are having a hard
17 time getting enough money to match their funds, because of
18 their gasohol exemption. And they are a donee State. I
19 mean, they take out more than they put in the trust fund.

20 Senator Durenberger. Somewhere here I have a letter
21 from Iowa. Iowa wants to get rid of their exemption for
22 that very reason. And Iowa is one of the States that wants
23 us to do the 9-cent tax at this level.

24 Senator Symms. Oh. I see what you are saying.

25 The Chairman. In other words, if they eliminate their

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 exemption, it doesn't create a problem?

2 Senator Durenberger. Not for them, no. It puts 4 cents
3 more back, or whatever they may have, back into their
4 highway trust fund.

5 Mr. Brockway. Well, what the committee has done so far
6 in going to 6 cents on gasohol is about 200 million. This
7 would increase that loss by another 550 million, roughly.

8 I gather that this proposal does not have anything
9 that would have the exemption, the increased exemption, turn
10 on whether the State eliminated their subsidies.

11 The Chairman. That is what I am trying to determine.
12 Maybe there is something we can do in that area.

13 Mr. Brockway. You have something in the law right now
14 in the case of certain of the other energy credits that,
15 to the extent that a State provides a subsidy, that the
16 Federal subsidy isn't allowed. And conceivably you could do
17 that here.

18 The Chairman. You might also look at the blender credit
19 thing that Steve was talking about.

20 Senator Symms. What is Secretary Dole's position on
21 this?

22 Mr. Chapoton. I think Secretary Dole is strongly
23 opposed to this provision, this change.

24 Senator Symms. Mr. Chairman, you didn't hear what the
25 Treasury just said. I asked a question about Secretary Dole.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Mr. Chapoton. The Secretary of Transportation is
2 opposed to this change, Mr. Chairman.

3 The Chairman. Well, we all make mistakes.

4 (Laughter)

5 The Chairman. I am probably making one here.

6 (Laughter)

7 Senator Wallop. Let me just say that the argument is
8 only partially right; we are now talking from 6 cents, not
9 five.

10 Mr. Brockway. That is correct. Going to 6 cents was
11 200 million, and this is an additional 550 above that, in
12 the three years.

13 Senator Chafee. Well, Mr. Chairman, I remember we
14 discussed this a couple of years ago. Doesn't this
15 represent a very substantial in effect "subsidy"?

16 Mr. Chapoton. Yes.

17 Senator Chafee. And if I remember the figures, it was
18 something like \$37 a barrel, wasn't it?

19 The Chairman. It has gone up.

20 Mr. DeArment. At 9 cents, it amounts to 90 cents a
21 gallon, times 42 gallons.

22 The Chairman. It is 55, isn't it?

23 Mr. DeArment. I think 42 in a barrel.

24 Senator Chafee. Go ahead.

25 Mr. DeArment. Thirty-seven dollars.

1 Senator Chafee. Thirty-seven dollars a barrel? That's
2 fairly generous.

3 Senator Symms. Well, Senator Chafee, what it is trying
4 to do is to divide free enterprise and say we are going to
5 give people 9 cents a gallon times 10 gallons, so they
6 really get a bigger exemption than what meets the eye here,
7 because it is what it is diluted into. They put one gallon
8 of alcohol in 9 gallons of petroleum and go out here and
9 sell it, and then they get an exemption of 9 cents a gallon
10 on each gallon, to try to get people to drive a car with
11 gasohol in it instead of gasoline in it. That is really
12 what the whole thing is about.

13 And so, we are trying to force that issue through
14 the Tax Code, at the expense of the highways.

15 Mr. Brockway. Mr. Chairman, the numbers I gave
16 you unfortunately were only for 1984 through 1986. For
17 1984 through 1987 it would be -- going to 6 cents was
18 300 million, and going to 9 cents is an additional 900
19 million on top of that.

20 The Chairman. And where does that come from, the
21 Highway Trust Fund?

22 Mr. Brockway. Yes.

23 I think these may be net numbers, in which event --

24 Senator Heinz. Mr. Chairman, why do we want to do
25 this? Why do we want to enrich current law?

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 The Chairman. I am not certain we do. I mean,
2 Senator Durenberger has offered the amendment.

3 Senator Durenberger. What we are trying to do,
4 basically, is to get an industry on its feet, and trying to
5 achieve some energy independence in this country, trying
6 to save us from putting our money into PIK programs for
7 corn. You get two and a half gallons of alcohol out of one
8 bushel of corn, at an expenditure here of -- whatever this
9 figures out to -- the equivalent of one-tenth of about
10 18 or 21 cents.

11 But it is the difference between that program being
12 economical and not being economical.

13 Senator Heinz. Would you yield?

14 Senator Durenberger. Sure.

15 Senator Heinz. David, I'll tell you, I am going to have
16 to oppose you, for this reason:

17 If it is a choice between getting some people back on
18 their feet by the targeted jobs tax credit or getting an
19 industry back on its feet, I am for people and against
20 starting some new business. So I have got to oppose you.

21 Senator Durenberger. Well, I could take you back
22 through the energy crises in this country that put people out
23 of work, and say that this is the kind of effort that is
24 going to make sure you don't go through the recessions we
25 have gone through, that are energy induced. Do you want to

1 get to the heart of the problem, or do you want to come at
2 it after the fact with your targeted jobs tax credit?

3 Senator Symms. Well, David, let's talk about that.
4 Let me ask a question. You say you get two and a half
5 gallons of alcohol out of a bushel of corn.

6 Senator Durenberger. Right.

7 Senator Symms. Well now, we have got a little farm out
8 there in Idaho, and there isn't anybody I know who wants to
9 grow corn for -- that's only \$2.50 a bushel. You can't
10 afford to grow it. You would be better off to grow ground
11 than to grow corn for that. Just let the weeds grow -- it's
12 cheaper.

13 (Laughter)

14 Senator Symms. That's the problem, now. That is what
15 we are trying to fight right here.

16 If this committee wants to give a 9-cents a gallon
17 exemption to alcohol, I'll vote for it, if you will just
18 keep it to the alcohol.

19 Senator Bradley. I think the Senator makes a good point.
20 He makes a good point.

21 Mr. DeArment. Senator Symms, that would be a substantial
22 cutback from current law; because, to the extent that it is
23 not blended and used straight --

24 Senator Symms. I have made my point.

25 Senator Bradley. But I think it is still a good point.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Mr. DeArment. To the extent that it is used straight,
2 right now we have a 50-cent alternative credit.

3 Senator Bradley. Sure.

4 The Chairman. All right.

5 Now, we have adopted the basic amendment, the Wallop
6 amendment. Before we vote on this, I would like to find out
7 if we can do some of these things, the so-called State --
8 or we might put some language. There is also a tariff
9 question involved. We've got the Brazilians who want to
10 run up all of their material up here.

11 Mr. Brockway. To change it to the State, Mr. Chairman,
12 to the extent you reduce the additional subsidy to the
13 State, that might reduce somewhat the growth. I don't know
14 how much effect it will have on the overall revenues.
15 Obviously, if they have large State benefits on top of what
16 would now be a 90-cent a gallon subsidy for gasohol, at
17 some point you would have a real inducement to use it.

18 In the aggregate, going fully to 9 cents from the
19 5 cent currently, it would be 1.2 billion -- 300 from going
20 to 6, another 900 from going all the way to 9. That is a
21 net revenue loss. The amount lost to the trust fund is
22 something more; it would be about 1.6 billion. The reason
23 why you have a smaller revenue loss is, because there is
24 less tax paid, people can get that, have a larger income.

25 The Chairman. Let's take a look at it overnight,

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Dave, if it is all right, to see if we can figure out some
2 way.

3 Senator Bradley. Mr. Chairman, could I ask you, you
4 said overnight. So we are going to be back tomorrow
5 morning on the bill?

6 The Chairman. Yes.

7 Senator Bradley. How long do you think we will go
8 this afternoon?

9 The Chairman. I hope about another hour. I think we
10 are making such good progress.

11 (Laughter)

12 Senator Bradley. Mr. Chairman, are you ready for the
13 amendment that I wanted to offer, that I talked to you
14 about, to raise a little revenue?

15 The Chairman. No, not quite.

16 (Laughter)

17 Senator Bradley. All right.

18 The Chairman. If it is the one I have in mind.

19 The R&D credit -- have you been working on that? As I
20 understand it, we have got about a \$700 million additional
21 cost if we do the depreciation and services.

22 Mr. Chapoton. We are waiting for a complete breakdown
23 that I wanted to work on, on the revenue, that I wanted to
24 show to Senator Danforth.

25 Senator Danforth, one of the problems is, the basic

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 three-year extension is more expensive. As I was
2 explaining to your staff, it is more expensive than I
3 described this morning. The basic three-year extension,
4 as the Joint Committee pointed out, and my people have
5 advised me earlier, and I misstated today, we carry a
6 three-year extension in the budget of 1.1 billion, and it
7 is now almost 1.8 billion.

8 The Chairman. That is without the depreciation.

9 Senator Danforth. Everybody agreed on that.

10 Mr. Chapoton. All right.

11 The Chairman. Do you want to try your methanol when
12 you finish this?

13 Mr. Chapoton. Yes. I do have the others in the
14 ballpark, if you want to go to that.

15 (Continued on next page)

16

17

18

19

20

21

22

23

24

25

1 Mr. Chapoton. Allowing the depreciation on equipment
2 used in R&E and in the base is 211, 475, and 547 over these
3 three years, so that is 1.2. You would offset that by
4 removing R&E equipment from the three-year class to the
5 five-year class which would more than offset the 1.2.

6 That, during those years, would increase receipts by
7 \$70 billion, and \$80 million, and 847 in 1968 and 1.8 in
8 1987.

9 Senator Danforth. That would be a net?

10 Mr. Chapoton. That would be a net gainer for these
11 three years. Obviously, when you are moving them into
12 the five-year class, that means, for example, those same
13 figures go 78, 74 -- these are pickups -- 78, 74, 1.8, 1.4
14 and then drop in 1989 to only \$229 million, and we can
15 see that we are going down after that.

16 It would not be a plus in 1989 -- it would be a \$500
17 million negative.

18 Senator Danforth. Okay. What about services?

19 Mr. Chapoton. The services over the three-year period
20 are between \$100 and \$125 million.

21 Senator Danforth. \$100 and \$125 million--

22 Mr. Chapoton. I am sorry. I do not have the table here.
23 I have a handwritten note. I am advised that that would be
24 \$100 million per year -- it would be point 3. My table is
25 on its way up here.

1 The Chairman. You gain it initially and lose it
2 later.

3 Mr. Chapoton. Yes. Through 1987, it is a gainer of
4 about 1.5.

5 The Chairman. If we could just stop it there, it would
6 be all right.

7 Mr. Chapoton. Senator, one thing that worries me about
8 this is that obviously even on a cash flow basis we are
9 rewarding people who are eligible for the credit at the
10 expense of those who -- for one reason or another -- cannot
11 use the credit, and when you are changing equipment from
12 the three to five-year class, that is the depreciation
13 provision.

14 The Chairman. What is the test to qualify for credit?

15 Mr. Chapoton. The test to qualify for the credit is
16 whether the expenditure is research and development, and
17 that is the definition we have been working on.

18 This would add to costs which qualify for the credit
19 depreciation on equipment used in research and development.
20 In 1981, this came up and we decided not to cover equipment
21 because the concern that you could debt finance equipment
22 and because ostensibly the ACRS benefit was given to the
23 equipment, and it was thought that it should not be the ACRS
24 and the R&E credit as well.

25 The Chairman. How do you interpret that? Who is going

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 to decide? Is it that easy to interpret?

2 Mr. Chapoton. What is or is not research and
3 experimentation is a very difficult decision. That has been
4 the problem since 1981, and the definition of that term
5 -- qualified research and experimentation -- is what we
6 have been working with Senator Danforth's staff and with
7 representatives of industry, particularly the electronics
8 industry association.

9 We do have a definition that we are happier with. We
10 do not know that it solves all the problems. Without a good
11 definition, the R&E credit is not an incentive at all. It
12 is simply a tax reduction for a broad range of industries
13 far beyond those commonly thought to be engaged in research.

14 And we are attempting to limit it where it has an
15 incentive effect in research.

16 Senator Danforth. Mr. Chairman, there is a definitional
17 problem, and it has been recognized from the outset, and it
18 has been something that we have been working on. And I
19 don't think there is any doubt that this bill is an
20 improvement over present law.

21 The basic concept of the R&D credit is not only
22 supported by the Administration but was mentioned by the
23 President in the State of the Union speech.

24 The Chairman. Right.

25 Senator Danforth. I think that the issues before us

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 are fairly narrow, and one is the question of the permanency
2 and the other is these other two items.

3 The Chairman. And the Treasury suggested what? I
4 think we ought to do it as we did earlier.

5 Mr. Chapoton. We suggested a three-year extension of
6 the credit and no credit for depreciation and no charitable
7 deductions for services.

8 The Chairman. Let's first try to establish the duration
9 of the program. Should we vote on the three-year first?

10 The Administration's?

11 Senator Danforth. Three years and then permanent?

12 The Chairman. There are a lot of options between three
13 and permanent.

14 Senator Danforth. Mr. Chairman, I would hope that we
15 don't start arguing number of years because I really think
16 the difference in business or university planning on research
17 projects is whether or not they are able to plan.

18 Therefore, I think that any time limitation really
19 restricts that. In that sense, it is unlike the job credit
20 issue -- it is not just a question of arbitrary years, but
21 whether or not there is an arbitrary year limitation. I
22 think that fact alone is really a deterrent.

23 And there was substantial testimony on this.

24 The Chairman. Again, the Administration has proposed
25 just three --

1 Mr. Chapoton. I don't mean we are hung up on three
2 years. We would like the program to be sunsetted so that
3 Congress and that we would reexamine whether the program
4 is working well. And that is a question that we have
5 spent a lot of time on to try to see how it has an incentive
6 effect.

7 Obviously, it is saving people's money, and it is saving
8 some tax money. It is saving some money that, I think, none
9 of us intended, and that is what we have been worried about,
10 and why we are redefining the credit now.

11 But I don't feel and we certainly don't feel in the
12 intra-agency effort -- Commerce, the National Science
13 Foundation has been involved, the Office of Policy
14 Development in the White House -- we are not by any means
15 satisfied with the definition we have come up with. We
16 think we need to see how well it is working, and we want
17 the Congress to look at it again.

18 So, three years, five years, something in that
19 neighborhood would certainly be acceptable to us.

20 Senator Danforth. Mr. Chairman, just very briefly, we
21 have been working with Treasury very closely on the whole
22 issue. We resolved every question but three.

23 I have offered to Secretary Chapoton the possibility of
24 dropping those other two provisions in exchange for the
25 time line. He can't do that. So, therefore, I think the

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 most important question is the time deadline issue, and I
2 think that any deadline is just a mistake.

3 Senator Moynihan. Is it not the case that if we decide
4 after review that we don't like this program, we can repeal
5 it?

6 Senator Danforth. We can repeal it or modify it in
7 any way. Sure.

8 The Chairman. That is like any other temporary program
9 in the Government -- I think they are still breeding cavalry
10 horses -- that was another temporary program.

11 I guess the point is is the only option three years?

12 Mr. Chapoton. No, I said five years would be
13 acceptable to us. Six years. I think it ought to be long
14 enough. Three years may be too short. It ought to be long
15 enough that you can have an evaluation of the program,
16 just as long as the program is reevaluated within a period
17 of time when the information is in.

18 And we frankly were afraid that we would not do that
19 unless we sunset it. That is the practice we followed in
20 the past.

21 I recognize Senator Danforth's point about planning,
22 but at the same time, that was what was done in 1981, and
23 we are fully aware of those arguments -- the people who
24 are doing research and experimentation.

25 The Chairman. We have already done jobs credits on

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 five years, which was Senator Heinz' proposal, and Senator
2 Danforth's is permanent, so let's vote first on whether or
3 not it should be permanent.

4 Senator Heinz. Mr. Chairman, could I just ask a
5 question about the Treasury position? The Treasury's position
6 is that you don't want it permanent -- you want it five,
7 seven, some number of years.

8 Mr. Chapoton. Right.

9 Senator Heinz. So you can evaluate it.

10 Mr. Chapoton. Yes.

11 Senator Heinz. How long do you need to evaluate it?

12 Mr. Chapoton. I think we need a period of time after
13 the changes that we are talking about are in place. We
14 are talking about two or three years plus a year to study
15 the two or three years.

16 Senator Heinz. So, you need two or three years
17 experience plus another year to evaluate?

18 Mr. Chapoton. Yes.

19 Senator Heinz. One of the reasons I raised that, Mr.
20 Chairman, is that we only have the targetted jobs credit
21 on the books for about a year, too, in its present form,
22 so if we want to evaluate that we are not going to do it
23 in the short space of time that the Secretary is for.

24 The Chairman. On that one, we are still waiting on
25 1981.

1 Senator Heinz. I understand, but that is not our fault,
2 Mr. Chairman.

3 The Chairman. Oh, I understand that.

4 Senator Heinz. I am as anxious to have all of these
5 programs evaluated as the chairman is, but I want to
6 understand what they think is necessary for an evaluation.

7 But, Mr. Chairman, your point is well taken. Sometimes
8 even if you say it is going to be done in three years and
9 then to us in the year after that, you don't get it then.

10 Now, what is the cost of this program again for extending
11 it?

12 Mr. Chapoton. It is \$1.8 billion over the three-year
13 period.

14 Senator Heinz. Did we find a way to pay for this?

15 The Chairman. It goes into this little group. We have
16 a little group called tentatively approved based on
17 offsetting revenues. That is where spousal IRAs are resting,
18 enterprise zones, targetted jobs credit.

19 Senator Heinz. Are we going to have a credit ordering?

20 (Laughter)

21 The Chairman. You know, we are doing pretty well. We
22 are losing it about as fast as we are taking it in today.

23 So, let's vote on this. The Administration is opposed
24 to its being permanent?

25 Mr. Chapoton. Yes, sir.

1 The Chairman. Did I hear Senator Danforth say that if
2 it were permanent, he would drop the other two?

3 Did you say that, John?

4 Senator Moynihan. Yes, he did.

5 The Chairman. If it were permanent, you would drop
6 the other two items?

7 Mr. Chapoton. I think Senator Danforth said if we
8 would not renew our opposition in the conference, and I
9 am not authorized to do that.

10 Senator Danforth. That is the point. The only way to
11 give something is to get something. I don't want to give
12 anything, but Treasury's position was that it wasn't really
13 going to give anything.

14 The Chairman. Let's vote on whether it ought to be
15 permanent. I don't know how long that is.

16 Mr. DeArment. Mr. Packwood?

17 Senator Packwood. No.

18 Mr. DeArment. Mr. Roth?

19 Senator Roth. (No response)

20 Mr. DeArment. Mr. Danforth?

21 Senator Danforth. Aye.

22 Mr. DeArment. Mr. Chafee?

23 Senator Chafee. Aye.

24 Mr. DeArment. Mr. Heinz?

25 Senator Heinz. No.

1 Mr. DeArment. Mr. Wallop?
2 Senator Wallop. No
3 Mr. DeArment. Mr. Durenberger?
4 Senator Durenberger. (No response)
5 Mr. DeArment. Mr. Armstrong?
6 Senator Armstrong. (No response)
7 Mr. DeArment. Mr. Symms?
8 Senator Symms. Aye.
9 Mr. DeArment. Mr. Grassley?
10 Senator Grassley. (No response)
11 Mr. DeArment. Mr. Long?
12 Senator Long. (No response)
13 Mr. DeArment. Mr. Bentsen.
14 Senator Bentsen. Aye.
15 Mr. DeArment. Mr. Matsunaga?
16 Senator Matsunaga. Aye.
17 Mr. DeArment. Mr. Moynihan?
18 Senator Moynihan. Aye.
19 Mr. DeArment. Mr. Baucus?
20 Senator Baucus. Aye.
21 Mr. DeArment. Mr. Boren?
22 Senator Boren. (No response)
23 Mr. DeArment. Mr. Bradley?
24 Senator Bradley. No.
25 Mr. DeArment. Mr. Mitchell?

1 Senator Mitchell. (No response)

2 Mr. DeArment. Mr. Pryor?

3 Senator Pryor. (No response)

4 Mr. DeArment. Mr. Chairman?

5 The Chairman. No.

6 The eyes are 7, the nays are 4. It is temporarily
7 permanent.

8 (Laughter)

9 Senator Matsunaga. You have already announced that the
10 Joint Committee has figures on my earlier amendment, Mr.
11 Chairman, which I said was negligible.

12 Mr. Brockway. In the window it only gets \$3 million,
13 but it only really starts at the end of 1987, but it is
14 like \$80 million a year --

15 Mr. Stretch. What the amendment does is provide a
16 one-year period for affirmative commitments after 1988,
17 so it is in calendar 1989. There is a \$3 million effect
18 in 1987, about \$15 in 1988, and then there would be \$60 or
19 so in 1989. And then we are finished with the effect.

20 The Chairman. So, it is about \$75 million all together?

21 Mr. Stretch. Yes.

22 Senator Matsunaga. Actually, it would be only for the
23 one additional year. That is because up to 1988 --

24 The Chairman. Because it takes a while.

25 Senator Matsunaga. Yes.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Mr. Stretch. All right. There are some expenditures
2 that will be made earlier because people will see the
3 affirmative commitment and will go ahead and start doing
4 things that they otherwise would not.

5 The Chairman. Does Treasury have any comment on that?

6 (Pause)

7 Mr. Chapoton. I think we agree.

8 The Chairman. Without objection, it will be agreed to.

9 Senator Matsunaga. I have another amendment, if this
10 is appropriate, on the energy tax matter. For solar
11 photovoltaic cells, an enhancement tax credit of 15 percent.
12 I believe Senator Wallop is familiar with this.

13 This is an amendment for 15 percent enhancement for
14 photovoltaic cells.

15 The Chairman. What kind of cells?

16 Senator Matsunaga. Photovoltaic cells. I am sorry but
17 my foreign accent comes on.

18 (Laughter)

19 Senator Matsunaga. And this would grant an additional
20 15 percent credit for developers of solar photovoltaic cells,
21 50 percent of which now are being exported, and to help the
22 export industry. Without this 15 percent they tell me that
23 they won't be able to compete on the foreign market.

24 And I offer it in order to save this industry.

25 The Chairman. What is the revenue impact?

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Matsunaga. The revenue impact is a loss of
2 \$170 million over the --

3 The Chairman. I hope we defeat it, you know.

4 Senator Wallop. It has not only that revenue impact,
5 but it has another impact that is still a little larger
6 and more serious. I am in favor of it conceptually, but
7 it is just too rich.

8 The Chairman. Yes. I would hope that we can draw
9 the line here somewhere. We did \$2 billion there in about
10 5 minutes, and now here is another \$200 million. I am ready
11 to vote on it.

12 Senator Matsunaga. I ask for a vote.

13 The Chairman. The clerk will call the roll.

14 Mr. DeArment. Mr. Packwood?

15 Senator Packwood. (No response)

16 Mr. DeArment. Mr. Roth?

17 Senator Roth. (No response)

18 Mr. DeArment. Mr. Danforth?

19 Senator Danforth. No.

20 Mr. DeArment. Mr. Chafee?

21 Senator Chafee. (No response)

22 Mr. DeArment. Mr. Heinz?

23 Senator Heinz. (No response)

24 Mr. DeArment. Mr. Wallop?

25 Senator Wallop. No.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Mr. DeArment. Mr. Durenberger?
2 Senator Durenberger. No.
3 Mr. DeArment. Mr. Armstrong?
4 Senator Armstrong. (No response)
5 Mr. DeArment. Mr. Symms?
6 Senator Symms. (No response)
7 Mr. DeArment. Mr. Grassley?
8 Senator Grassley. No.
9 Mr. DeArment. Mr. Long?
10 Senator Long. Aye.
11 Mr. DeArment. Mr. Bentsen?
12 Senator Bentsen. No.
13 Mr. DeArment. Mr. Matsunaga?
14 Senator Matsunaga. Aye.
15 Mr. DeArment. Mr. Moynihan?
16 Senator Moynihan. (No response)
17 Mr. DeArment. Mr. Baucus?
18 Senator Baucus. No.
19 Mr. DeArment. Mr. Boren?
20 Senator Boren. (No response)
21 Mr. DeArment. Mr. Bradley?
22 Senator Bradley. Aye.
23 Mr. DeArment. Mr. Mitchell?
24 Senator Mitchell. (No response)
25 Mr. DeArment. Mr. Pryor?

1 Senator Pryor. (No response)

2 Mr. DeArment. Mr. Chairman?

3 The Chairman. No.

4 The nays are 7, the ayes are 3.

5 All right. There are still two remaining issues on the
6 Danforth basic proposal -- services and depreciation.

7 Mr. Chapoton. Yes, one of the questions is whether
8 services qualify -- contributions of services in the
9 scientific field -- for scientific research -- educational
10 research -- if it would qualify for charitable contributions.

11 This issue arises in connection with gifts of
12 scientific equipment, computers, and others. It first arose
13 that they wanted to give parts and related supplies. We
14 agreed, and this proposal would broaden the contribution
15 that was adopted in 1981 to cover those types of property.

16 And now the request is services in connection with that
17 equipment that has been given would also qualify for the
18 charitable deduction.

19 Our position has been that there is no place in the
20 law now where services qualify for the charitable deduction,
21 and so we would be very concerned if breach that principle
22 and start qualifying services for charitable contribution
23 deductions, without regard to how worthwhile the recipient
24 of those services his endeavor might be.

25 The Chairman. All right. Can we just have a voice

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 vote on this? Those in favor say aye.

2 (Those in favor responded aye.)

3 Opposed no.

4 (Those opposed responded no.

5 The no's have it.

6 Senator Bradley. Could we have a roll call on that then?

7 Senator Danforth. Mr. Chairman, on this kind of
8 equipment, if you give to a college highly technical
9 research equipment and don't service it, you have given
10 them a white elephant. This is not just ordinary services.
11 This is services which are incidental to the technical
12 equipment that is furnished, and it seems to me to be a
13 package.

14 Senator Bradley. Could we have a roll call on it?

15 The Chairman. What is the cost?

16 Mr. Chapoton. \$100 million a year.

17 Senator Durenberger. Mr. Chairman, can I ask a
18 clarifying question? It is services in connection with
19 the installation of --

20 Senator Danforth. And maintenance.

21 Senator Durenberger. And maintenance of donated
22 equipment only, not other services? Just to install it and
23 repair it.

24 The Chairman. How do you determine that?

25 Senator Durenberger. I don't know.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 The Chairman. I mean, they fix everything in the
2 university, and they say they are fixing the equipment.

3 Mr. Chapoton. Yes. Of course, the donor of the
4 equipment, who is already getting a benefit unlike other
5 donors in the tax law -- that is, he is getting the full
6 fair market value deduction for the equipment -- whereas
7 others, if it is an inventory item, is getting a deduction
8 only limited to cost, he frankly could give the additional
9 amount of money if he wants to.

10 And of course, he would get a deduction for his cost
11 of the services provided. The question is whether he also
12 gets an additional deduction for the fair market value of
13 the services.

14 Mr. Brockway. Or limited to 150 percent. I think this
15 would be, rather than in a typical case where you deduct
16 the cost of your employee performing the service, this
17 would allow you that plus an additional 50 percent deduction
18 above and beyond that. That is limited to fair market
19 value.

20 The Chairman. Is there any precedent for this?

21 Mr. Chapoton. There is no case now, even though it
22 has been presented in a number of instances, that we ought
23 to allow a charitable deduction for contributions of
24 services to charities, and many citizens of this country
25 contribute their services to charity every day but to not get

1 the charitable deduction for the value of those services.

2 So, there is no precedent for this.

3 Senator Bentsen. But that deduction would not be just
4 at the cost to the contributor, but at the fair market
5 value?

6 Mr. Chapoton. Correct. It would be tantamount to a
7 volunteer going down and working in a hospital in the
8 afternoon and claiming a deduction for services. Indeed,
9 this is the case we will hear next, and it will be difficult
10 to say that this is not a worthwhile case.

11 The volunteer goes to the hospital and works all
12 afternoon and claims the charitable deduction for the value
13 of his or her services.

14 Senator Danforth. Mr. Chairman, that is the most
15 off-point analogy I have ever heard given by Buck Chapoton.

16 (Laughter)

17 Senator Danforth. That has nothing to do with the
18 candy-striper pushing the cart around the hospital. This
19 is a company which gives very expensive -- usually research
20 types, sophisticated equipment to a university.

21 The Chairman. Is it limited to that?

22 Senator Danforth. Yes, it is limited to that.

23 Mr. Chapoton. This is limited to that. I didn't mean
24 to say that this would allow that deduction.

25 Senator Danforth. The question is whether that

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 expensive, sophisticated research type equipment is going
2 to be serviced or not. That is the issue.

3 Mr. Chapoton. Senator, I didn't say this would allow
4 that. I said that is the next case, and it will be
5 impossible to say that this case is distinguishable because
6 people do worthwhile services daily.

7 Senator Danforth. I think it is simple to distinguish.

8 Senator Symms. Buck, isn't it a fact that what you
9 are saying is that if IBM gives a sophisticated computer
10 to the University of Kansas, they get a tax credit for it.

11 Mr. Chapoton. They get a tax deduction unlike other
12 manufacturers of equipment.

13 Senator Symms. They get more than 50 percent dollar
14 tax is what you are saying. And then if they send a
15 maintenance man down to work on it, they pay his wages so
16 that is a business expense.

17 Mr. Chapoton. Right.

18 Senator Symms. But what Jack is saying is that we
19 need to have a little more incentive so they will actually
20 send a maintenance man down there?

21 Mr. Chapoton. That is what he is saying, yes.

22 Senator Symms. That is what he is saying, so it is
23 coming off the bottom line of the tax return instead of up
24 in the deduction part. It comes off of the actual tax
25 dollars. Is that right, Jack?

1 Senator Danforth. No, this isn't a credit. This is
2 a deduction of 150 percent of the basis.

3 Senator Symms. In other words, you are paying a guy
4 \$100 to go do this maintenance job, and you deduct off
5 \$150. Is that what you are saying?

6 Senator Danforth. Yes.

7 Senator Symms. Okay.

8 The Chairman. That is better than I thought it was.

9 (Laughter)

10 Senator Symms. But the point is that the company should
11 still get the \$100 off if the chairman prevails.

12 The Chairman. I am not trying to prevail. I am just
13 trying to keep some sanity in this package.

14 Senator Symms. I understand that, but I am just trying
15 to get it through my head what is going on. They can still
16 send a maintenance man down there to the college and fix
17 the computer and charge it as business expense if the guy
18 is on the payroll for IBM. If they send him over there to
19 work on the campus, it is their business where he works.

20 The Chairman. Does the Joint Committee have any
21 information on this?

22 Mr. Brockway. No, I think that description is accurate.
23 You could deduct it right now, and this would allow you a
24 deduction up to your cost plus 50 percent for your employee
25 having provided services.

1 Senator Heinz. Mr. Chairman, how is cost determined?
2 Is it the cost of the person's salary divided by the hours
3 or is it the so-called full cost? I mean, does it include
4 overhead and those other kinds of costs?

5 Mr. Brockway. It is just your direct costs of providing
6 the services.

7 Senator Heinz. What is the definition of direct costs?

8 Mr. Brockway. I would assume that it was what you
9 would deduct on your return as compensation -- that expense
10 rather than also including a pro rata portion of overhead,
11 for example. It would limit it to the salary-paid employee
12 and other related costs.

13 Senator Heinz. I am trying to find out what those
14 related costs are. Now, this fellow has a supervisor.
15 Are supervisory costs -- even though the supervisor may
16 not be present -- included?

17 Senator Danforth. No. The answer is no.

18 Senator Heinz. Is it in fact correct that nothing
19 other than the salary of the person --

20 Mr. Brockway. No, I would think that the supervisor
21 was spending some time on providing this service. The
22 transportation costs, and other costs that were directly
23 related to providing the service.

24 Senator Heinz. Would his travel time be included in
25 that?

1 Mr. Brockway. Surely. His salary plus any costs
2 incurred in travel, plus the other 50 percent above and
3 beyond that.

4 Senator Heinz. I understand the percentage add-on.
5 That I understand. I am just trying to figure out what
6 the base is.

7 Senator Wallop. Mr. Chairman, I just do not understand
8 why we would be involved as the taxpayers of this country
9 in paying IBM for their noncharitable instincts, if that
10 was the case.

11 The Chairman. That is what I wanted to ask.

12 Senator Wallop. And it is us that is picking it up,
13 and them that is getting the credit.

14 The Chairman. Is this a little mom and pop operation
15 we are talking about?

16 Mr. Chapoton. I think for the most part these are
17 manufacturers of very sophisticated equipment.

18 Senator Wallop. If they deduct 100 percent of it now,
19 then we are picking up the other 50 percent -- the taxpayers
20 are -- and they are getting the charitable credit. I don't
21 understand that. It just doesn't make any sense.

22 The Chairman. Not to me either.

23 Why don't we vote on it because we have got several
24 other items.

25 Mr. DeArment. Mr. Packwood?

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Packwood. No.
2 Mr. DeArment. Mr. Roth?
3 Senator Roth. (No response)
4 Mr. DeArment. Mr. Danforth?
5 Senator Danforth. Aye.
6 Mr. DeArment. Mr. Chafee?
7 Senator Chafee. (No response)
8 Mr. DeArment. Mr. Heinz?
9 Senator Heinz. No.
10 Mr. DeArment. Mr. Wallop?
11 Senator Wallop. No.
12 Mr. DeArment. Mr. Durenberger?
13 Senator Durenberger. No.
14 Mr. DeArment. Mr. Armstrong?
15 Senator Armstrong. (No response)
16 Mr. DeArment. Mr. Symms?
17 Senator Symms. No.
18 Mr. DeArment. Mr. Grassley?
19 Senator Grassley. (No response)
20 Mr. DeArment. Mr. Long?
21 Senator Long. No.
22 Mr. DeArment. Mr. Bentsen?
23 Senator Bentsen. No.
24 Mr. DeArment. Mr. Matsunaga?
25 Senator Matsunaga. (No response)

1 Mr. DeArment. Mr. Moynihan?

2 Senator Moynihan. (No response)

3 Mr. DeArment. Mr. Baucus?

4 Senator Baucus. Aye.

5 Mr. DeArment. Mr. Boren?

6 Senator Boren. (No response)

7 Mr. DeArment. Mr. Bradley?

8 Senator Bradley. No.

9 Mr. DeArment. Mr. Mitchell?

10 Senator Mitchell. (No response)

11 Mr. DeArment. Mr. Pryor?

12 Senator Pryor. (No response)

13 Mr. DeArment. Mr. Chairman?

14 The Chairman. No.

15 The nays are 9, the ayes are 2.

16 The other issue is what -- depreciation?

17 Mr. Chapoton. Whether depreciation qualifies for the
18 credit. Depreciation of research and experimentation
19 equipment.

20 The Chairman. Who gets the depreciation?

21 Mr. Chapoton. The same taxpayer gets the depreciation,
22 and the question is about the depreciable equipment.

23 When we adopted the provision in 1981, there was a lot
24 of discussion whether you limit it to direct costs, whether
25 it would include supplies -- that type of thing.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 It would cover all out-of-pocket costs. It does not
2 cover depreciation on equipment that is used in the research
3 activity. And this would change that and it would cover
4 it -- it would allow the depreciation deduction.

5 Senator Packwood. I am still confused as to who gets
6 it.

7 Mr. Chapoton. I am sorry. We have moved on, Senator
8 Packwood, it doesn't have anything to do with the gift to
9 the college. This is a research activity conducted by
10 IBM or a small company or a large company, and they have
11 salaries that they pay which clearly qualify for the credit.

12 We are assuming the activity is clearly research. They
13 also use supplies -- those costs qualify -- but they also
14 have a machine that they use for research, and they take
15 depreciation deductions with respect to that machine and
16 an investment tax credit with respect to that machine.

17 And the question is whether they also get the R&E
18 credit for that machine.

19 Senator Danforth. Is the useful life as part of this
20 package -- does that change from three to five years -- and
21 the effect of this amendment is a revenue gain --

22 The Chairman. Early on. Then it is a big loser.

23 Senator Danforth. We are not talking about what happens
24 in the year 1990. The whole tax program that we are talking
25 about is a three-year program, and for that three-year

1 period of time, this is a gainer of what -- 1.5?

2 Mr. Chapoton. Approximately \$1.5 billion.

3 I think we should keep in mind, Senator, that between
4 the three and five year class -- we pointed out I think
5 several times last year -- at the present value benefit
6 of the tax write-off -- whether you are in the three or
7 five year class -- is roughly the same. Maybe even a little
8 better in fact because if you go to the five-year class you
9 get the 10 percent investment tax credit depending on
10 how long you are going to hold the equipment.

11 The five is roughly the same as the three year, so in
12 total cost to the Federal Government, you are not saving
13 any money though you are saving it over these three years.

14 The Chairman. Can we terminate it at the end of three
15 years?

16 Mr. Chapoton. That is not the proposal.

17 The Chairman. I know, but we could sure use the money.
18 What would happen if you did that at the end of three years?

19 Senator Packwood. Let me understand what you are
20 suggesting. If we change the depreciation to five years
21 but terminate the program after three years?

22 The Chairman. No.

23 Mr. Chapoton. No, I don't believe that would work.

24 (Laughter)

25 Mr. DeArment. Mr. Chairman, what that would do is, if

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 you had somebody in their third year or fifth year of
2 depreciation, if you switch back to three, then you would
3 say sorry about those last two years.

4 The Chairman. Treasury is opposed to it, right?

5 Mr. Chapoton. Yes, sir. We did not want in 1981 these
6 non-out-of-pocket type expenses to qualify and particularly
7 because this type of equipment already gets the benefit
8 that was significantly increased in 1981, that is the
9 ACRS benefit and the investment tax credit.

10 So, we did not want it in the R&E program.

11 The Chairman. Is there a request for a record vote?

12 (No response)

13 The Chairman. If not, all those in favor say aye.

14 (Those in favor responded aye.)

15 Opposed no.

16 (Those opposed responded no.)

17 The no's have it.

18 Let's move on to some items under review by Treasury.

19 On page 2, Senator Chafee is --

20 Senator Danforth. Before we do that, may I clarify
21 something. Has the rest of the R&D all been agreed to or
22 not?

23 The Chairman. Temporarily, it is permanent.

24 Senator Danforth. I know the permanent part, but I mean
25 the underlying --

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Mr. Chapoton. The other parts of the package we had
2 agreed to, yes.

3 Senator Danforth. That has been agreed to so that is
4 part of the package.

5 The Chairman. Mr. Chapoton, in our discussions in the
6 past few days, we have been putting in this category items
7 under review by Treasury and tax staff. I think we might
8 dispose of some of those, and then Senator Bradley wants
9 to be recognized.

10 So, let's try some of these.

11 Mr. Chapoton. Okay. As you know, on the first item,
12 Mr. Pearlman and I have disqualified on that because the
13 taxpayer involved was a client of my old firm.

14 The Chairman. As I understand from Mr. Pearlman, there
15 is no way to estimate what would happen in that instance
16 because you can't get the information. Is that correct?

17 Mr. Pearlman. That is correct, Mr. Chairman. We have
18 not received the kind of information that would permit us
19 to make an estimate.

20 The Chairman. Then I suggest, until the information is
21 available, that we just eliminate it. Any objection to that?

22 (No response)

23 The Chairman. So, we will just eliminate that.

24 What about number two -- employee awards? That is
25 a proposal by Senator Garn.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Mr. Chapoton. Yes, sir, that is Senator Garn's
2 proposal. It has a revenue impact over these three years
3 of \$197.

4 The Chairman. I thought you were going to reduce that.

5 Mr. Chapoton. That has been.

6 The Chairman. But it is still not enough.

7 Senator Packwood. What is the provision?

8 Mr. Pearlman. Senator, this provision is a package of
9 provisions that is intended to increase the exclusion from
10 income to the employee when the employee receives a variety
11 of awards that might be given by an employer. In 1981 --

12 The Chairman. I think Bob understands. I think it
13 is still too expensive, so let's go back to the drawing
14 board.

15 What about number three -- foreign tax credit changes.
16 That was one that Senator Danforth --

17 Mr. Brockway. Senator Danforth had some proposals.
18 We have been looking at them. They did cause substantial
19 revenue-- We have been looking at some other proposals in
20 the foreign area that possibly would not make it revenue
21 neutral, but we haven't reached a concensus on those.

22 The Chairman. I don't want to do this without Senator
23 Danforth being in the room, but I had hoped we could just
24 eliminate some of these items from consideration.

25 We are never going to finish the package.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Symms. While you are waiting, Mr. Chairman,
2 I have one we could bring up and dispose of that is revenue
3 neutral.

4 The Chairman. I would want to look at it.

5 (Laughter)

6 The Chairman. Maybe while we are waiting to deal with
7 that number three, we can recognize Senator Bradley.

8 Senator Bradley. Mr. Chairman, this is a proposal
9 that I offer that would provide for an olympic checkoff
10 on the tax returns so if a citizen wants to contribute to
11 the Unites States Olympic effort, he can do so in a little
12 box on the tax return. It has no revenue effect. The cost
13 of administering it comes off the top of what is raised
14 in the course of the year in which there is a checkoff.

15 It has been introduced by Senator Stevens and Senator
16 Innouye, and it provides and facilitates a way for
17 individual citizens to finance our U.S. Olympic effort.

18 It is quite straightforward and simple, and frankly
19 we operate at a real disadvantage when we are comparing
20 other nations' olympic financing because they just take it
21 right out of their Government treasury and send it right
22 down.

23 Senator Packwood. Bill, let me ask you this. I am
24 trying to remember that there was some justification made
25 -- and I can't remember what it is -- for making an exception

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 for the Olympics in allowing this whereas we are not going
2 to allow it for the National Symphony or the Pittsburgh
3 Museum or anything else.

4 Senator Bradley. The basic rationale is that this is
5 a quadrennial event that is much more than a normal national
6 event or a charity. It is the kind of manifestation of
7 our national spirit that is a worldwide event, and therefore
8 it requires a special treatment.

9 Senator Moynihan. And the fact that the other nations
10 really do finance in one way all of their teams and we don't.

11 Senator Packwood. Senator Long. And then I am curious
12 about Treasury's views.

13 Senator Long. Let me ask you -- does Treasury favor
14 this?

15 Mr. Chapoton. Senator, the Treasury does not favor it,
16 but let me be candid, I think there are those in the
17 Administration who do favor it. We are concerned about
18 the impact on the tax form, some complexity when you have
19 made the contribution and later have a deficiency for that
20 year. But principally, I think the tax decision has to be
21 whether you are going to worry about the tax form and the
22 precedent you are setting.

23 This is not the first time this has come up, of course.
24 For National Science Foundation and for other types of gifts.

25 So, we have not favored it for those reasons.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 I might say, for example, California started this on
2 allowing checkoffs, and they now have on page 2 of their
3 form some six or seven items that are allowed a checkoff.

4 Senator Packwood. I take it you are aiming at small
5 contributions, not unlike the political funding?

6 Senator Bradley. That is right.

7 Senator Packwood. Let me ask Buck a question then.
8 If you are aiming at small contributions, this committee has
9 already very firmly decided to continue on with the above
10 the line charitable contributions, which will achieve 100
11 percent at a relatively small contribution level.

12 Could not the Olympics or anybody else use that as a
13 selling point, assuming you convince somebody that you
14 are the priority, to in essence get 100 percent
15 contributions and they will get it off their income tax
16 under the existing charitable contribution law as it extends
17 out through 1986.

18 Mr. Chapoton. That is correct. Whether or not they
19 itemize their deductions.

20 Senator Packwood. Yes.

21 Senator Long. The thought occurred to me that there
22 are all kinds of ways if you want to use the tax law that
23 you could use the tax law to help the Olympics. And I am
24 willing to help them by way of a tax credit or some other
25 measure, but I don't think we ought to put another line on

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 the tax return for the taxpayer just to look at and to make
2 an individual decision because we have got one there with
3 the presidential campaign fund. That was debated up one
4 side and down the other for years before we finally concluded
5 that.

6 And I think it would just confuse matters to have an
7 additional line that every taxpayer has got to decide on
8 his tax return, and I think you feel the same way.

9 Now, I am perfectly willing to vote for a tax credit
10 in addition to a deduction. I am willing to go along with
11 the kind of thing Senator Packwood indicated where we give
12 them the short form return to go ahead and claim it above
13 the line, just like Senator Packwood wanted to do for
14 religious contributions.

15 I am willing to vote for something to get them money.
16 I just don't think we ought to use that technique. And may
17 I say that once we start that, Ralph Nader has got a scheme
18 where he wants us to use the tax credit. Common Cause has
19 some plan, I think, where they want to use the tax credit
20 for their purposes.

21 Every time we turn around, someone wants to use this
22 tax checkoff to finance something where they might have
23 difficulty financing it otherwise, and I just don't think
24 it is that hard to finance the Olympics if we are left with
25 no other choice but this.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 It seems to me that you could just provide a tax credit,
2 for example, in addition to the deduction and make it twice
3 as easy for people to contribute as it is now.

4 Senator Bradley. Let me just say that a tax credit
5 requires a line of your income tax return just as well as
6 the checkoff. A tax credit would also cost the Treasury
7 money, and this does not cost the Treasury anything, and I
8 happen to think that the Olympics are a special kind of
9 experience, a special kind of national endeavor.

10 Senator Wallop. If the Senator would yield, I dare say
11 nobody in here would have much trouble distinguishing
12 between the request from the Olympics Committee and Ralph
13 Nader.

14 Senator Bradley. Hypothetically, what Senator Long
15 says is correct. You could get a whole lot of petitions,
16 but I have no problem saying no and drawing distinctions
17 between this and whoever else made the request.

18 Senator Long. Here is a list. It is so long that I
19 have to use bifocals to read it off. And here are all the
20 things that it says you can contribute to -- you can
21 contribute to United Way, but that doesn't require a
22 separate line on your tax return.

23 To put a separate line on there for the Olympics I
24 think is going to complicate the tax return.

25 The Chairman. Can we vote on this?

1 Senator Symms. Could I ask just one question? I
2 don't want to delay it but my concern is and I wonder do
3 the Olympic Committee people have any fear that if this
4 is put on the tax return that then their legitimate
5 charitable fund-raising efforts will be -- that people will
6 say we are doing that on the tax return so we don't need to
7 make any other donation.

8 Senator Bradley. No, I would think not. You are dealing
9 with different categories of contributors. You are talking
10 about on a tax return a person who is going to send \$5.00,
11 \$10.00 and check it off.

12 And you are not dealing with the major corporate
13 sponsors that now are the only supporters.

14 Senator Symms. What is Bill Symonds' position on this,
15 do you know?

16 Senator Bradley. He supports it, I assume.

17 The Chairman. Bill is against spending of any kind.

18 Senator Bradley. And this isn't spending.

19 The Chairman. It is collecting. He is against that,
20 too.

21 (Laughter)

22 The Chairman. He wrote a book on it after he left the
23 Treasury.

24 (Laughter)

25 The Chairman. There has been a lot of talk about

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 simplifying the tax return. I think that one way to do that
2 is to defeat this amendment. So, I would just as soon we
3 vote on it.

4 Mr. DeArment. Mr. Packwood?

5 Senator Packwood. No.

6 Mr. DeArment. Mr. Roth?

7 Senator Roth. (No response)

8 Mr. DeArment. Mr. Danforth?

9 Senator Danforth. No.

10 Mr. DeArment. Mr. Chafee?

11 Senator Chafee. Aye.

12 Mr. DeArment. Mr. Heinz?

13 Senator Heinz. (No response)

14 Mr. DeArment. Mr. Wallop?

15 Senator Wallop. Aye.

16 Mr. DeArment. Mr. Durenberger?

17 Senator Durenberger. (No response)

18 Mr. DeArment. Mr. Armstrong?

19 Senator Armstrong. (No response)

20 Mr. DeArment. Mr. Symms?

21 Senator Symms. Pass.

22 Mr. DeArment. Mr. Grassley.

23 Senator Grassley. Pass.

24 Mr. DeArment. Mr. Long?

25 Senator Long. No.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Mr. DeArment. Mr. Bentsen?

2 Senator Bentsen. (No response)

3 Mr. DeArment. Mr. Matsunaga?

4 Senator Matsunaga. Aye.

5 Mr. DeArment. Mr. Moynihan?

6 Senator Moynihan. Aye.

7 Mr. DeArment. Mr. Baucus?

8 Senator Baucus. Aye.

9 Mr. DeArment. Mr. Boren?

10 Senator Boren. Aye.

11 Mr. DeArment. Mr. Bradley?

12 Senator Bradley. Aye.

13 Mr. DeArment. Mr. Mitchell?

14 Senator Mitchell. (No response)

15 Mr. DeArment. Mr. Pryor?

16 Senator Pryor. Aye.

17 Mr. DeArment. Mr. Chairman?

18 The Chairman. No.

19 On this vote, the ayes are 7, the nays are 3. Let's
20 leave the vote open, so maybe we can change that.

21 (Laughter)

22 The Chairman. Well, they are all open anyway, but I
23 would hope that we don't start a stampede here on what we
24 include. I thought somebody wanted a fairer tax or a
25 simplified tax, or whatever it is.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Bradley. Mr. Chairman, I would be glad to give
2 this up for the fair tax.

3 (Laughter)

4 The Chairman. You figure out a fair tax, and I will
5 deal with you. But we just further complicated it.

6 Senator Grassley. Mr. Chairman, can we do the Church
7 audit now?

8 The Chairman. Are you ready with it? Have you got
9 everybody happy?

10 Senator Grassley. Yes, we do have.

11 The Chairman. Great. That is number one on page one.

12 Senator Grassley. If I could just defer to Mr.
13 Pearlman except, before he speaks, just to say that over
14 the last three or four months -- well, really we only
15 started a month ago -- but there was a lot of disagreement
16 between those of us that introduced the bill and Treasury,
17 and there has been a real good-faith effort to work these
18 things out. And I think both sides have given considerably,
19 and I think we have a good bill.

20 And I think he can explain it very quickly, and I think
21 it will be adopted by consensus. Mr. Pearlman.

22 Mr. Pearlman. Mr. Chairman, we have worked out an
23 agreement. We feel also that it is a good bill and it
24 will cover concerns of the churches, and we are most
25 appreciative to Senator Grassley and his staff in working it

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 out with us.

2 The Chairman. Right. Could you briefly, for the
3 record, give us the short form?

4 Mr. Pearlman. Sure. The bill seeks to establish a
5 series of rules that the Revenue Service must comply with
6 in examinations of churches. It basically requires the
7 Internal Revenue Service to defer the commencement of
8 audit of a church until it has established that it has a
9 reasonable basis to believe that the church either is not
10 qualified--not eligible for tax exemption or has engaged in
11 an unrelated trade or business activity.

12 The Internal Revenue Service is given the ability to
13 develop certain third party information records, for example
14 held by third party recordkeepers, but only under restrictions
15 that protect the churches so that their --

16 The Chairman. Is that satisfactory with Senator
17 Grassley?

18 Senator Grassley. Yes.

19 The Chairman. And others who have been working on it.
20 I understand that there has been a lot of staff input on
21 that.

22 Mr. Pearlman. Right.

23 The Chairman. Is Treasury satisfied?

24 Mr. Pearlman. We are satisfied.

25 The Chairman. Then, without objection, it will be

1 agreed to. Do you want to take methanol?

2 Senator Chafee. Mr. Chairman, I would be glad to take
3 methanol. The only trouble is that Senator Durenberger
4 had some thoughts on that.

5 The Chairman. Oh.

6 Senator Moynihan. I have got a few little things.

7 Senator Chafee. Can I take up the 30 percent
8 withholding?

9 The Chairman. We are coming to that. What about the
10 foreign tax credit changes? Is Senator Danforth in the
11 area?

12 (No response)

13 The Chairman. What was the cost of Senator Danforth's
14 proposal. I don't want to blindside anyone but I would
15 like to eliminate that from the list.

16 Mr. Pearlman. Senator, the proposal started out at
17 a very large dollar amount. It was backed off first to
18 \$530 or \$550 million, and I simply don't remember. We have
19 been working with Senator Danforth's staff, and the number
20 was brought down to \$280 million over three years, and we
21 were asked this morning to give Senator Danforth's office
22 some information on a further cutback of the proposal, which
23 we have done, that reduces the cost in \$100 million plus
24 range. Frankly, I am not sure what Senator Danforth's
25 proposal is at this point.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 The Chairman. I understand that Senator Danforth is
2 coming back, so let's go to some of these we can dispose of.

3 I think number six -- I am prepared to offer an
4 amendment that would remove the cap. I have discussed this
5 with a number of senators. I had a call from Senator Percy
6 and a letter from Senator Percy and I think Senator Dickson.

7 I know Treasury -- that is not the best solution, but
8 I don't know of any other solution. Do you?

9 Mr. Chapoton. Mr. Chairman, no. The problem here does
10 relate back to what was done in 1981. That is sort of one
11 category of it.

12 We now have another set of investments that are related
13 to the commodities straddles that were handled in 1981 by
14 a mark-to-market solution.

15 We now probably have to go mark-to-market on some, but
16 this goes to most of those other types of options and
17 related investments.

18 And we think that when you go to mark-to-market, you
19 simply cannot start by saying you go to a 32 percent rate.
20 We are going to hear advertisements on the radio -- we
21 already hear some of them -- that in investment commodities
22 straddles you get a 32 percent rate on your tax, and it
23 is not long-term capital gain or anything like that. It
24 is short term investment activity, plus we are talking about
25 traders and market-makers who are their day-to-day income,

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 and we are talking about having a 32 percent rate without
2 limit on the total dollar amount that these taxpayers will
3 receive.

4 So, we have a great deal of difficulty with that.

5 The Chairman. It seems to me that, rightly or wrongly,
6 we made a judgment in 1981. And then to say we are going
7 to change the rules in 1984, so what we are going to do is
8 conform stock and options to the rule we made in 1981.
9 That may not be the best policy but unless you know of a
10 better way to proceed.

11 Mr. Chapoton. No. I think we could consider simply
12 not leveling the playing field, and we are not sure how
13 much competition there is between the two markets, and have
14 a different rate of tax on this type of activity.

15 I have to concede that is not going to make a lot of
16 people happy.

17 The Chairman. I can think of a number that wouldn't
18 be very happy with that.

19 Senator Moynihan and then Senator Heinz.

20 Senator Moynihan. Mr. Chairman, I think the proposal
21 yesterday had substantial agreement. Getting rid of that
22 second provision is right, I am sure you are right in that
23 matter, and I think we are doing the right thing.

24 The Chairman. Senator Heinz?

25 Senator Heinz. Mr. Chairman, just a revenue question.

1 Were we to set a ceiling of \$250,000 on the amount that
2 would be taxed at 32 percent, and taxed everything above
3 that at the higher rate? Were we to set that ceiling at
4 \$250,000, how much revenue would we realize from this?

5 Mr. Wetzler. Senator Heinz, we have not made a revenue
6 estimate of that. It would depend on exactly how the
7 cap was drafted, and we have not made an estimate.

8 Senator Heinz. How about for both groups?

9 Mr. Wetzler. There are a lot of technical aspects to
10 it that could significantly affect the revenue, and we have
11 not made an estimate of that.

12 Senator Heinz. But we had a proposal the other day
13 that had a cap in it.

14 Mr. Wetzler. And we had not made an estimate of the
15 proposal.

16 Senator Heinz. All right. Could you do a rough
17 estimate between now and tomorrow?

18 Mr. Wetzler. We can try. I would be hesitant to
19 vouch for its accuracy.

20 Senator Heinz. Some ranges?

21 The Chairman. Does Treasury have any information on it?

22 Mr. Chapoton. Yes.

23 (Pause)

24 Senator Heinz. We don't have to get the information
25 now, Mr. Chairman.

1 Mr. Chapoton. I have got some figures, but frankly,
2 they don't --

3 The Chairman. While you are getting that information
4 for Senator Heinz, maybe we could go ahead and approve
5 what I suggested, and if there is some indication --

6 Senator Moynihan. Let's do that, Mr. Chairman.

7 The Chairman. Is that all right, John?

8 Senator Heinz. Sure.

9 The Chairman. All right.

10 Senator Chafee. Now, as I understand that, that keeps
11 the option traders and the --

12 The Chairman. And the futures in the same level.

13 Senator Chafee. What was it -- 60-40 that we did?

14 The Chairman. Yes, they are all on the same yacht.

15 (Laughter)

16 The Chairman. What about number seven? Is that one
17 we can dispose of?

18 Mr. Brockway. This is an amendment of Senator Bentsen's
19 on bonds, I believe. It is my understanding that Treasury
20 opposes it.

21 Mr. Chapoton. Yes. This is a change in an amendment
22 we adopted in 1981 or 1982 -- I am not sure which -- dealing
23 with tax exempt financing for Gulf Coast waste disposal
24 authority. And at that time, there was a limit placed on
25 the benefits from the tax exemption that could flow through

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 to the industrial user.

2 The Chairman. Is this one you support?

3 Mr. Chapoton. No, Treasury is opposed to this. We
4 think the amendment in 1981 may not have worked correctly,
5 but we are not willing to accept this.

6 The Chairman. Is there a revenue loss involved?

7 Mr. Chapoton. It is principally one taxpayer, so it
8 is in the \$5 million range. Excuse me, one issuer of tax
9 exempt bonds, so there would be a number of industries,
10 but in the \$5 to \$10 million range.

11 The Chairman. We will probably hold that over. Senator
12 Bentsen isn't here.

13 What about number eight?

14 Mr. Brockway. Again, this is an item of Senator
15 Bentsen's. He is working with the staff to try and come
16 up with a revenue neutral item, and I believe he would prefer
17 that it be held over.

18 The Chairman. Okay. Let's go to number nine. Senator
19 Wallop is here and Senator Chafee is here.

20 Senator Chafee. Okay, Mr. Chairman. We have discussed
21 this many times before here, and the basic fact is that
22 foreigners who own a U.S. Government debt or corporate debt
23 are subject to withholding of 30 percent.

24 In order to avoid that, they go through a circumferential
25 highway through the Netherlands and the Antilles. So, they

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 are then not subject. The buyers of the bonds issued
2 through Antilles and the Netherlands are not then subject
3 to the 30 percent withholding.

4 Now, it seems to make considerable sense to give up
5 the 30 percent withholding and thus make our markets more
6 readily available to foreigners to purchase Government debt
7 or a corporate debt.

8 Whether there would be some jobs created in the U.S.,
9 there probably would be -- shuffling papers, and printing
10 certificates, and all that in New York City.

11 Now, when this was presented to us originally, Mr.
12 Chapoton indicated by a letter that this was revenue neutral.
13 Why is it revenue neutral? Well, you pick up a little bit
14 on your 30 percent, but by going through the Netherlands
15 and the Antilles, the U.S. corporations are taxed by
16 the Netherlands and the Antilles, thus the U.S. corporations
17 are entitled to a foreign tax credit, thus reducing their
18 U.S. income taxes, thus reducing revenue to the U.S.

19 So, originally, it appeared to be revenue neutral.
20 Now, we are hearing otherwise. And that is where we stand.
21 On the revenue facts, I just don't know.

22 That obviously is a factor, but there is no question
23 but it makes a lot of sense for the U.S. to get rid of this
24 30 percent if it is not too costly and I would like to hear
25 the revenue figures.

1 Senator Packwood. Can I ask a question?

2 The Chairman. Yes.

3 Senator Packwood. Is the use of the term withholding
4 here its normal use, or does this have a different meaning?

5 Mr. Chapoton. That is a good point. It has a different
6 meaning. This is withholding that you take and run with it.
7 This is the tax -- a tax on gross.

8 Senator Chafee. They can't get a refund if --

9 Senator Packwood. Then, we ought to use the word tax
10 rather than withholding.

11 Senator Chafee. You are right.

12 Senator Packwood. Because withholding gives the
13 impression that you are simply prewithholding the tax,
14 but you are withholding the tax, but you are collecting
15 the tax anyway.

16 Mr. Brockway. In theory, that is the way these
17 withholding taxes work with foreigners. The U.S. payor
18 of the income withholds and in theory there is a tax on
19 the foreign person that they take a credit for, but the
20 truth is that the U.S. payor collects the tax because the
21 foreign person doesn't file an income tax return in the
22 United States, and that is why you do it.

23 We would estimate if it were effected 1185 A -- Revenue
24 Loss -- of roughly \$400 million that Treasury estimates
25 that they were using an offset -- as you pointed out -- that

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 they had suggested there would be some offset if you
2 repealed the tax because bonds that presently go through
3 the Netherlands and the Antilles would come home.

4 I guess there are two things about that. One, I guess
5 we have had some question whether that was appropriate to
6 reflect those revenue estimates, but whether or not it is
7 that the earlier action that the committee took on
8 resourcing income through foreign subsidiaries would have
9 already picked up the revenue -- picked up the secondary
10 effect that Treasury was taking into account.

11 So, I think the net of where the committee is right
12 now would be in that order of magnitude under either theory
13 because the revenue pickup that the committee has already
14 received by the earlier resourcing change.

15 Senator Chafee. Now, is that a figure per year or
16 for three years?

17 Mr. Brockway. No, that is the entire-- It gets up
18 by 1986 to \$150 million a year, roughly. In terms of
19 withholding tax that is presently paid, this would be
20 withholding tax paid to borrowers, let's say, in Canada
21 or in France or in other countries which refuse to agree
22 to a zero rate and treaty so that their investors currently
23 pay tax to the United States on interest income. There are
24 certain ways that U.S. investors in those countries pay
25 tax.

1 Mr. Chapoton. Senator Chafee, let me give just a little
2 background on this. We have got a heck of a problem here,
3 whether we face up to it today or some later time, and we
4 are going to have to.

5 We do have a nominal 30 percent withholding rate on
6 interest paid to foreign holders of U.S. corporate
7 obligations and U.S. Government obligations.

8 That pretty well keeps our corporations out of the
9 world money markets. Where an investment is made through
10 a treaty country, or the borrower or the lender is in a
11 a treaty country, that rate is reduced often to zero.

12 We now have companies that are using the Netherlands
13 and Antilles treaty to access the Eurodollar market. It is
14 a cumbersome device and indeed an expensive device to this
15 country and, in all candor, it is not all together clear
16 by any means that it is permitted under existing law.

17 We would like access to the Eurodollar market, and
18 therefore the Administration has supported your proposal
19 for repeal of the 30 percent withholding. There has been
20 a significant disagreement between the staffs on the
21 revenue impact.

22 It is related both to the-- I think a principal unknown
23 question is: How much will be refinanced and how much of
24 the existing bonds issued through the Antilles will be
25 refinanced because now they do claim a credit for the taxes

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 paid to the Antilles against the U.S. tax liability.

2 We carry a lower number than the Joint Committee staff
3 does, so, in contrast to my letter to you, we are carrying
4 some revenue impact of over \$100 million for the three
5 years -- \$160 million or so for the three years.

6 Senator Wallop. Mr. Chairman, I would like to raise
7 some points on that. First, I think that Treasury is asking
8 us to do what they have been negotiating and nearly have
9 negotiated. I would like to read a telegram from Mr.
10 Martina, the Minister of the Netherlands-Antilles, which
11 reads as follows:

12 "Our understanding is that the Senate Finance Committee
13 may consider various legislative proposals which would have
14 a severe impact on my country. These proposals concern the
15 withholding tax earned by foreign investors, principally
16 on Eurobond. In substance, they would destroy a time-tested
17 system for financing of the U.S. business at low interest
18 rates through the Eurobond market. The current system using
19 the tax treaty between our governments has been in place
20 for 20 years and, until recently, was actively encouraged
21 by the U.S. Treasury. Enactment of such proposals could
22 be devastating to my country because by immediately removing
23 any incentive for borrowing through the Netherlands-Antilles
24 would eliminate overnight 30 percent of the combined
25 Federal and Curasar revenues and increase unemployment in

1 the islands by approximately a third. Such a result could
2 immediately create social unrest and destabilize this
3 government, which has been one of your staunchest allies
4 in this volatile region. We have not even been given a
5 formal opportunity to express our views on these proposals,
6 and we are lost to understand why your committee would seek
7 to punish our country in this way, when the current system
8 is working well for all concerned. To the extent that the
9 United States has raised any concerns, we have agreed to
10 negotiate them.

11 "In fact, we have been actively meeting in good faith
12 with the Treasury Department for over two years on a new
13 treaty and, in fact, have already agreed to an effective
14 Eurobond provision. To legislatively abrogate the treaty
15 now would, we believe, constitute a serious breach of faith."

16 Now, let me just ask the Joint Tax Committee what the
17 impact on corporate borrowings would be if we repealed
18 this 30 percent withholding tax?

19 Mr. Brockway. I think that that is an item that there
20 is some substantial disagreement as to what the impact
21 will be. Under this amendment, as I understand it, it
22 will apply both to allow corporations to issue Eurobonds
23 as they presently can through the Netherlands-Antilles,
24 but also allow the Federal Government to issue Eurobonds,
25 both directly.

1 And some people in the investment community believe
2 that both would end up doing well. Others in the investment
3 bank and community feel that the result will be to reduce
4 borrowing costs for the Federal Government, because of their
5 access to the Eurobond market, but because they have a
6 stronger credit position than corporate borrowers, that
7 they would tend to drive up the interests costs of corporate
8 borrowers in that marketplace.

9 Right now, there is a differential of about 42 basis
10 points, I gather between the Eurobond market and the U.S.
11 one, and this would eliminate the differential.

12 So, that is what the argument is. But there is a split
13 in the investment banking community as to whether that
14 impact would happen or not.

15 Senator Wallop. But there is a substantial opinion
16 that it would drive up corporations, wouldn't it?

17 Mr. Brockway. We have had representation from
18 investment bankers on both sides of that issue.

19 Senator Wallop. I would suggest that if that is one
20 of the-- If there is a significant portion of it, whether
21 majority or otherwise, that thinks it would, we are playing
22 with a little fire.

23 Mr. Chapoton. Senator Wallop, the Securities Industries
24 Association -- I don't know if I have heard a substantial
25 authority that would say it would drive up rates in the

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 securities industries, that Association strongly supports
2 this proposal, and I think the general thinking is that
3 it would --

4 Senator Chafee. We had a hearing on this, and I don't
5 know where you are getting your information from Dave.
6 Nobody testified at that hearing that it would drive up
7 interest rates. The testimony was that it would --

8 Mr. Brockway. That was the securities industries,
9 wasn't it?

10 Senator Chafee. No, it wasn't just the securities
11 industries. We had a host of witnesses, and the only witness
12 against it was somebody from the consumers' --

13 Mr. Brockway. Senator Chafee, let me make this clear
14 that both investment bankers that came in -- that were with
15 the Securities Industries Association -- both were for
16 the amendment.

17 Senator Chafee. Oh, sure.

18 Mr. Brockway. But one was saying that the net effect
19 was that they would be able to sell Government bonds overseas.
20 Either way they thought it was a good idea, but there was a
21 disagreement between them as to whether it would increase
22 corporate borrowing costs or reduce corporate borrowing
23 costs because the Federal Government would be over there.

24 The only disagreement between them was whether it
25 should be limited to corporate bond offerings as some

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 proposals have been, or whether the amendment should allow
2 for both the Government to issue bonds in the Eurobond
3 market as well as the corporate bonds right now.

4 But I think that either way that these advisors who
5 market the bonds would favor the change. But I gather there
6 is that dispute, and it has been reported in B and A that
7 there is that dispute among the Securities Industries
8 Association.

9 Senator Wallop. Mr. Chairman, let me just suggest.
10 As long as there is this difference between the Joint Tax
11 and Treasury as to the revenue impact -- and \$400 million
12 is no small difference -- let me suggest that this is a
13 premature time to act.

14 We are in negotiations with the Netherlands-Antilles.
15 The telegram indicates that they have already reached
16 agreement on one of these things. And I just think that
17 for this committee to look only at the revenue and only at
18 the tax policy standpoint when we are saying that they
19 are going to take 30 percent of the combined revenues of
20 Netherlands-Antilles and Curasen, increase their unemployment
21 by 27 percent, and give ourselves the potential of a \$400
22 million deficit -- I think that is damed fool policy.

23 I think I would rather see the negotiations continue
24 and have Treasury do what it is designed to do, and that is
25 to come to a piece of tax policy that is satisfactory to

1 both regions. It was, after all, this Government which by
2 tax letter and the IRS by tax letter or Treasury which
3 initiated this whole process in the first place.

4 And now, for us to just unilaterally pull it out while
5 a treaty is being negotiated, I think is irresponsible,
6 and I hope we don't do it.

7 Senator Chafee. Mr. Chairman, this is the most ersatz
8 type of arrangement that was ever created. That isn't the
9 way to do business, to go through some round-about route
10 through the Netherlands-Antilles to issue General Motors
11 bonds or whatever it is. It makes no sense whatsoever.

12 And if, indeed, the Netherlands-Antilles has built an
13 industry around this, I am prepared to work out some kind
14 of gradual dimunition of it, but it makes no sense to
15 continue this route. And it is just a make-work process
16 that has been created.

17 And as you understand, the whole route -- the whole
18 reason of the Netherlands-Antilles route -- is to avoid the
19 30 percent withholding.

20 So, nobody who is doing this in any substantial way
21 is subjecting their purchasers to the 30 percent withholding.
22 The small person who hasn't got the capacity to go through
23 this route -- he issues them through New York or some other
24 place -- and if some foreign purchaser is foolish enough to
25 buy them, they are subject to it.

1 I don't know why anybody is paying the tax anyway. I
2 am open to some suggestions, but I think that to just keep
3 putting it off -- this isn't the first time that we have
4 brought up this subject, Mr. Chairman -- this thing has been
5 kicking around since I have been in this committee, and I
6 would just like to see this start down the route to ending
7 it.

8 I don't know what Mr. Brockway is talking about. We
9 had testimony -- we had witnesses here -- and I am not
10 contradicting him -- I don't mean to -- but I don't recall
11 the witnesses saying that this is going to drive up interest
12 rates, anyway.

13 Mr. Brockway. Senator Chafee, let me be very, very clear
14 on that. The dispute on your approach on the way to doing
15 this -- that is applying it to Government and corporate, or
16 just limiting it to corporate -- that is the dispute between
17 the investment bankers as to whether that is a good or bad
18 policy. All of them, I think, think that it is a good idea
19 to repeal the tax with respect to corporate.

20 The only question among the industry is whether it
21 should also be extended to Government issues because there is
22 their argument -- and this is where I have no idea whether is
23 it is correct or not -- is that if you allow the Government
24 there that will tend to push the corporate issues up or not.

25 Senator Chafee. We don't even have to let the Federal

1 Government because currently the Federal Government is not
2 going the less Antilles route. So, they are just cut out
3 from that foreign market.

4 Mr. Brockway. That is correct.

5 Senator Chafee. I don't care if we restrict it to
6 corporate. I just think we ought to start down the path to
7 ending this foolishness.

8 Senator Wallop. But, Mr. Chairman, we are on that path.
9 We are negotiating. The Treasury has been negotiating for
10 two years. The telegram indicates that they have reached
11 agreement presently on the Eurobond procedure.

12 This Congress had one hell of a time passing the most
13 minimal CBI -- Caribbean Basin Initiative -- without a whole
14 lot of expenditures. Now, we are going to disrupt a chunk
15 of what we did down there and cost ourselves \$400 million
16 more than we voted for the whole Caribbean Basin Initiative.

17 I just don't understand that kind of a procedure, when
18 we are in active negotiations.

19 Mr. Chapoton. Mr. Chairman, it is true that we have
20 been in negotiations with the Netherlands-Antilles on this
21 question for some two years now. I said sometime last year
22 that you could not possibly extend beyond the end of 1983
23 and that we would have to terminate this matter.

24 I think those negotiations have proceeded in good faith
25 on both sides and are proceeding in good faith on both sides.

1 but I seriously question whether we should debate this
2 question -- this very important question -- of access to
3 the world money markets on the need to sustain an industry
4 in the Netherlands-Antilles.

5 That is far too important a question for that. The
6 question is whether we should have free access to the markets,
7 and if the decision is that we should, we should not attempt
8 to do so through only one outlet.

9 Indeed, if we do renegotiate the treaty with the
10 Netherlands-Antilles, Guam and the Virgin Islands are
11 suggesting that they ought to have the same deal, and we
12 ought to allow some of the companies to go through those
13 port holds to the Euromarket, and they will extract a
14 fee on obligations going through, and so our companies will
15 pay a transaction tax to access the Eurodollar market.

16 I think we should address the question straight up.
17 And we support broad access to the markets.

18 The Chairman. Why can't we impose some deadline -- six
19 months -- and if nothing happens, it is repealed or
20 something?

21 Mr. Chapoton. On the treaty? I don't know.

22 Senator Wallop. Mr. Chairman, I just find it very
23 uncomfortable to take a tax treaty that has been between
24 two governments for 20 years and, by an act of this
25 committee -- when there is an uncertainty between Joint Tax

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 and Treasury as to the revenue impacts, do that in the late
2 afternoon of a Finance Committee mark-up when we are trying
3 to raise revenues -- not expend them.

4 Senator Chafee. Mr. Chairman, we are not dealing with
5 the treaty. We are dealing with this withholding tax, and
6 that is not tampering with the treaty. This applies to
7 anybody. It applies to Canada. It applies all across the
8 board.

9 So, yes, it will affect the Netherlands-Antilles because
10 they set up an industry to take advantage of this existing
11 tax, but the question -- the real question -- before us I
12 think Mr. Chapoton phrased: Are we going to open our debt
13 market to foreign investment directly, or are we going in
14 this very elaborate artificial route? I think that is it.

15 Senator Wallop. Mr. Chairman, I would be willing to
16 look into some kind of phasing of this thing. To do it
17 overnight, I think, is unfair and unreasonable.

18 The Chairman. Why don't we overnight --

19 Senator Wallop. I know they have set up the industry,
20 and I don't quarrel with Senator Chafee, and I don't quarrel
21 with the idea that we ought to have access in this country
22 to Eurobonds, but to do it -- whap -- like that is unfair
23 and bad international politics. It is a breach of faith,
24 and on top of it, it was we who encouraged them to set up
25 that industry.

1 And if we did that, it seems very strange that we would
2 just turn it off like a switch. I think that if we can
3 phase it, I am all for that. But to do it as is proposed
4 with your solution --

5 Senator Bradley. Mr. Chairman, I think that we have
6 to consider the possibility that if we don't act on these
7 deficits -- and I don't think even if we do this, we have
8 done a whole lot -- but at some point in the next two years,
9 you could see a lot of people making the calculation that
10 the dollar is going to drop taking their money out of U.S.
11 securities and putting real pressure on the interest rate.

12 And if we had eliminated this 30 percent withholding,
13 that might be just enough to prevent the interest rate from
14 going back up, and to keep some of that money here.

15 And I think that that is not an insignificant
16 consideration.

17 Senator Wallop. If that is what it is going to take,
18 we are in worse trouble than I thought. And we are doing
19 one thing to the deficit on the one hand -- which is
20 increasing it \$400 billion -- while --

21 The Chairman. Let me suggest that get the principals
22 together here after we have adjourned -- if we adjourn --
23 and see if we can't figure out something. If not, we will
24 just have to vote on it.

25 I think that there is some indication that we might be

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 able to do that.

2 Let's see now. Seven and eight are Senator Bentsen's.
3 Senator Danforth. All right. Let's go back to additional
4 revenue options. What is the talley so far of the
5 expenditures today -- the tax expenditures, Rod?

6 Mr. DeArment. \$7.35 -- \$7.4 roughly.

7 The Chairman. So, we didn't do anything on the raising
8 side or we would be down to \$40 billion?

9 Mr. DeArment. That is correct.

10 Senator Heinz. Can we have those breakdowns?

11 The Chairman. We don't have room on the blackboard, but
12 we can read them for you.

13 Mr. DeArment. Yes, for the R&D extension, \$2.1 billion.
14 for targetted jobs --

15 The Chairman. That was \$1.8.

16 Mr. DeArment. But with the additional material that
17 Treasury agreed to -- the simple extension --

18 The Chairman. I didn't know they agreed to anything.
19 I thought we voted down the two additions.

20 Mr. Brockway. But there were some minor provisions,
21 in addition.

22 Mr. DeArment. Yes.

23 The Chairman. \$300 million?

24 Mr. Brockway. Relatively minor, compared to the rest.

25 Mr. DeArment. The targetted jobs tax credit extension,

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 \$1.4. The 861 moratorium, \$.2 or \$.3. Spousal IRAs, \$.9.
2 Enterprise zones, \$1.3.

3 Senator Bradley. What was spousal IRAs?

4 Mr. DeArment. \$.9.

5 The Chairman. All right. Let's zip through here and
6 pick that up right quick.

7 Mr. Brockway. I don't know that we can pick it all up,
8 but we have got a handout that has got, I guess, eight
9 different items that would go some of the way.

10 The first item deals with -- I believe they have been
11 discussed at all the staff levels and with Treasury, and I
12 believe that Treasury supports this package.

13 The first item deals with deferred rentals transactions
14 where you have a tenant on the accrual method and a lessor
15 on a cash method. This particularly happens in sale lease
16 back where they have a balloon rent, and in the end they
17 don't pay the tax. They go along so the tenant accrues
18 the deductions, and the lessor doesn't take the deductions
19 in income but does take depreciation. This would save where
20 there is a lease payment that exceeds \$250,000. The lessor
21 would be required to account for the rental income on an
22 accrual basis.

23 It is like the OID rules you approved earlier.

24 The Chairman. Does Treasury object to that?

25 Mr. Chapoton. No, sir. We support this.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 The Chairman. Is there any objection?

2 (No response)

3 The Chairman. Then it will be agreed to. Number two?

4 Mr. Brockway. Number two is a related party for --

5 The Chairman. How much revenue in that?

6 Mr. Brockway. That is \$.6.

7 The Chairman. \$.6. Now, we only need \$8 billion more.

8 Mr. Brockway. The next item is a related party rule,
9 the rules that disallow deductions for expense incurred to
10 carry tax-exempt obligations. This would make sure that
11 when a related party borrows the money to permit, for example
12 a related corporation to invest in tax-exempt, the deduction
13 would also be denied in that case.

14 The Chairman. Does Treasury support that?

15 Mr. Chapoton. Yes, sir.

16 Senator Heinz. How much is that, Mr. Chairman?

17 Mr. Brockway. That shouldn't have any revenue effect
18 because we believe it is a clarification of present law.

19 The Chairman. Without objection, we will agree to that.

20 Mr. Brockway. The next item deals with zero coupon
21 municipals. This conforms to treatment of municipal bonds
22 with your OID rules where it would take straight-line
23 inclusion of income on an overstate basis and take an
24 artificial loss.

25 The Chairman. Does Treasury approve of that?

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Mr. Chapoton. Yes, sir. We support that. Yes, sir.

2 The Chairman. Then, without objection it will be agreed
3 to. There is no revenue there.

4 Mr. Brockway. Very minor. The next item is an item
5 dealing with the dividends received holding period
6 requirement. Right now, in order to qualify, the taxpayer
7 needs to hold the dividend-paying stock for 15 days and in
8 certain situations for longer periods, but the holding
9 period is told where the taxpayer has sold stock short
10 -- substantially identical stock -- this would expand that
11 to -- if the tax were told the holding period -- any place
12 where the taxpayer held another position that substantially
13 diminished the risk of loss.

14 or this extended loss there would be a provision in the
15 GATT that Senator Heinz is interested in that would provide
16 an extension for brokers or dealers.

17 The Chairman. Did you take care of Senator Heinz'
18 problem?

19 Mr. Brockway. Yes, that would be taken care of.

20 The Chairman. Does Treasury approve of this?

21 Mr. Chapoton. Yes, sir.

22 The Chairman. With the amendment of Senator Heinz?

23 Mr. Chapoton. Yes, sir.

24 The Chairman. Without objection, we will agree to that.

25 What is the revenue?

1 Mr. Brockway. This is really part of a larger
2 Administration proposal and the revenue was really counted
3 earlier when you agreed to the rest of the proposal.

4 The Chairman. Okay. Go on.

5 Mr. Brockway. The next item is again a very small
6 revenue item in the case where someone sells short in
7 municipal bonds, and both taxpayers exclude the income as
8 being attributable to the bonds.

9 The Chairman. That is another clarification?

10 Mr. Brockway. Yes, sir.

11 The Chairman. Does Treasury approve of it?

12 Mr. Chapoton. Yes, sir.

13 The Chairman. If there is no objection, it will be
14 agreed to.

15 Mr. Brockway. The next item is a revenue of about
16 \$.1 and deals with a use of multicompany structure to reduce
17 tax in coal operations.

18 The Chairman. What happened to number 12?

19 Mr. Brockway. No, I think there is an intervening sheet.

20 The Chairman. Maybe I have an early copy.

21 Mr. Brockway. Senator Dole, the earnings and profits
22 proposal was on a separate sheet, which is the last of the
23 three sheets in the thing we just handed out.

24 The Chairman. Oh, okay.

25 Mr. Brockway. We have a couple more before we get to

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 earnings and profits. The multicompany coal structure is
2 where you get capital gains for iron and coal reserves,
3 but in the case of iron ore, you can't use this between
4 related companies, but in coal you can have one subsidiary
5 leasing coal reserves to another subsidiary, and the one
6 subsidiary takes it to income the royalty on the capital
7 gains rates, and the mining subsidiary deducts it over their
8 income rates.

9 That would be a pickup of \$.1. It would treat coal the
10 same way as iron ore.

11 The Chairman. Does Treasury approve of that?

12 Mr. Chapoton. Yes, sir.

13 Senator Wallop. Mr. Chairman, I would hope that we
14 would not at this moment in time enact this. The coal
15 industry in America is one very sick industry today.

16 They are losing -- or they are having -- a 15 percent
17 deduction this year in their depletion allowance. This is
18 another sort of double whammy on an industry which is
19 not really all that prosperous, so I would hope that we
20 might postpone doing anything on this one.

21 The Chairman. Would it be better in the morning?

22 (Laughter)

23 Senator Wallop. No, but it would get a longer sentence.

24 (Laughter)

25 Senator Wallop. I would just hope that we wouldn't do

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 that at this time.

2 The Chairman. Let's put it over, and let Malcolm get
3 a good night's sleep.

4 Mr. Brockway. The next item deals with foreign
5 collapsible corporations -- a provision in the House bill --
6 where we taxpayers can avoid the classical corporation rules
7 by selling a foreign corporation -- a collapsible corporation
8 -- to another foreign shareholder and taking a collapsible
9 corporation consent decree. This would prevent that abuse.

10 The Chairman. That doesn't make any money either,
11 does it?

12 Mr. Brockway. I don't think so. The next one, earnings
13 and profits, does.

14 The Chairman. All right. So, we will pass over 13,
15 and we will now take up earnings and profits.

16 Mr. Brockway. And did you adopt collapsible
17 corporations? The last item deals with earnings and profits.

18 The Chairman. I would just say that I think the total
19 revenue pickup there is less than \$800?

20 Mr. Brockway. Approximately. The next item is \$1.7.

21 The Chairman. We are just \$8 billion short for the day
22 then, right?

23 SENator Heinz. Which is \$1.7?

24 Mr. Brockway. The next item. The one we are going
25 through right now -- earnings and profits.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Senator Heinz. Which item is that?

2 Mr. Brockway. This is earnings and profits. There is
3 a separate sheet on this.

4 Senator Heinz. All right. Go ahead.

5 Mr. Brockway. On the agenda that is item 10 of the
6 additional options. Redefinition of earnings and profits.
7 And then there is a longer description.

8 Senator Wallop. Is this the one that capitalizes
9 intangible drilling costs? And mine development costs?

10 Mr. Brockway. That is correct.

11 Senator Wallop. I would like a little time to look
12 into the specifics of that. It is the first I have known
13 of it, and I am sorry, but I just think there are some things
14 in there that are significant tax policy changes.

15 Senator Symms. I would be in the same category on
16 that, Mr. Chairman.

17 The Chairman. Is this the three-page proposal?

18 Mr. Brockway. On the third page, there is the
19 description of earnings and profits proposals to prevent
20 corporations from paying out tax-free dividends.

21 Senator Packwood. Is what you are saying is that if
22 there is a deep hard-rock mine, that that has to be
23 capitalized?

24 (Continued on next page.)

25

Briggs

1 The Chairman. Is this the three-page proposal nere?

2 Mr. Brockway. Well, on the third page there is the
3 description of earnings and profits proposals to prevent
4 corporations from paying out tax-free dividends.

5 Senator Symms. Is what you are saying that if there is
6 an exploration shaft in a deep pargroff mine, that that has
7 to be capitalized?

8 Mr. Brockway. Well, this is an overall proposal.
9 I think that is a relatively limited aspect of it. What it
10 is is to say that this is just a change for earnings and
11 profits, so it doesn't affect the taxation of the corporation
12 itself at all. It is only whether distributions it makes to
13 its shareholders are treated as dividends or whether they
14 can recharacterize those as tax-free distributions

15 Senator Symms. But you've got down here in point No. 2,
16 if I am looking at the same page, it says, "Capitalize
17 intangible drilling costs and mine development costs and
18 treat them as part of the cost base of the property."

19 Mr. Brockway. That is only for purposes of -- If I
20 could start maybe with the beginning of this, to lead you,
21 that is not for the taxation of the corporation at all. It
22 would not affect its taxation.

23 The way the general rules work on a dividend, a
24 distribution to a shareholder is treated, in the ordinary
25 course of business, that is allowed as a dividend for State

1 tax purposes. It is also taxable to the shareholder.
2 However, if the corporation does not have earnings and
3 profits, which is a different item than taxable income, it
4 might be treated as an exempt distribution.

5 So what this rule does -- and earnings and profits are
6 supposed to reflect basically economic income. If the
7 corporation has been earning income and it has an ability to
8 pay out items out of its current earnings to its shareholders,
9 those should be taxable to the corporation, rather than
10 being treated as a paydown of its original capital investment.

11 These rules are simply rules to attempt to make
12 earnings and profits more accurately reflect the economic
13 income of the corporation; so that, where they make a
14 distribution of income, that reflects their current earnings.
15 So it is just whether the shareholder is taxed on that
16 distribution or whether they can treat that as an exempt
17 distribution.

18 I think the largest area where this has an effect is
19 utilities, which typically, because they don't capitalize
20 their construction period interest and taxes, and certainly
21 their equipment, manage to pay out a significant portion of
22 their earnings as tax-free distribution; but it also affects
23 other corporations because of particular rules in the Code.

24 But it would not affect whatsoever the taxation of the
25 corporation itself. It is merely a more accurate reflection

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 that, if there is this cash available to distribute, it is
2 out of earnings.

3 Senator Symms. What is the revenue impact of the
4 legislation?

5 Mr. Brockway. It is 1.7 over the three years. In good
6 part, that is out of utilities, I believe.

7 Senator Symms. That is what?

8 Mr. Brockway. About 80 percent. About 80 percent of
9 the 1.7 is from utilities, from the shareholders. I mean,
10 the utility itself doesn't pay the tax, it is just that they
11 are paying out distributions, and the shareholders are
12 claiming them as tax-exempt.

13 Senator Symms. It will raise their capital costs, then,
14 won't it?

15 Mr. Brockway. It may or may not. It will simply mean
16 that it is the same as distributions for other corporations,
17 that those are taxed to the shareholders.

18 Senator Symms. If it would raise a billion seven
19 hundred million, it has to come out of somebody.

20 Mr. Brockway. That is correct; it will come out of the
21 shareholders.

22 The Chairman. It is just a question of whether they are
23 going to pay tax on dividends, isn't it? That's all it is.

24 Mr. Brockway. That is the question.

25 Senator Heinz. On the 11 items, which one is the one on

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 utilities?

2 Mr. Brockway. The first item is basically the one that
3 is most important for utilities, because they do not
4 capitalize interest and taxes and other carrying costs and
5 include them in the basis of the property. For equipment,
6 they currently expense those, even though they are allowed
7 a return by the Regulatory Commission. So they are
8 generating current earnings and distributing them. It is
9 the same way as that on the real property they may write them
10 off more rapidly than the property declines in value.

11 Senator Heinz. So, what you are saying is that only
12 utilities are affected by the first provision?

13 Mr. Brockway. No, I think that that would affect other
14 taxpayers. But the bulk of the revenue in this proposal
15 is from utilities, and for utilities this is the most
16 significant.

17 The Chairman. It is not utilities, it is the taxpayer.

18 Mr. Brockway. I mean from the utility shareholders.

19 The Chairman. I wanted to clarify that one point.

20 Senator Heinz. Right. Thank you, Mr. Chairman.

21 Now, the other thing you were saying is that, with
22 respect to utilities and/or their shareholders, you would
23 anticipate that there would be no increase in utility rates,
24 even though we are causing utilities to capitalize all of
25 these things?

1 Mr. Brockway. I don't think so.

2 The Chairman. Jim?

3 Mr. Wetzler. The way the situation works now, some
4 utilities, usually the ones that have big construction
5 budgets and that are not -- I guess usually the ones that
6 have big construction budgets are able to pay out
7 tax-free dividends on a sporadic basis. You know, when a
8 utility is raising capital, if it is likely to be in this
9 position, presumably people would be more willing to buy its
10 stock because some of the dividends coming out will be
11 tax free.

12 On the other hand, you can't usually predict all that
13 accurately when a utility is going to be paying tax-free
14 dividends, so shareholders only pay a rather small premium
15 for the -- in effect the expectation of receiving the
16 tax-free dividends.

17 So I think it is correct to say that there will be some
18 effect on the capital cost of some utilities, but probably
19 the effect will be relatively small in relation to the revenue
20 gain we are picking up.

21 Senator Heinz. Now, don't we have some provision in
22 the Tax Code now, in addition to this, that favors utility
23 shareholders' dividends?

24 Mr. Wetzler. You enacted the dividend reinvestment
25 provision in 1981.

1 Senator Heinz. And principally it benefits utilities,
2 as I recollect. Doesn't it?

3 Mr. Wetzler. And their shareholders. That's right.

4 Senator Heinz. Yes, and their shareholders.

5 What would be the tax savings of repealing that?

6 That is, the Dividend Reinvestment Plan for Utilities. We
7 did it, as I recollect, because we were very concerned about
8 capital construction back in 1979-80, and we were afraid the
9 utilities were going to go bankrupt.

10 The Chairman. Yes. Now they are good.

11 Senator Heinz. Now the utilities are doing somewhat
12 better, as I understand it, and I am wondering if we need
13 that today.

14 I think I raised this during TEFRA, and people were --

15 The Chairman. Well, we have gone to conference with
16 it twice, the repeal, and Jake Pickle -- it was his
17 amendment.

18 Senator Heinz. Maybe it is a good one to put in, just
19 on general principles.

20 Mr. Chapoton. I believe it is sunsetted. We will have
21 to look that up.

22 Mr. Wetzler. It sunsets at the end of 1985.

23 Mr. Brockway. We have a year left.

24 Senator Heinz. Let's find out how much we could save
25 if it sunsetted at the end of 1984.

1 The Chairman. We generally used it just to negotiate
2 with Pickle in conference. I mean, we take it over there,
3 and he trades off something. I think he would be
4 disappointed if we didn't repeal it again.

5 (Laughter)

6 Senator Heinz. The last question, Mr. Chairman:

7 The utilities are unusual creatures. I guess I wouldn't
8 oppose this rule for utilities. I am a little uncertain,
9 however, and that is No 1 on this handout, I guess I am a
10 little uncertain as to what the effect would be on
11 non-utilities. But I think I could go for it for utilities.

12 The Chairman. We haven't heard from Treasury.

13 Mr. Chapoton. Yes.

14 The treatment of earnings and profits deals, as
15 Mr. Brockway has explained, solely with the question of
16 when a company is paying dividends, whether its shareholders
17 are taxable on that or not.

18 The rules for earnings and profits attempt over the
19 years not to restate taxable income but to stay closer to
20 economic income, do that the benefit given the corporation
21 to reduce its tax liability does not have the second effect
22 of also reducing the tax liability of its shareholders on
23 dividend, on income distributions from the corporation to
24 its shareholders.

25 There have been changes over the years from time to time

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 in the definition of "earnings and profits," and the committee
2 staff in its work in the corporate area came up with a broad
3 number of changes, proposed changes, in the treatment of
4 earnings and profits. We have been over those changes. We
5 think these are the ones that clearly should be changed --
6 there may be others in that proposal, but there are a number
7 that were in that that were not on this list.

8 We think these all do clearly go to the --

9 The Chairman. Well, this doesn't have any impact on the
10 oil and gas producer, does it?

11 Mr. Chapoton. It has no impact on any corporation. It
12 only can have impact on the recipient of dividends from a
13 corporation.

14 Senator Boren. Mr. Chairman, on the second one, in terms
15 of intangible drilling costs, what is the revenue impact of
16 that item?

17 Mr. Brockway. We don't have the others separately
18 stated.

19 Mr. Chapoton. It is 1.7, the total, and 80 percent of
20 that is with respect to utilities.

21 Senator Boren. There would be some impact, would there
22 not? in terms of that?

23 Mr. Brockway. There would be some on the shareholders.
24 We know of some situations -- I think Mesa's original

25

1 Royalty Trust, for example, was tax-exempt to the share-
2 holders because Mesa would take intangible drilling costs
3 in drilling for the oil, and so it would break down all of
4 the assets, and before recognizing the income it would
5 distribute the appreciated property, so that there would be
6 no tax at the entity level, and there would be a tax-free
7 distribution to the shareholders. The shareholders wouldn't
8 pay tax on it either.

9 But this change would not affect the operating entity.

10 The Chairman. I would just ask the basic question I
11 asked earlier: All we are trying to do is make certain that
12 their taxes are paid by the shareholders. Right?

13 Mr. Chapoton. That is correct.

14 Mr. Belas. The issue is solely an issue of whether
15 dividends are taxable dividends or are considered a non-
16 taxable return of capital. That's all.

17 The Chairman. I mean, are we doing something we
18 shouldn't be doing?

19 Senator Wallop. Well, Mr. Chairman, what we are doing is
20 providing yet another disincentive for people to invest in
21 corporate America, or things, and making it better to buy
22 Treasury Bonds than it is to buy stocks in companies.

23 Mr. Chapoton. No question, this has the effect of
24 strengthening the double tax on corporate earnings.

25 Senator Wallop. That's right.

1 Mr. Chapoton. For industries that have special
2 provisions with respect to taxable income, some of those
3 special provisions carry over into the earnings and profits.
4 And to the extent they do, there is only one tax on earnings
5 through that company.

6 This does correct that to some extent, and therefore
7 those earnings will hereafter be subjected to a double
8 tax.

9 Mr. Brockway. But I think, typically, any situation
10 where the shareholder is receiving a tax-exempt dividend,
11 the distributing corporation is also not paying any tax,
12 because taxable income is a much smaller number than earnings
13 and profits even under current law. So all of these cases
14 are taxpayers where the corporation is not paying any tax
15 currently, and the shareholder is not paying any tax on the
16 distributions either.

17 So, currently these are situations where there is no
18 tax, in effect, until the stock is sold.

19 Senator Boren. Mr. Chairman, this may well be something
20 I am for, but it seems like a rather major proposal, and it
21 it is something I would at least like to look at overnight
22 and do some thinking about before we vote on it.

23 The Chairman. Right. It was described to me that it
24 wouldn't prejudice anyone. He might have to pay taxes, but --

25 Senator Heinz. Mr. Chairman, how much money is

1 involved in the whole sheet?

2 The Chairman. It is 1.7. Is that correct?

3 Mr. Chapoton. Yes.

4 The Chairman. Over three years.

5 Mr. DeArment. It would be about 2.5, wouldn't it?

6 Mr. Brockway. Do you mean in the three phases, or just
7 that earnings and profits sheet?

8 Senator Heinz. Just the earnings and profits.

9 Mr. Brockway. That's 1.7.

10 The Chairman. We have approved all but one portion of
11 this. We have approved all of those that didn't raise any
12 revenue.

13 Mr. Brockway. The first one that you approved raised
14 point-six, I guess, deferred rentals.

15 The Chairman. Let's go back on the agenda list. Church
16 audits is complete; clarification of the general repayment
17 rule, that is still under discussion; the three-year
18 extension of incremental research and the experiment credit,
19 that's complete; reduce the exise tax on methanol -- do you
20 want to take that up?

21 Senator Chafee. Yes. Mr. Chairman, what that does is,
22 the current tax is 9 cents, and it takes two gallons of
23 methanol to get as far as one gallon of gas does. So this
24 would just reduce the tax to 4.5 cents. There are only
25 a thousand cars in the United States that run on methanol

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 today. Methanol is environmentally superb. It produces no
2 sulfur emissions, and lower emissions of nitrogen oxide
3 and particulants than either gasoline or diesel fuel.

4 The idea is to try to encourage this. Currently,
5 methanol is being produced from gas; but the thought is that
6 it can be eventually produced from coal if a big enough
7 market develops.

8 So that is the suggestion, just cut it in half. The
9 revenue effects are zero, I think, because there are so few
10 cars using it now.

11 Mr. Brockway. The revenue costs are very small. Right
12 now the methanol produced from coal is exempt. That
13 produced from natural gas and petroleum is subject to the
14 regular 9 percent tax. This would cut the tax on that
15 produced from natural gas and petroleum to 4.5 cents. It
16 is less than \$5 million in all.

17 The Chairman. Does the Treasury have a view on this?

18 Mr. Chapoton. Mr. Chairman, let me just comment that
19 DOT has advised us that they oppose the change, because they
20 don't want to be put in the position of considering the
21 Btu content -- the different Btu contents of motor fuels.

22 The Chairman. It going to become more important than
23 I thought it originally was.

24 (Laughter)

25 Mr. DeArment. Methanol from biomass, Mr. Chairman, gets

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 the same incentives as ethanol does. If it is made from
2 renewable sources, it gets the normal exemptions and credits
3 that ethanol from grain does.

4 Senator Chafee. Let me just say that, Yes, from those
5 sources it does. But there is no demand for it. Now all
6 methanol is made from gas, and the hope is that --

7 Mr. DeArment. There is some methanol from biomass,
8 from tree waste I think from the Pacific Northwest.

9 Senator Chafee. Well, not that is propelling these
10 thousand cars.

11 Senator Moynihan. Mr. Chairman, could I say, I don't
12 think there is a more important experiment going on in this
13 country than the question of whether we can develop methanol
14 transporation. And I would hope we would do this.

15 The Chairman. Do you want to vote on it?

16 Senator Chafee. Yes.

17 The Chairman. All right. The Clerk will call the roll.

18 Mr. DeArment. Mr. Packwood?

19 Senator Packwood. Pass.

20 The Chairman. We are voting on reducing the tax on
21 methanol, because it takes twice as much to get anywhere.

22 Senator Chafee. That's right.

23 (Laughter)

24 Senator Chafee. And it isn't a suggestion that has
25 come in here with many of these fuels, to have no tax. Here,

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 they are prepared -- they just don't want to carry a heavier
2 burden than would be normal, and they want to develop the
3 market.

4 Mr. DeArment. Mr. Roth?

5 Senator Roth. Aye.

6 Mr. DeArment. Mr. Danforth?

7 Senator Danforth. Aye.

8 Mr. DeArment. Mr. Chafee?

9 Senator Chafee. Aye.

10 Mr. DeArment. Mr. Heinz?

11 Senator Heinz. Aye.

12 Mr. DeArment. Mr. Wallop?

13 Senator Wallop. Aye.

14 Mr. DeArment. Mr. Durenberger?

15 (No response)

16 Mr. DeArment. Mr. Armstrong?

17 Senator Armstrong. Aye.

18 Mr. DeArment. Mr. Symms?

19 (No response)

20 Mr. DeArment. Mr. Grassley?

21 (No response)

22 Mr. DeArment. Mr. Long?

23 Senator Long. Pass.

24 Mr. DeArment. Mr. Bentsen?

25 Senator Bentsen. I will let it pass.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Mr. DeArment. Mr. Matsunaga?
2 (No response)
3 Mr. DeArment. Mr. Moynihan?
4 Senator Moynihan. Aye.
5 Mr. DeArment. Mr. Baucus?
6 Senator Baucus. Aye.
7 Mr. DeArment. Mr. Boren?
8 Senator Boren. Aye.
9 Mr. DeArment. Mr. Bradley?
10 Senator Bradley. Aye.
11 Mr. DeArment. Mr. Mitchell?
12 (No response)
13 Mr. DeArment. Mr. Pryor?
14 Senator Pryor. Aye.
15 Mr. DeArment. Mr. Chairman?
16 The Chairman. The vote? Are there any Nays?
17 Mr. DeArment. None yet.
18 The Chairman. I vote Aye.
19 (Laughter)
20 Senator Packwood. Packwood votes Aye.
21 Senator Chafee. Well, I didn't note much enthusiasm,
22 Mr. Chairman. But I'll take the votes any way they come.
23 (Laughter)
24 Senator Long. I'll vote Aye.
25 Senator Bradley. Mr. Chairman, did everyone vote Aye?

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 The Chairman. So far..

2 Mr. Bradley. Aye.

3 (Laughter)

4 The Chairman. Now we are short \$8.5 billion. Thirteen
5 Yeas and no Nays.

6 All right, that takes care of that little group. Now
7 we will go down to the additional revenue options. We have
8 passed 13 and passed -- what is it? -- 11? Or 10? The
9 nominations are complete. Employee awards are still under
10 consideration.

11 What about volunteer mileage? Senator Armstrong is here
12 now.

13 Senator Armstrong. Mr. Chairman, the essence of the
14 proposal is very simple: It is only to suggest that persons
15 who are volunteering in various kinds of charitable activities
16 be permitted to deduct for their mileage the same amount as
17 government employees or business persons.

18 This amount is presently set at 9-cents a mile, and that
19 was established in 1958. At that time, gasoline was 29 cents
20 a gallon, oil was 15 cents a quart, and it just appears to me
21 that this is only a matter of equity, as far as I am
22 concerned.

23 It appears to me that, if the principle of having
24 volunteers performing some of the most important tasks of our
25 country is a good one, and I think it is, and it is of course

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 something that is increasingly in the public focus, then it
2 makes sense to let these volunteers take the same deduction
3 for their mileage costs that other persons are permitted to
4 take.

5 I think a case could probably be made that they ought
6 to get a better break than, say, business people or
7 government people, who after all are paid for their time. But
8 I don't suggest that; I simply say let's tie it to the
9 business deduction rate.

10 Now, I want to stress one thing: The exact comparison
11 here is this, that if you have a natural disaster, if you
12 have a flood or a fire or something, and you have volunteers
13 going to the scene of this disaster, and you have government
14 employees going to this disaster, and you have, say,
15 somebody from a medical supply house going to sell supplies
16 at the scene of the disaster, the people who are there as
17 a part of their occupation -- whether it is private sector
18 occupation who are being paid to be there or government
19 employees who are being paid to be there -- they at the
20 present time can deduct 20 cents a mile. The person who is
21 going at no charge, just as a volunteer for the Red Cross or
22 whatever it might be, gets to deduct only 9 cents.

23 So I am just saying, let's make it even for everybody.
24 There is a revenue implication, and I think it is around
25 \$400 million for three years, according to the Joint Tax

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 Committee.

2 The Chairman. That is correct.

3 Senator Armstrong. That is a substantial amount, but
4 the issue of equity is I think important, particularly in
5 view of the fact that we are in a stage in our national life
6 where we are increasingly disposed to turn over some of these
7 tough problems in communities and areas around the country
8 to private agencies, to community chests, to the Red Cross,
9 to Meals On Wheels, and you name it.

10 Mr. Chapoton. Mr. Chairman, the background on this
11 is that the 9 cents, which is designed to cover out of
12 pocket costs in performing the charitable service, and
13 excludes depreciation, insurance, general repairs, and fixed
14 costs such as that, the Code requires that a contribution be
15 to or for the use of a charitable obligation and therefore
16 fixed or general expenditures which would be incurred
17 regardless of this particular activity do not fall within the
18 definition of actually being paid to the organization.

19 It is the same rule now followed with respect to
20 medical expenses -- that is, out of pocket expenses and not
21 fixed. Depreciation is the main one we are talking about
22 that do not qualify, or moving expenses.

23 Any time you have an asset that is used generally for
24 other purposes, the cost in using that asset for a particular
25 activity such as moving or medical expense is limited to the

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 actual out of pocket costs.

2 So the logic of Senator Armstrong's argument would take
3 it, I suppose, to the use of any asset that is used in a
4 charitable endeavor; although I guess you are just directing
5 it at automobiles.

6 Senator Armstrong. Well, Mr. Chairman, I don't think we
7 need to draw this out. There are two points, though, that
8 we do need to have in perspective.

9 We are only talking about the use of automobiles here.
10 There has been very, very extensive testimony by volunteer
11 organizations who say that this is a tremendous problem for
12 them. We heard from -- I don't know -- two dozen organiza-
13 tions who came to testify that this is a real problem; it
14 is not a theoretical issue with them, and it isn't a question
15 of somebody taking a deduction for some other asset that
16 may be devoted part-time -- for example, a piece of
17 equipment they may own, a typewriter, or something, where
18 they might take it down to the Red Cross and use it to type
19 envelopes. We are not talking about that at all. Although,
20 as Secretary Chapoton points out, the principle might be
21 the same, the practical reality is quite different.

22 The reality is that volunteers use their private
23 automobiles in the conduct of their volunteer activities.
24 And in many cases, Mr. Chairman, volunteer activities which
25 would otherwise cause expenditure by either local or State or

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 national governments. So we really have an element, I think,
2 not only of justice but of cost saving.

3 Finally, Mr. Chairman, let me make this point: We are
4 talking about a deduction. Let us suppose, just
5 hypothetically, that some volunteer takes a deduction of
6 20 cents a mile, which is what the private sector people or
7 government employees can take. If they happen to be in the
8 50-percent tax bracket, which most of them are not, that
9 means the deduction is only worth a dime a mile. Well, you
10 can't begin to operate a car, even ignoring depreciation, for
11 10 cents a mile -- at least, I can't operate my car for that,
12 and I happen to drive a car that is about 11 years old. But
13 I can't drive my car for 10 cents a mile, even ignoring
14 depreciation.

15 If, as is more probable, they are in the 30-percent tax
16 bracket and they get a 20 cent deduction, that value to them
17 is 6 cents a mile.

18 Now, at the present time, with a 9-cent deduction, if
19 they are in the 30-percent bracket, that means their actual
20 reimbursement is 2.7 cents a mile.

21 So, even though I regret the fact it does have some
22 impact on revenues, I just think this is fair, and we ought
23 to go with it.

24 Mr. Chapoton. Senator, let me point out that the actual
25 expenses of the gasoline and direct out-of-pocket expenses

1 for the trip, though, could be deducted. You can elect the
2 9-cents a mile, but you can always show your actual expenses
3 or more.

4 Senator Armstrong. I understand that, but that doesn't
5 cover tires, battery, wear and tear, oil.

6 Mr. Chapoton. No, it does not cover those depreciable
7 items. That is correct.

8 Senator Armstrong. Well, those aren't "depreciation"
9 in the sense of the value of the car, but they are expenses
10 which don't recur on a per-trip basis. And I suppose you
11 can imagine somebody might have a sophisticated enough
12 accounting system to keep track of such things and claim it,
13 but we are really talking about volunteers and not somebody
14 who has a computer.

15 The Chairman. Is the Treasury inclined to do anything
16 like increase it from 9 to 12 cents?

17 Mr. Chapoton. We can certainly look at whether the 9
18 is adequate to cover out-of-pocket expenses, though the
19 Internal Revenue Service sets this percentage amount
20 periodically. I have no reason to think that they haven't
21 looked at recently. But we certainly could look at it.

22 The Chairman. When was the last change?

23 Senator Armstrong. In 1958.

24 The Chairman. Where is Roscoe? Is Roscoe here?

25 Mr. Chapoton. No, sir, he is not.

1 The Chairman. It was 1958? What was it before then?
2 Mr. Chapoton. No. It was changed the last time --
3 Senator Armstrong. Mr. Chairman, I am wrong. It was
4 established in 1958 at 7 cents. Since 1958 it has been
5 raised from 7 to 9 cents.

6 Mr. Chapoton. This was set in 1980, the 9 cents. I
7 don't know what it was historically before that.

8 The Chairman. Well, I wonder if you might be willing
9 to do this. I mean, I don't want to spend \$400 million,
10 but could we take a look at it?

11 Mr. Chapoton. We could surely take a look at that. That
12 does establish the 7 cents in 1958, did you say, Senator?

13 Senator Armstrong. According to my notes, it was
14 established at 7 cents in 1958, at a time when gasoline was
15 much less and oil was much less.

16 Mr. Chapoton. Certainly that is worth looking into.

17 The Chairman. Could you get us an answer by morning
18 on that?

19 Mr. Chapoton. Surely.

20 The Chairman. I know the inflation program is working,
21 but I didn't know it had gone backwards.

22 Senator Heinz. Mr. Chairman, if we are looking for some
23 revenues -- and I don't link Senator Armstrong's proposal to
24 this at all -- it reminds me that there are some taxes that
25 haven't been increased since the Fifties. Some of our taxes

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 on distilled spirits, beer, wine -- I don't necessarily
2 insist that we increase them all, but they haven't been
3 increased for a long time.

4 The Chairman. Well, that's a thought. We are going to
5 be looking for revenue. We will take a look at those
6 overnight.

7 Let's go down to No. 7 and 8.

8 Senator Heinz. I can see the committee is intoxicated
9 with the idea.

10 (Laughter)

11 The Chairman. Well, we are down \$8 billion, and we still
12 have a few things to take up. We'll check in the morning.

13 I think Senator Bentsen has an interest in 7 and 8.

14 Senator Bentsen. Well, let me say, on No. 8, we have
15 not been able to work out the problems, as I understand it.
16 So I am not proposing to push that one unless we can work
17 something out with Treasury on it.

18 The Chairman. Do you have anything on that, Ron?

19 Mr. Pearlman. Senator, we have had some conversations
20 with your staff, and I thought we had worked them out. But
21 perhaps over the evening we can confirm that, and then we
22 will report to the committee tomorrow.

23 Senator Bentsen. All right. If that is the case, fine.

24 Senator Symms. Could I ask a question on No. 8? Is
25

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 No. 8 what you worked out that it is only one company?

2 Mr. Pearlman. No. The way it has been worked out, it
3 would be broader than that, Senator Symms.

4 Senator Symms. Good.

5 Mr. Pearlman. We will be happy to go over it again.

6 Senator Symms. Well, I hope we can get something done.
7 I agree with Senator Bentsen on that.

8 Mr. Pearlman. Well, it is broader than that. Yes.

9 Senator Symms. All right.

10 Senator Bentsen. Then, No. 7 -- that is a situation
11 where we have a nonprofit corporation, the Gulf Coast Waste
12 Disposal Authority, and we thought we had worked this problem
13 out where you could use the proceeds of tax-exempt bonds to
14 acquire existing pollution-control facilities.

15 Now, what happened on that, Senator Tower and I were
16 both pushing that particular provision, trying to help in the
17 acquisition of these facilities for pollution control. But
18 it was then written up and effect precluded what we were
19 trying to accomplish. They said the acquiring authority --
20 fees had to be charged as if the acquisition had been
21 financed by taxable bonds.

22 Well, you get into the strange problem of situations
23 where the Gulf Coast Authority is then really in an untenable
24 position of charging fees to a user-seller that are in excess
25 of Gulf Coast's costs, and that is a violation of the State

1 law, as I am advised.

2 Moreover, to the extent that other users are charged
3 lower than cost because of this kind of an approach, it
4 results in the seller-user higher fees, and the IDB would
5 still be benefitting a private user, just not the seller,
6 in that kind of a situation.

7 I would like to see it back to the original intent that
8 Senator Tower and I had when we worked this out, and not what
9 was finally drafted.

10 Mr. Chapoton. Well, Senator, the original intent, as
11 I remember it, was that, as an understanding that the Gulf
12 Coast Waste Disposal Authority could issue tax-exempt bonds,
13 that in these circumstances where existing facilities -- we
14 had existing facilities, and we have the rule against
15 refinancing existing facilities with tax-exempt bonds --

16 Senator Bentsen. That's right.

17 Mr. Chapoton. -- that you could buy these facilities
18 with tax-exempt financing, but we didn't want it to be
19 simply additional working capital for the seller of the
20 facilities. And therefore, the agreement was that no part
21 of the tax exemption would be passed along to the seller.

22 Now, I am not sure, frankly, what has changed since that
23 agreement.

24 Senator Bentsen. I don't remember it that way, frankly,
25 Buck. I am sure you are quite sincere in your judgment on

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 that and your memory of it; but I don't, because it seems to
2 me that we negate what we were trying to accomplish in that
3 kind of a situation.

4 You end up with the Gulf Coast situation having to charge
5 more than their costs. I am told that is against the
6 law.

7 Mr. Chapoton. Well, I am told that it does present a
8 problem under State law to the Authority; but the concern was
9 that there has been a rule in the law for some time that you
10 cannot take an existing facility and refinance it with
11 tax-exempt bonds, because the exemption is for providing --
12 it applies to a number, but this is pollution control we are
13 talking about -- for providing pollution control facilities.

14 So a company that has an existing pollution control
15 facility should not be able to refinance at the tax-exempt
16 rate, because obviously it is not providing new pollution
17 control.

18 If you allow a new entity like the Authority, in this
19 case, to issue tax-exempt bonds and buy the facility, an
20 existing facility, from an existing user, and the user of
21 that facility remains the same, then it has the same effect.

22 So we objected to the proposal as it was originally
23 designed a couple of years ago, and the solution was to
24 prevent the benefit from tax-exempt financing to passing to
25 that user.

1 Now, we would be happy -- if we can stay true to that
2 rule -- to do anything to avoid the problem under State law.
3 And I understand there have been some discussions to try to
4 avoid that problem that I believe were unacceptable to the
5 Authority. Perhaps we can talk about it more over the
6 evening.

7 Senator Bentsen. All right. Fine.

8 Mr. Chairman, then we will delay further consideration
9 to see if Treasury can come up with some kind of an answer
10 where we can avoid this problem of it being in conflict with
11 the State law.

12 The Chairman. All right. The, No. 8, as I understand,
13 you have got some agreement on it.

14 Let's go to foreign tax credit changes.

15 Senator Bradley. Mr. Chairman, how much longer are we
16 going to continue tonight?

17 The Chairman. Well, maybe while we are getting ready
18 on this one -- let's see. What do we have left tomorrow,
19 then?

20 Mr. DeArment. We have --

21 Senator Packwood. Are you doing the foreign tax credit
22 now?

23 The Chairman. I just asked if we might.

24 Mr. DeArment. We have mortgage revenue bonds,
25 industrial development bonds, insurance.

1 The Chairman. We may do fringe benefits yet tonight.

2 Mr. DeArment. Yes. We have the items we have passed
3 over on this list here.

4 The Chairman. And truck taxes.

5 Mr. DeArment. And truck taxes.

6 The Chairman. And we have the real estate package.

7 Mr. DeArment. We have the real estate package.

8 The Chairman. Then, we are going to have to figure out
9 some way to raise some money.

10 Well, I think there is a chance we can finish tomorrow
11 evening. It is rather important, since both the Treasury
12 Secretary and Mr. Chapoton need to be out of town.

13 Senator Bradley. Mr. Chairman, how much longer will
14 we go tonight, would you say?

15 The Chairman. Well, hopefully not very long. We have
16 a couple more items on the agenda.

17 Senator Bradley. This afternoon I raised the earned
18 income tax credit -- I mean this morning. And you said we
19 would put it on the afternoon agenda. If we don't get to it
20 tonight, could we get to it the first thing tomorrow morning?

21 The Chairman. We will get to it in the morning, right.

22 Senator Moynihan. We are not going to meet in the
23 morning, are we?

24 The Chairman. I don't know how we are going to finish
25 if we don't. I know there is a Joint Session. When will that

1 end?

2 Senator Moynihan. Noon.

3 The Chairman. When does it start?

4 Senator Moynihan. Eleven or so.

5 Mr. DeArment. Ten forty-five it is supposed to go.

6 (Continued on the next page)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 The Chairman. Why don't we just invite him over here?

2 (Laughter)

3 The Chairman. Well, I don't know how we are going to
4 finish tomorrow if we don't meet in the morning. So maybe
5 we can come in at 9:30. Would that be all right? Any
6 objection to that?

7 (No response)

8 The Chairman. I think we have been very well attended.
9 We do want to take up insurance tomorrow; take up everything
10 tomorrow. But let's see if we can dispose of these foreign
11 tax credits.

12 Mr. Brockway. Well, Mr. Chairman, I'm not sure exactly
13 what the status is here. There will have been some --

14 The Chairman. What do they cost?

15 Mr. Brockway. I'm not sure exactly what Senator
16 Danforth is proposing at this point, so I'm not sure what
17 the --

18 The Chairman. Jack, do you want to be heard on it?

19 Senator Danforth. Yes. Mr. Chairman, this issue is
20 enormously complex, I think. But it's my understanding that
21 the thrust of the proposed amendment -- at least as a matter
22 of policy as agreed to by the Treasury, and it does amount
23 to a mirror image of what was done by the committee back in
24 1976 with respect to foreign loss recapture.

25 And the only problem, as I understand it, is not the

1 policy and not the equity of it because it is the right
2 policy and it is equitable. The only question is how much
3 revenue we can afford to lose.

4 So there is a fallback position which I am willing to
5 propose now, which is a 25 percent domestic loss recapture
6 provision. So in other words, it will only mirror 25
7 percent of what we have done on the reversal.

8 Senator Packwood. Could I ask a question?

9 The Chairman. Sure.

10 Senator Packwood. Has there been any notice of this
11 to the parties that are affected?

12 Mr. Brockway. The reduction? The proposal -- Senator
13 Danforth has had a proposal and you have had hearings on
14 that in the original form would have, even as modified earlier
15 today, had a revenue loss of \$500 to \$600 million. Now I
16 gather there are some additional changes.

17 He has described it where rather than allowing a
18 resourcing of half the income, he would have the resourcing
19 of 25 percent so that would reduce the revenue loss.

20 Senator Packwood. You are answering more than I want
21 to know.

22 Mr. Brockway. I'm sorry.

23 Senator Packwood. All I recall is that in years past
24 we have had monumental battles over both foreign tax credits
25 and deferral of foreign source income. I'm unfamiliar with

1 what it is he is proposing. I may or may not support it.
2 But if it is akin to anything we have done in the past
3 relating to foreign tax credits, it stirs up a hornets nest
4 of immense proportions. That's all.

5 And I haven't had anybody contact me, which leads me
6 to believe either this provision is innocuous or no one
7 knows anything.

8 Mr. Brockway. Well, I think the provision that
9 Senator Danforth is interested in is not necessarily
10 innocuous, but it's favorable to taxpayers, to certain tax-
11 payers to a substantial extent. But it has been an item that
12 he has brought in front of the committee several times before.

13 If the committee were to pay for it, it might pay for
14 it with items that have not been fully considered in the
15 committee.

16 The Chairman. Who does it impact if we pay for it?
17 I mean if we are going to benefit someone and penalize some-
18 one else, why not just forget it?

19 Mr. Pearlman. Senator, I think in response to Senator
20 Packwood, clearly you are not hearing from people because
21 they would like this proposal. This is a taxpayer oriented
22 proposal.

23 Senator Danforth's proposal, as we understand it, does
24 cut the revenue down substantially in the years that we are
25 talking about, the budget years from his original proposal.

1 But I think it is important to point that in the out-
2 year, beginning in 1988 -- for example, if you go '88 through
3 '90, this proposal has a billion dollar revenue impact so
4 that from our standpoint, while we are interested in trying
5 to work to cut this proposal down, we can't look simply at
6 the budget years in focusing on revenue. And we have to
7 express our concern about the outyear revenue implications.

8 Senator Danforth. The people who want this are heavy
9 industries, troubled in the United States, who have losses
10 in the United States -- steel industry in particular -- and
11 which have had profits abroad.

12 What they want to do, in essence, is equalize -- in no
13 way can I explain the technicalities. But what they want is
14 a mirror image provision for the situation that was agreed
15 to by the Congress in 1976 for businesses which have the
16 reverse of that. Namely, profits at home and losses abroad.
17 That's my understanding of it.

18 Mr. Pearlman. Senator, if a business had a domestic
19 loss and a foreign profit in the same year, it presumably
20 would have paid a foreign tax on its foreign profit. But
21 if the domestic loss were sufficient to fully offset its
22 foreign income, it would not get the benefit of that foreign
23 tax credit.

24 This proposal is designed to free up, if you will, that
25 unused foreign tax credit in a subsequent year when the

1 corporation has a domestic profit.

2 Senator Danforth. Explain the reverse of that, Ron,
3 if you would. What did we do in 1976?

4 Mr. Pearlman. In 1976 it was just the opposite. We
5 had the situation where foreign losses were being used to
6 offset domestic income. And I think at Treasury's insistence
7 the Congress reacted by enacting Section 904(f) to, in
8 effect, do the same thing in reverse -- not permit credits
9 from one year to be utilized, and the income to be offset
10 by domestic losses in another year. I think I'm correct in
11 that description.

12 The Chairman. Does Treasury have a position on this
13 one?

14 Mr. Pearlman. Our position has been -- we testified
15 before the committee on this amendment. Our position has
16 been consistently that conceptually this proposal makes
17 sense. We think it is, as Senator Danforth pointed out, a
18 mirror image of what the Congress did in 1976.

19 Our concern from the outset -- there are three parts of
20 Senator Danforth's proposal. I'm only referring to the first
21 part, the loss recapture rule. Our concern from the outset
22 has been the revenue impact. But, conceptually, we think
23 Senator Danforth's proposal makes sense.

24 The Chairman. Well, what are the other two parts?
25 Do they all make sense?

1 Mr. Pearlman. He has two other parts. The second
2 part has to do with an extension of the foreign tax credit
3 carry forward period which is presently five years. There
4 have been proposals to extend it anywhere from 10 to 15 years.
5 I understand that Senator Danforth's proposal is now to
6 extend it to 10 years on a fully prospective basis.

7 The third part of Senator Danforth's package had --
8 Senator Danforth. It had --

9 Mr. Pearlman. It had to do with FIFA, and I understand
10 that has been dropped.

11 The Chairman. Still the cost is still \$600 million.

12 Senator Danforth. No. We cut it down to \$105 million.

13 The Chairman. For three years?

14 Senator Danforth. Yes.

15 Mr. Brockway. I gather that's from, one, reducing the
16 amount that you can take into account in any year and, two,
17 delaying the effective date.

18 Senator Danforth. Pardon?

19 Mr. Brockway. Those changes come from saying that the
20 amount recaptured is only 25 percent in any one year, and then
21 delaying the effective date of the amendment -- is that how
22 the revenue drops?

23 Senator Bentsen. Wouldn't you also have it because
24 they are not going to -- and staying with --

25 Mr. Brockway. I think this \$500 million or \$600 million

1 just on this first piece, if it were effective on a
2 prospective basis, it would be \$500 or \$600 million.

3 The Chairman. Does the Joint Committee agree with the
4 present cost estimates of \$105 million?

5 Mr. Brockway. I haven't run those.

6 Senator Heinz. Mr. Chairman, while that is being con-
7 sidered, there is one other item I could bring up.

8 Mr. Brockway. I think that what is happening in the
9 cost estimates -- and we just have to see -- is just that
10 the revenue that you would otherwise lose in the three year
11 window, you are just pushing to just outside the window.

12 The Chairman. But, again, we have this additional
13 growing cost in, what, '88 and '89. Is that correct?

14 Mr. Brockway. That's correct. If the number is a
15 reduction of the loss of \$500 million in the three year
16 period, that just means you have lost five million more
17 outside the three year period.

18 Mr. Pearlman. I think we agree with that. Senator
19 Danforth's revision -- and that's the reason I mentioned the
20 outyear numbers -- does cut the revenue cost down in these
21 three years. But there's a very substantial revenue cost in
22 the years '88 through '90. And it is as a result of pushing
23 those losses forward.

24 I made a misstatement that I want to correct, Mr.
25 Chairman. I indicated in describing Senator Danforth's tax

1 credit carryover provision that it was fully prospective.

2 And I want to correct that. I apologize. It would apply,
3 as I understand it, Senator, to losses incurred in taxable
4 year 1982 and forward. Excuse me.

5 Senator Danforth. Now, Mr. Chairman, basically there
6 are two arguments in favor of doing this. First, it makes
7 the foreign tax credit available to companies that are basket
8 cases in the U.S. The second is that this does mirror what
9 we did in 1976. It is truly an equitable arrangement. It is
10 the correct tax policy. And it seems to me that the foreign
11 tax credit, if it's going to apply to profitable companies
12 at home, should also apply to unprofitable ones.

13 The Chairman. If you are trying to find some offsetting
14 revenues, you --

15 Mr. Pearlman. Yes. We have several proposals that we
16 have been working on and discussing at the staff level.

17 The Chairman. Let's take a look at those overnight
18 before we ring the cash register again.

19 Senator Heinz. Mr. Chairman?

20 The Chairman. Senator Heinz.

21 Senator Heinz. Could I inquire of the staff where we
22 finally came out on the vote on three year extension of the
23 private jobs tax credit. Now I find out -- how many people
24 recorded themselves in favor of that?

25 Mr. DeArment. The vote following the practice that we

1 have had, closed when the committee agreed --

2 Senator Heinz. Just tell me how many people were in
3 favor of it.

4 Mr. DeArment. On three years, I have a tie vote of
5 8 to 8. And let me see how many other people recorded
6 their -- there are three people who indicated their expression
7 after that voted closed that were in favor of it, and one
8 against.

9 Senator Heinz. So the vote was 11 to 9 in favor of
10 that?

11 Mr. DeArment. No.

12 Senator Heinz. If it had still been open.

13 Mr. DeArment. Yes.

14 Senator Heinz. If we had left the vote open as we
15 normally do.

16 Mr. DeArment. No. Our normal practice is what we
17 followed.

18 Senator Heinz. Oh. Well, my point, Mr. Chairman, is
19 normally the way I have generally found we proceed around here
20 is that we don't have kangaroo votes and normally the
21 chairman is very fair about it and leaves the vote open --

22 The Chairman. I notice that you used the word
23 "normally." I'm prepared. Go ahead.

24 Senator Heinz. Normally the chairman is very fair on
25 it. And it strikes me that this is a little unusual that

1 people didn't have a chance to get recorded.

2 Mr. DeArment. Mr. Chairman, let me explain this. This
3 has been a practice that Mike has followed over the years.
4 When you have a succession of votes on the same issue --

5 The Chairman. I think we understand that.

6 Mr. DeArment. -- and one closes off the rest, we stop
7 recording it. I mean anybody can reopen it and revote again.

8 The Chairman. We can still bring it up. I don't want to
9 shut Senator Heinz off. As I understand, following that
10 vote there was --

11 Mr. DeArment. It would have been 1 on 1 for one year,
12 and when it was compromised to two years, you can't.

13 The Chairman. Well, you can if you have the votes.
14 But I think we would have to reopen that. Do you want to do
15 that in the morning?

16 Senator Heinz. Yes. Let's do it when people are here.

17 The Chairman. There are quite a few here right now.

18 Senator Boren. Mr. Chairman, on another question, I
19 wanted to see if this is non-controversial or not. I notice
20 on the list -- I had raised an issue a while back about the
21 1 percent of loan, outstanding loans, to be put in the loan
22 loss reserve for banks, and it's the same sort of item that
23 has been raised in S. 1519. Senator Bentsen and Senator Symms
24 and Senator Roth had previously introduced that.

25 We have had a situation in our state where we have had --

1 I think it has been very well publicized -- large banking
2 losses. We still have \$256 million of uninsured deposits
3 still resulting from the Penn Square Bank collapse, for
4 example. And with the rapid changes in the oil industry, our
5 banks tell us that the experience -- it's running higher than
6 the six-tenths now in effect.

7 And we had discussed the idea of perhaps the Bentsen-
8 Symms-Roth bill was a permanent 1 percent, but perhaps just
9 for the next two years while we are in this period of
10 uncertainty allowing a 1 percent figure just for the sake of
11 encouraging security of our institutions because that has
12 become a real question in our area of the country. I don't
13 know to what extent -- it's also true, I think, in agri-
14 cultural areas. But it is a matter of general concern.

15 I had understood earlier that perhaps Treasury did not
16 object to a temporary --

17 Secretary Chapoton. Senator, this question has come
18 up since 1982. We have supported it. I'm looking for the
19 revenue estimate. I think it's about \$200 million over these
20 three years.

21 The Chairman. I think there is an interest in it.
22 Maybe we can get together tomorrow and decide how we are
23 going to pay for some of these things. There are probably
24 70 other items that members have called our attention to,
25 all of which lose revenue. And there is interest in every one

1 of them.

2 If you added up the total bill, it would be \$10 or \$15
3 billion. So I think we have to decide if we are going to
4 dump all this in the House's lap. They didn't add anything
5 to their bill to speak of, did they?

6 Mr. Brockway. Relatively few provisions of revenue.

7 Senator Boren. I would be glad to defer. I just want
8 to raise it. We are talking about the security of the
9 financial institutions. I talk to people all the time that
10 have lost life savings. For example, the Penn Square Bank
11 situation. And I'm just concerned about it. And I know
12 Senator Bentsen had introduced this bill, and Senator Symms.

13 The Chairman. I'm very willing to consider that.

14 Senator Boren. We might be able to figure out a way to
15 hold the cost down to a minimum someday.

16 The Chairman. I'm not so interested in holding the cost
17 down even in that matter. I'm willing to do it. But if we
18 can all get together and decide how we are going to raise
19 enough revenue to reestablish our priorities, I don't have
20 any problem with that.

21 But if we keep just saying, well, we will just do four
22 or five more, they don't cost much -- what's the total now
23 we have done today on revenue?

24 Mr. DeArment. Mr. Chairman, I had two items in there.
25 I think that the total that we have done is about \$6.1.

1 The Chairman. So the 47.6 figure is now \$41.5 billion.
2 Right?

3 Mr. DeArment. That's correct.

4 The Chairman. And we lose 1.5 in insurance, that's
5 40. What other?

6 Senator Heinz. Mr. Chairman, I have got a revenue
7 raiser for you, if you are interested.

8 Senator Moynihan. May I ask a question?

9 The Chairman. Sure.

10 Senator Moynihan. Mr. Chairman, thank you.

11 I asked the staff on the insurance matter that will come
12 up tomorrow. A number of mutual companies have trouble with
13 the way capital surplus is handled under the new insurance
14 bill. But I understand that the staff has been able to work
15 out a compromise that satisfies the high surplus mutual
16 companies. And can I ask Mr. Brockway if that is the case?

17 The Chairman. I think Rich has been working on it.

18 Senator Moynihan. Oh, Rich, I'm sorry.

19 Mr. Belas. There are alternatives to present to the
20 members. I'm not sure whether it would be anything that would
21 come as a staff proposal for you. It would be one that would
22 be up to the members to decide whether they want to provide
23 special relief.

24 Senator Moynihan. But you are making some progress?

25 Mr. Belas. There are some options for you.

1 Senator Moynihan. Thank you, Mr. Chairman.

2 The Chairman. Senator Heinz.

3 Senator Heinz. Mr. Chairman, we have all ready of all
4 the oil company mergers in the last several weeks and months.
5 And most of those oil company mergers are being financed with
6 loans, all of which end up being deductible. And we lose
7 revenue as a result of those deductions.

8 Now it seems to me that there is a significant tax
9 policy issue involved with all these mergers. We have given
10 oil companies for good reason intangible drilling costs.
11 We give them over the years depletion. And the reason we
12 have given them that kind of help, that kind of preferential
13 tax treatment, is to encourage them to go out and look for
14 oil, drill for oil, take risks, develop and produce that
15 oil. Well and good.

16 The result of those tax preferences has been that oil
17 companies have paid a lot less in taxes than they otherwise
18 would pay. And it troubles me somewhat when I see two
19 companies that have been accorded this kind of preferential
20 tax treatment use their strong financial position to go out
21 and borrow a lot of money which one or the other of them will
22 deduct from their profits, and use what in effect is the
23 value of the tax benefits we have given them to bring about
24 a variety of mergers, some of them being tax free as a matter
25 of fact.

1 So I am working on a proposal which would apply to
2 these kinds of corporate acquisitions. They, as a practical
3 matter, would apply simply to oil companies because as far
4 as I know they are the only ones that claim intangible
5 drilling costs, and get oil depletion, or used to get oil
6 depletion.

7 And what I am suggesting we do is that we disallow
8 interest deductions on money borrowed to do those deals,
9 treating the money as entirely fundible. That is to say
10 even if they have got a million dollars in cash lying around,
11 but they have a million dollar bank loan outstanding, and they
12 use the million dollars in cash, that that still be treated
13 as if they had borrowed the money.

14 And I have some other constraints as to how to handle
15 the taxable and the tax free deals. I would require the
16 target to be fully taxable with respect to gain realized
17 in liquidating distributions or liquidating sales. And
18 with respect to tax free deals, reorganization. Treat the
19 transaction as fully taxable to the target or shareholders.

20 I don't want to press this to a vote tonight, Mr.
21 Chairman, but I would like people to sleep on it and think
22 about it because it seems to me that we are unwillingly
23 and unwittingly participating in a tax abuse, having granted
24 the tax preference for one purpose and to see it preverted
25 into the use for another purpose.

1 And I would think that given the fact that we are
2 talking about maybe \$50 or \$60 billion worth of borrowed
3 money to consummate this rush of mergers, both rash and
4 lush, and that adds up in round numbers to \$6 billion of
5 deductions that these corporations will take for the interest
6 that -- \$6 billion annually in interest deductions which at
7 42 percent gets around \$2-1/2 billion in lost revenues to
8 the Treasury. That we are talking about a significant amount
9 of money over three years. It could be as much as \$7-1/2
10 billion.

11 Senator Symms. Would my colleague yield?

12 The Chairman. I think before we get into a discussion
13 of this, you don't even have it drafted.

14 Senator Heinz. We do have a spec sheet drafted.

15 The Chairman. Let's let Treasury review it. I don't
16 think you can come back with an answer by morning. But while
17 you are talking about that same area to pick up money, have
18 you figured out what happens if we exempt real estate from
19 taxes? Do we pick up \$7 billion? Do you have that drafted?
20 We can vote on that tonight.

21 Mr. Brockway. We have a general proposal. I think
22 it's more than \$7 billion. The \$7 billion was the number that
23 was used prior to 1981. Our estimates, using the same
24 transitional rules that we would consider on any proposed
25 changes on the depreciation of real estate -- that is only

1 affecting lessor real estate and not the owner occupied.

2 The Chairman. Right.

3 Mr. Brockway. And only applying to new buildings or
4 used buildings put in service after the effective date.

5 That would be in the periods through '87. That would be a
6 \$15 billion revenue pick up if you would exempt them from
7 tax, and require capitalization of their related costs.

8 And by 1989, it would be about \$15 billion a year of revenue
9 pick up.

10 Or in other words, saying under present law that you
11 have about that much of a revenue loss just from the lessors
12 of real estate.

13 The Chairman. Do you have that prepared yet in the
14 draft?

15 Mr. Brockway. We have the specifications upon which
16 that was estimated. It would be easy enough to put it in
17 legislative language.

18 The Chairman. Well, how could anybody oppose exempting
19 someone from taxes? Anyone here want to oppose exempting real
20 estate from taxes? That may be a way to close this gap here.
21 We are having a little trouble getting together on anything
22 else. But if you are going to exempt them from tax, I think
23 that would be unanimous.

24 Mr. Brockway. That would be a pick up of roughly
25 \$15 billion. You might lose some from changes in behavior.

Moffitt Reporting Associates

2849 Lafora Court
Vienna, Virginia 22180
(703) 573-9198

1 I don't know how to quantify that.

2 (Laughter)

3 The Chairman. It would be a change in behavior all
4 right.

5 Well, I do want to get that up tomorrow morning.

6 Mr. Brockway. We will have it.

7 The Chairman. I don't see much progress anywhere else
8 so let's move on that.

9 Senator Chafee.

10 Senator Chafee. Mr. Chairman, I would just like to
11 finish up the golden parachute which was voted on yesterday.
12 But what we did was we denied the deduction to the employer.
13 As you know, in my original proposal I wanted a 90 percent
14 tax on the employee. But I have backed off from that.

15 What I would like is an additional 15 to 25 percent
16 excise tax on the entire amount. And Treasury indicated that
17 that could be worked out; that was acceptable.

18 Secretary Chapoton. It could be worked out, Senator.
19 I think the denial of the deduction will probably prevent
20 the transactions in this class from going forward.

21 Senator Chafee. Well, I just wanted to lock it up
22 completely. If there is no objection --

23 Senator Symms. Well, I want to reserve the right to
24 object on that.

25 Senator Chafee. Mr. Chairman, on the golden parachutes,

1 I would like to impose a 15 to 25 percent excise tax on the
2 amount that the parachutor uses.

3 (Laughter)

4 Senator Chafee. And receives.

5 Senator Symms. Prospectively or retrospectively.

6 Senator Chafee. Oh, no, it's all prospective. It's
7 all prospective. We are not going to get anybody who has
8 landed, but we are getting those --

9 (Laughter)

10 Senator Chafee. -- those who haven't jumped yet. And
11 so, Mr. Chairman, I'm for this. And if there is objection,
12 I would press it to a vote.

13 The Chairman. Can Treasury worked that out?

14 Secretary Chapoton. We can certainly work it out,
15 Mr. Chairman. As I have indicated earlier, the initial
16 part of it, denying the deduction, is consistent with the
17 normal tax rules, and we can set presumptions, which this
18 would be doing, that this is excessive compensation, and,
19 therefore, not deductible.

20 When you get on the other side and put a penalty tax,
21 it would be beyond tax policy. It is simply saying that the
22 Congress wants to impose a penalty on this type of situation,
23 and it is using the tax code to impose a penalty. But it's
24 just a punitive --

25 Senator Symms. Mr. Chairman, I would just like to say

1 one thing about this. I appreciate my colleagues, both
2 Senator Chafee and Senator Heinz, when they talk about these
3 mergers and takeovers, but what they are doing by -- when we
4 start legislating on this, we are trying to interfere that
5 the Congress knows what is best. And that's very, very
6 difficult for us to do that.

7 And I would hope that we wouldn't vote on this tonight,
8 and we could have time to reflect about it and think about it
9 tomorrow.

10 The Chairman. Pardon?

11 Senator Symms. What I said is that by -- I mean it
12 may have great political popular appeal out here to go
13 after mergers and all these things, but there is another
14 side to this argument. And I think for us to try to vote
15 on something like this -- what we are doing is trying to
16 subject the Congress to say that we know what is best for
17 these business decisions that are being made by people that
18 have other reasons and other economic reasons of why they
19 make these decisions.

20 Senator Chafee. Mr. Chairman and Senator Heinz, I'm
21 not associating this -- this has nothing to do with what
22 Senator Heinz proposed. This is completely separate. This
23 deals with those people get into mergers. They are welcome
24 to go into mergers.

25 Senator Symms. Senator, let me make a point.

1 Senator Chafee. But those who leave by this --

2 Senator Symms. Senator, I know what you are saying,
3 but I made the point in here the other morning that in my
4 own state we had a hostile takeover between two mining
5 companies. And these people were all good friends before
6 this takeover.

7 And the board of directors of the company that finally
8 ended up getting taken over did pay a two year salary to
9 two or three officers who had run that company very well for
10 them. Now maybe their judgment had been wrong that they
11 hadn't bought up all their stock, because their stock had
12 gone public and the board of directors had agreed to go
13 public.

14 But you are really getting into an area here -- if the
15 takeover thing becomes a big problem, corporations that
16 recognize that their stock is selling at a price less than
17 what they think the value is will start buying their own
18 stock back to prevent a takeover. So astute people will
19 avoid this.

20 And in this case maybe it didn't happen, but I don't
21 think any injustice was done in the particular case I am
22 talking about. But in the future that particular case would
23 be punished.

24 And we are trying to stick our nose in here in some
25 area and say we know what is best. And I don't think we are

1 capable to do that. That's all I'm saying.

2 Senator Chafee. It's my understanding we adopted all
3 this last night with the provisions clarifying the
4 definition --

5 Senator Symms. No. We adopted a provision, if I
6 understood it right, to say that Treasury could rule on
7 whether or not it was just compensation.

8 Senator Chafee. That's right. That's right. And if
9 they decide that it's unjust compensation, then I want to
10 go to the other side of the equation and make sure that it is
11 not only not deductible but that the fellow who is receiving
12 it, or woman -- this is a nonpartisan, non-sexist amendment --
13 gets a severe penalty. I want to stop this business. And
14 this would do it.

15 And I originally proposed 90 percent, but some said
16 that was high.

17 (Laughter)

18 Senator Chafee. So I backed off to 15 to 25 percent on
19 top of whatever the bracket they are in.

20 The Chairman. And take away his car too?

21 Senator Chafee. No, he can keep his car.

22 (Laughter)

23 Senator Chafee. Of course, he wouldn't have a car if
24 he was over \$15,000.00.

25 The Chairman. That's right. Do you want to vote on it?

1 Senator Chafee. Yes. We haven't got many here.

2 The Chairman. We have a few. We have enough to act
3 on an amendment.

4 Senator Chafee. It's my understanding from Treasury
5 that they say that while they are not wild about doing it
6 on this side of the equation --

7 Senator Symms. Are we voting on the whole thing now?

8 Senator Chafee. No. We have done the other part. This
9 is just on the excise part. That is the tax on the recipient.
10 We previously decided that it's non-deductible if it meets
11 these definitions which are acceptable to Treasury. And by
12 the way, you don't even look at it unless it exceeds 200
13 percent of the highest compensation. So he gets that.

14 But when it gets beyond that, then we begin to look at
15 it. And if Treasury says it is non-deductible then on the
16 other side of the coin we say that it is very heavily
17 taxed. I want to stop this.

18 The Chairman. All right.

19 Mr. DeArment. Senator Chafee, your proposal would be a
20 sliding scale of 15 to 25 percent?

21 Senator Chafee. No. I will leave it to Treasury to
22 decide whether it should be 15 or 20. I don't care what it
23 is in that bracket.

24 Senator Wallop. Mr. Chairman, my goodness sakes, that's
25 a hell of a way to try to vote on a penalty when you don't

1 know what it's going to be.

2 Senator Chafee. I make ti 20 percent.

3 (Laughter)

4 Senator Chafee. An excise tax. Does that satisfy
5 everybody?

6 Senator Wallop. No.

7 Senator Chafee. I didn't think it would.

8 (Laughter)

9 The Chairman. Let's vote. Let's do something.

10 Mr. DeArment. Mr. Packwood?

11 Senator Packwood. Aye.

12 Mr. DeArment. Mr. Roth?

13 (No response)

14 Mr. DeArment. Mr. Danforth?

15 Senator Danforth. Aye.

16 Mr. DeArment. Mr. Chafee?

17 Senator Chafee. Aye.

18 Mr. DeArment. Mr. Heinz?

19 Senator Heinz. Aye.

20 Mr. DeArment. Mr. Wallop?

21 Senator Wallop. No.

22 Mr. DeArment. Mr. Durenberger?

23 (No response)

24 Mr. DeArment. Mr. Armstrong?

25 Senator Armstrong. No.

1 Mr. DeArment. Mr. Symms?

2 Senator Symms. No.

3 Mr. DeArment. Mr. Grassley?

4 (No response)

5 Mr. DeArment. Mr. Long?

6 Senator Long. Aye.

7 The Chairman. The rest of them aren't here.

8 Mr. DeArment. Mr. Chairman?

9 The Chairman. Aye.

10 (Laughter)

11 The Chairman. I mean you can call the names, but I
12 don't see anybody here.

13 (Laughter)

14 The Chairman. We will leave this open. Ayes are 6;
15 the neahs are 2.

16 All right. Let's come back at 9:30.

17 Senator Long. Could I just ask a question?

18 The Chairman. Just a second, yes.

19 Senator Long. Could I ask a question about what we voted
20 on? Does that mean that there would be a 20 percent tax
21 imposed on something on top of a 50 percent tax rate? So
22 it would be a 70 percent tax on this transaction?

23 Mr. DeArment. Yes. As I understand it, to the extent
24 that the Treasury determines that there is this excess
25 compensation, then there would be a 20 percent excise tax

1 which would be in addition to his regular income tax.

2 Senator Long. So it could be as high as 50 percent?

3 Mr. DeArment. That's correct. Yes. So the total tax
4 could be as high as 70 percent.

5 The Chairman. Could I sort of announce the schedule
6 because there may be some people in the audience who may not
7 have to be here at 9:30.

8 I think what we need to do is go back and pick up these
9 items under review by Treasury and tax staff; if we can
10 reconcile those. And then if we can work out number 11.

11 Mr. DeArment. It was number 10.

12 The Chairman. Number 10.

13 Mr. DeArment. And then we also had number 13 open.

14 The Chairman. All right. And then we will move to
15 insurance. And then to truck taxes.

16 Mr. DeArment. And then mortgage bonds.

17 The Chairman. No. And then we will see if that
18 amendment is prepared on exempting real estate from taxes.

19 That would raise how much?

20 Mr. Brockway. Fifteen billion over the period through
21 '87.

22 The Chairman. Is there any opposition to that that you
23 know of?

24 Mr. Brockway. I'm not aware of any yet.

25 (Laughter)

1 The Chairman. Maybe we can do it without a vote. We
2 don't need a roll call on these minor things.

3 (Laughter)

4 The Chairman. So let's do that. And then I think
5 everything else we have on the list, we want to put there.
6 So we will be in at 9:30.

7 Senator Heinz. Mr. Chairman, is there any way we could
8 resolved the targeted jobs tax credit tonight in view of --

9 The Chairman. I think I would rather wait until
10 morning.

11 Senator Heinz. All right.

12 The Chairman. There isn't anybody here.

13 (Whereupon, at 7:04 p.m., the mark-up session was
14 recessed and scheduled to reconvened at 9:30 a.m. on
15 Thursday, March 15, 1984.)
16
17
18
19
20
21
22
23
24
25