

1 EXECUTIVE COMMITTEE MARKUP SESSION ON BUDGET DEFICIT
 2 REDUCTION PROPOSALS
 3 THURSDAY, MARCH 15, 1984
 4 U.S. Senate
 5 Committee on Finance
 6 Washington, D.C.

7 The committee met, pursuant to recess, at 9:40 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, Matsunaga, Moynihan, Baucus, Boren,
 13 Bradley, Mitchell 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 the Treasury; Dr. Robert J. Rubin,
 17 Assistant Secretary for Planning and Evaluation, Department of
 18 Health and Human Services; Dr. George Schieber, Director,
 19 Office of Logistic Policy, Health Care Finance Agency.

20 Also present: Roderick DeArment, Esquire; Michael Stern,
 21 Esquire; Richard Belas, Esquire; Donald Suswein, Esquire;
 22 Clint Stretch, Esquire, David Hardee, Esquire; James Wetzler;
 23 Dave Brockway; Sheila Burke; Ann Moran; Richard Gordon;
 24 Stuart Dorsey; Randy Weiss; George Pieler; George Yin; Bob
 25 Hoyer, and Bill Wilkins.

1 The Chairman. Let's see now -- I think we have an
2 agenda here. We believe that many of the items in the first
3 grouping can be -- where is Treasury?

4 (No response)

5 The Chairman. I think while we are waiting for
6 Treasury, if there is no objection, we will agree that the
7 targeted jobs credit extension be for a period of three
8 years.

9 Senator Chafee. Mr. Chairman. It seems to me we had a
10 vote, didn't we? And we defeated three years. If people
11 feel strongly about it -- you have said more than anybody in
12 here that the objective is to try to save some money in
13 these programs. You also said, and I thought rightfully,
14 that if this program came up as an appropriation, it
15 wouldn't get out of the blocks.

16 So what we are doing is embarking on a long program.
17 We haven't questioned that we are keeping it; the question
18 is, how long?

19 I wanted one year, and then we got to two years, and
20 now suddenly we are at three without a vote. I don't see
21 how these things work. Are we going back and reviewing a
22 lot of these things that way?

23 The Chairman. No, I hope not. But during the course
24 of the afternoon that was undertaken by Senator Heinz and
25 his staff, to pick up 11 votes on the three-year extension.

1 I assume there are 11 votes for a three-year extension.
2 They can move to reconsider it.

3 I still have concerns about the program, and part of
4 that request would be that we requested a GAO study. I view
5 it as possibly a very useful program, but with a lot of
6 doubt. We don't have any studies on it. We understand
7 it will take at least two years for Treasury to pull that
8 information together. And that's why I have agreed with
9 Senator Heinz, unless there is some objection, to go to
10 conference with three years. There is nothing in the House
11 bill.

12 Senator Chafee. They have got zero?

13 Well, Mr. Chairman, let me try one thing on you.

14 (Pause)

15 The Chairman. All right. Without objection, we will
16 agree to that.

17 Buck, are you ready on a couple of items that Senator
18 Bentsen had pending? They are in this first list. I
19 understand one you have worked out, and one you can't work
20 out.

21 Mr. Chapoton. I think the 6166 change that Senator
22 Bentsen -- I think, Senator Bentsen, the Chairman had asked
23 me about the items that you had raised, the installment
24 payment of a State tax change on a holding company. I think
25 we have worked that out, as I understand it.

1 The Chairman. What number is that on the list here,
2 Rod? Is that on the agenda?

3 Mr. DeArment. It was last night.

4 The Chairman. Right. I think it is here; I just don't
5 recognize it.

6 Mr. Brockway. It is a carryover from yesterday. I
7 don't know whether it is on the list as such.

8 The Chairman. All right. It was on the agenda, I know
9 that.

10 Is that okay with you, Lloyd?

11 Senator Bentsen. Yes.

12 The Chairman. Then, without objection we will agree
13 to that proposal; even though it is not listed here, it is
14 on the agenda.

15 Now, what is the second one?

16 Mr. Chapoton. Well, the second one is the one that
17 Senator Bentsen and I discussed yesterday, and we have not
18 been able to reach an agreement on the Gulf Coast Waste
19 Disposal Authority.

20 Senator Packwood. Which one is that?

21 Mr. Chapoton. It is the Gulf Coast Waste Disposal
22 Authority tax-exempt financing of existing pollution control
23 facilities.

24 Mr. Chairman, I did not have a chance last night to
25 meet with the representatives, but they had meetings

1 yesterday. I didn't have a chance to meet with them last
2 night. But I don't think what had been discussed with the
3 representatives of that Authority -- I don't think we are
4 going to be able to reach an agreement.

5 The Chairman. All right, let's defer that one. What
6 number is that on this list, Rod? We have an agenda here;
7 what number is it? Oh, it's not on the agenda. All right.
8 We can't scratch anything off.

9 Well, let's defer that one.

10 Let us start with number 1 on the agenda, the
11 clarification of the general prepayment rule. Has there
12 been any resolution of that? You have been working with
13 Senator Boren.

14 Mr. Chapoton. Yes. There has been no resolution of
15 that. Senator Grassley has a modification to Senator Boren's
16 proposal and/or it might be considered a modification to
17 our original proposal, which would say that no more than
18 50 percent of the expenses related to a business activity
19 in a year could be prepayments. Now, that could be an
20 amendment on either of our proposals.

21 We are opposed to Senator Boren's amendment or
22 modification of our prepayment rule. Senator Grassley's
23 amendment is acceptable to us.

24 The Chairman. I thought we adopted his amendment,
25 Senator Grassley's amendment.

1 Mr. Chapoton. I'm sorry; I believe you are right. I
2 believe we did adopt it, Mr. Chairman.

3 The Chairman. Well, Senator Boren isn't here. Number
4 2, I think we are still working on. Number 3 -- that was
5 raised by Senator Heinz, who is not here. And Senator
6 Wallop's is number 4. What about number 5, Treasury tax
7 compliance proposals?

8 Mr. Chapoton. We have a list.

9 The Chairman. Do we have the list? Dave?

10 Mr. Brockway. There are several items that have been
11 discussed with the Administration -- the various staffs. It
12 would improve compliance.

13 The first is an item dealing with promoters of tax
14 shelters, requiring that they register the tax shelters with
15 the IRS, similar to their SEC filings, and they would have to
16 provide a machine-readable form identifying the tax shelter
17 and its dollar value and certain other information, sending
18 that to the IRS and the taxpayer.

19 There is a second item that would require that a trustee
20 of an IRA would be required to identify the year in which
21 the IRA contribution was attributable, and provide that
22 information to the IRS and to the taxpayer.

23 The Chairman. Well, I guess the point is that Treasury
24 and the Joint Committee reviewed these carefully?

25 Mr. Brockway. Yes. It has been worked out with both

1 our staff, the Treasury, and the Minority and Majority staff.

2 The Chairman. Without objection, it will be agreed to.

3 Number 6? As I understand, that is a technical change.

4 Mr. Pearlman. Mr. Chairman, it is a technical change.

5 We have one aspect of that change which we are not in
6 agreement with.

7 The Chairman. Well, let's agree on the part you are
8 in agreement with.

9 Mr. Pearlman. All right.

10 The Chairman. We are going to forget a lot of these
11 things or we never are going to finish the bill.

12 Mr. Chapoton. Mr. Chairman, I think our staff person
13 that worked that out is not here. I think we had better wait
14 a minute on that.

15 The Chairman. All right. Let's move on to the
16 30-percent withholding on tax. That has been worked out, as
17 I understand.

18 Senator Chafee. Yes, that has been worked out,
19 Mr. Chairman. We had a meeting with Senator Wallop, and we
20 agreed on a phase-down as follows: That on passage of the
21 legislation, actually on March 15th, the tax would go to
22 5 percent; in Calendar 85 to 4 percent; and in Calendar 86 to
23 3 percent. In Calendar 87 to 2 percent, and it would be
24 1 percent for the first six months of '88; then, on July 1st,
25 it would go to zero.

1 Mr. Chapoton. Yes. That is certainly an acceptable
2 approach to us.

3 Senator Chafee, let me mention on other thing. I would
4 like to consider it further and then maybe come back to the
5 committee on it, and that is the resourcing rule that has
6 been adopted by the committee already. It is a good change
7 in the law. We like it. It has the effect of denying the
8 foreign tax credit for taxes paid to the Antilles.

9 I just want to point out -- I don't have a solution to
10 it, but I do want to point out that while this phase-in is
11 coming in it will make Eurodollar financings through the
12 Antilles more expensive during this phase-in period, and I
13 would like to consider the possibility of phasing that
14 change in while this other is phased in.

15 Senator Chafee. Well, that makes sense to me.

16 The Chairman. All right, then. As I understand it,
17 there is an agreement on that with Treasury and the
18 opposing views. Is that correct?

19 Senator Chafee. That's correct.

20 Mr. Chapoton.. That's correct.

21 The Chairman. Without objection, we would agree to that.

22 Number 8? I had asked Treasury to figure out some
23 substitute on that luxury car proposal. It seemed to me that
24 the one we were considering was less than a balanced
25 approach. And I think Treasury now has a proposal that

1 picks up substantially more revenue.

2 Mr. Pearlman. Mr. Chairman, what we have done in
3 response to your request, we have taken our prior proposal,
4 which you might recall is an across-the-board rule that
5 applies to all so-called "mixed use" property. It would
6 include automobiles -- whatever price -- it would include
7 aircraft, yachts, and so forth.

8 And the proposal that the committee has adopted would
9 have used a 50-percent threshold, and said that if business
10 use were less than 50 percent, that the taxpayer would not
11 be eligible for ACRS deductions. In the case of a car they
12 would use standard mileage rates for the deduction for
13 business use; if it were some other asset, it would be some
14 more extended depreciation schedule.

15 We have raised that threshold from 50 percent to
16 80 percent. So what we are saying is, if a car ~~is~~ a car, to
17 use an example -- is not substantially used for business
18 purposes, then if you are under 80 percent that you would
19 have to use standard mileage.

20 In addition to that, we have added a presumption that,
21 if the use is less than 50 percent, business use, then --
22 excuse me. Let me say that again.

23 That in every case we presume that there is no more than
24 50 percent business use. That is, we try to shift the
25 burden to the taxpayer to demonstrate factually that indeed

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1 the use is business use. It is purely a proof requirement.

2 A And we have tried to tighten up some of the tax
3 reporting rules.

4 We estimate those changes will raise \$2.5 billion over
5 a three-year period.

6 The Chairman. Instead of the \$500 million in the Baucus
7 proposal?

8 Mr. Pearlman. That is correct. And the reason for that
9 revenue shift, the principal reason for that revenue shift,
10 is the increase of the threshold from 50 percent to
11 80 percent.

12 Senator Packwood. Mr. Chairman?

13 The Chairman. Senator Packwood?

14 Senator Packwood. I think I like the idea. Would
15 you run through it once more and tell me -- you shifted the
16 burden of proof, so that the user must prove what?

17 Mr. Pearlman. Must prove that indeed the automobile
18 was used for business purposes.

19 Senator Packwood. All right.

20 Mr. Pearlman. And all we are saying, Senator, -- and I
21 don't want to represent to you that that puts an undue
22 burden on the taxpayer. I am not sure it is a terribly
23 onerous burden, but what we are saying to the taxpayer is,
24 when the revenue agent comes into examine, he is going to
25 assume that that car is used no more than 50 percent of the

1 time for business.

2 Now, he may indeed challenge even the 50-percent use.
3 He may say it is not used at all for business. But he is
4 not going to buy into any representation that the car is
5 used more than 50 percent for business until the taxpayer
6 proves to him otherwise.

7 Senator Packwood. All right. I understand that part.
8 Now let us say it is used 60 percent for business. Tell me
9 about your 80-percent threshold.

10 Mr. Pearlman. Sure. If it is used any less -- if it
11 is not used at least 80 percent for business. So using
12 your example, let's assume it is used 60 percent for
13 business. Then, under current law today, the taxpayer
14 would be entitled to ACRS on 60 percent of the cost of the
15 car, and the investment tax credit on 60 percent of the
16 cost.

17 We would say the only thing the taxpayer is entitled
18 to is standard mileage rate on the 60 percent. So what that
19 does is cut down the tax benefits -- presumably cut down the
20 tax benefits -- that will be derived from the taxpayer to the
21 extent of the business use, to using the standard mileage
22 rate.

23 Now, there is a depreciation piece to the standard
24 mileage rate, but it is going to be smaller.

25 Senator Packwood. A last question, then: If you used it

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1 40 percent for business, you would just take a per-mileage
2 deduction?

3 Mr. Pearlman. Exactly the same way. That is correct.

4 Senator Long. I just want to put my two cents' worth
5 in here.

6 This just shows how we come to do some of these things
7 that really make no sense at all. We started out where we
8 were going to tax the guy who drives a \$150,000 Rolls Royce.
9 Now, by golly, you are going to tax the guy that drives a
10 Chevette. So, you have some guy going out here who must
11 use his car for business. Now, according to testimony we
12 have had, only about 2 percent of the people get audited.
13 But if you happen to be one of the poor souls that get
14 audited, the odds are overwhelming -- you're stuck, because
15 the burden of proof is on you, and the presumption is that
16 you didn't use it for business. All the wheels are set
17 against you. So just every little soul around here gets
18 stuck, for just having a Chevette, but we started out where
19 if he had a \$150,000 Rolls Royce he was going to pay
20 something. That made just a lot better sense to me.

21 But now you are getting down to just anybody using their
22 car for business use. If he gets picked out for audit, the
23 odds are overwhelmingly against him. And most of the people
24 will go right on claiming the deductions. And if they don't
25 get audited, they will get away with it.

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1 Mr. Pearlman. Senator, we are concerned about that,
2 very concerned about that. But we have included in the
3 package some stricter standards in terms of filing that tax
4 return. For example, we are going to make it clear -- we
5 propose to make it clear -- that the taxpayer has to keep a
6 log of his actual business use.

7 Senator Long. The guy has got to keep a log, right?
8 Not only does he drive a Chevette, he has to keep a log?

9 Mr. Pearlman. That is correct. That's right. And
10 that he will have to indicate on his return that indeed the
11 deduction was based -- what is being claimed is based on
12 those records. So, if the revenue agent does examine and
13 finds that that date is not available, then that taxpayer
14 may be responsible for penalties for having been dishonest
15 on his return.

16 Senator Long. Why don't we just make it uniform and
17 just say that you can't deduct the expense of using an
18 automobile in any event. Now, how much would that pick up
19 for you?

20 Mr. Pearlman. Senator, I'm sorry; I just don't have
21 that number.

22 Senator Long. Well, would you please get that? Because
23 it seems to me, if we are that hard-up for money, maybe we
24 just ought to treat everybody the same. Because this is
25 certainly going to be unfair and complicated.

1 Mr. Pearlman. That would be simpler, certainly.
2 But, Senator, we would have some conceptual problem with
3 saying that a business asset, that a traveling salesman who
4 uses his car in business doesn't get a deduction for that
5 car. Is that what you are suggesting?

6 Senator Long. Well, it seems to me as though it would
7 be a lot fairer just to say that nobody can deduct it. So
8 then, if you have got a traveling salesman, okay, you just
9 have an expense you can't deduct.

10 But you are proposing to say, you would have it that
11 he has an expense he can't deduct if he doesn't use it more
12 than 50 percent of the time.

13 Mr. Pearlman. Well, we are saying that we think current
14 law does not allow the taxpayer deduction for personal use.
15 But we recognize the taxpayers are claiming deductions, when
16 maybe the facts won't prove it. We are simply trying to
17 toughen up the rules.

18 Mr. Chairman, let me mention one thing to you, that I
19 am advised that the revenue estimate that I gave you just
20 a moment ago may be off dramatically. Now I am being told
21 that it may be in the run of some \$600 million. I apologize.
22 We are trying to check out that revenue estimate. I am sorry
23 for that error.

24 The Chairman. We have raised it now. Let's just pass
25 over it and come to some of those we can clean up. We have

1 to come back to this either in closed session or open
2 session and figure out how we are going to raise some
3 revenue.

4 Senator Long. I have just one further question about
5 this.

6 The Chairman. Yes?

7 Senator Long. Is Senator Baucus for the Baucus
8 Amendment as you would modify it? Now, that is not to be said
9 said it is Baucus's deal. I have been importuned to vote for
10 it. Is Senator Baucus for this thing now, the way you have
11 got it now?

12 Mr. Chapoton. The Chairman asked us to come up with
13 a proposal that is an alternative to Senator Baucus's
14 proposal. And what Mr. Pearlman just described is that
15 alternative.

16 Senator Long. Well now, have you explained it to
17 Mr. Baucus and tell us whether he can support it or not?

18 Mr. Chapoton. No, we have not.

19 Senator Long. That is good to know.

20 The Chairman. Let's go on to Number 10. As I
21 understand, some of these are just technical. So let's
22 try to move on them very quickly.

23 Mr. Brockway. Well, there are several issues on this.
24 The rules apply to distributions pursuant to a dividend
25 declaration after the date of enactment. One, there is a

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1 question of the general effective date. I think at the
2 staff level it was felt that it would be better that that
3 would apply to distributions after date of committee action
4 for that, and also distribution of the discount obligations.

5 But the more controversial issue has to do with the
6 transition rule that applies right now, I believe, to
7 situations where the taxpayer is incurring significant
8 expense in a tender offer, and it would apply to
9 distributions of royalty interest. It would have a special
10 transitional rule.

11 There is some concern that that be extended to
12 distributions of any assets. Also, my understanding is that
13 Senator Heinz has some difficulty with any transitional
14 rule in this area.

15 The Chairman. What was it you said Senator Heinz had?

16 Mr. Brockway. I had understood that he had some
17 question about whether there should be any transitional
18 rule for the rules dealing with distributions of royalty
19 interest and other interest in the course of a tender offer,
20 whether that transaction should be grandfathered.

21 Senator Heinz. Thank you, Mr. Brockway. That's right.

22 I think that this whole issue is probably going to be
23 addressed through hearings shortly. And if I had to guess, I
24 anticipate that there will be legislative action on the
25 Senate floor that will put all of these propositions on hold

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1 for a while.

2 So it is my inclination not to pursue that issue at
3 this time. We will have the time to deal with it.

4 Mr. Brockway. Very good. Then, we would suggest
5 changing the effective date to distributions after the date
6 of committee action, but making it clear that the
7 transitional rule applies to distributions on a generic
8 basis not only to royalty trust assets but other assets of
9 the company, where there has been an announced tender offer
10 with regard to the stock.

11 Senator Bentsen. Where there has been what? I
12 couldn't hear you with all of the talk.

13 Mr. Brockway. Where there has been an announced tender
14 offer with respect to the stock. Not only the taxpayers
15 that have made the tender offer but other possible acquirers
16 of that same corporation would be grandfathered. And also,
17 it would not be limited to just royalty interests; it could
18 be any assets of the distributing corporation.

19 The Chairman. Is that satisfactory? Is there any
20 problem with that?

21 (No response)

22 The Chairman. Could I ask Rod a question? On the
23 Olympic check-off now, as I understand, we are talking about
24 if you have a refund coming you can make a check, and they
25 take it out of your refund. Is that correct?

1 Mr. DeArment. No.

2 The Chairman. Why don't we just have them take it out
3 of the refund? Then you don't have that problem.

4 Mr. DeArment. The way that Senator Bradley proposed
5 it, it is essentially everybody that checks a blank, there
6 is an appropriation of one dollar or whatever the amount is.
7 Is it one dollar?

8 The Chairman. That becomes a Federal --

9 Mr. DeArment. Then the Federal Government appropriates
10 for each person checked. So if 60 million people check that
11 blank, there is a Federal appropriation of \$60 million.

12 An alternative that I know the State of Virginia
13 adopts on their form is, for certain purposes, and it is
14 certain wildlife restoration purposes, you can designate
15 a portion of your refund. And they do the same thing for
16 the Democratic and Republican Parties in the State of
17 Virginia. So you check off and designate a portion of your
18 refund that will go.

19 The Chairman. But if it is a refund, then it is your
20 money.

21 Mr. DeArment. That is correct.

22 The Chairman. It is not the government's money you are
23 contributing.

24 Mr. DeArment. That's right. It is not an appropriation.

25 Senator Long. I think I could go along with the refund,

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1 Mr. Chairman, if we could agree on that.

2 The Chairman. Well, that has not been finally deter-
3 mined. We might discuss that with Senator Bradley. It
4 would seem to me that then you are actually making a
5 contribution, not taking the money you owe the government
6 and saying the government ought to make the contribution
7 and be directly involved in the Olympics. So let's take a
8 look at that.

9 What about No. 11?

10 (Pause)

11 Mr. Brockway. We have a list.

12 The Chairman. Well, are you ready for 12?

13 (Pause)

14 The Chairman. Before we do that, I understand Senator
15 Bentsen says you may be prepared to dispose of the top-heavy
16 pension item.

17 Senator Bentsen. What we had there, Mr. Chairman, we
18 in TEFRA passed a law to try to stop the use of pension
19 tax-deferred funds as a tax shelter and create more parity
20 between corporate and noncorporate plans.

21 But we had some unintended results in TEFRA, and it
22 resulted in some rather harsh situations. What we have
23 now tried to do is to work that out and make it practical,
24 where it will work. And I think we have been able to
25 accomplish that.

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1 We have gone to great lengths, also, to make it revenue
2 neutral. As we had first proposed it in my piece of
3 legislation, along with Senator Chafee, it was going to be
4 rather an expensive proposition. But we have made a number
5 of proposals insofar as the tax indexing from the 90,000.
6 Rich Belas has been working on that.

7 The Chairman. Rich, can you comment on this?

8 Mr. Belas. Essentially, the revenue-raising portions
9 of it would be to close a loophole dealing with when you
10 have a money purchase pension plan and another defined benefit
11 plan, to say that it can be no more than 25 percent of
12 compensation.

13 Second would be to freeze the Section 415 contribution
14 limits through 1987, as in the Ways and Means bill.

15 Third, there is a repeal of the \$100,000 exclusion from
16 the estate tax for pension plan payments.

17 Senator Bentsen. The other one was, I wanted to be
18 sure that we assisted some of these plans by incorporating
19 these rules by reference, and at the same time, that if
20 Treasury goes ahead and gets the regulations out, that then
21 they will have to follow through with the amendment of the
22 plan. Would you comment on that?

23 Mr. Belas. I think Treasury should probably comment on
24 when they think they can get those regulations out by.

25 Senator Bentsen. All right.

1 Mr. Chapoton. Senator, I am advised that it will
2 probably be the end of the year before the regulations are
3 out.

4 Senator Bentsen. Well, I would like to see, then, that
5 we be allowed to incorporate these top-heavy rules by
6 reference in plans, with the understanding that Treasury has
7 to get it out by the end of the year, get the regulations
8 out by the end of the year.

9 Mr. Belas. The rule, then, since plans do not have to
10 be amended until nine months after the beginning of the year,
11 they would be allowed to incorporate by reference if
12 Treasury has not come out with regulations by the end of
13 1984.

14 Senator Bentsen. That is fine with me.

15 Mr. Chapoton. That is fine with us.

16 The Chairman. Well, I understand Treasury is aware of
17 what has been worked out?

18 Mr. Chapoton. Oh, yes, and we do think that Senator
19 Bentsen is absolutely correct; I think the top-heavy rules
20 have caused some problems. We have been working for some
21 time to see how we could modify the rules, and we think this
22 is a good change.

23 Senator Bentsen. I have another concern, and that is on
24 the qualified renewal loan issue.

25 We have a situation there where some people have had

1 problems in trying to raise the money to pay it back, and
2 I would like to see it as Senator Chafee and I had proposed
3 originally, that some extension of time be given there.

4 We had originally proposed 1988, as I recall; but I
5 am willing to listen to a compromise with Treasury. But I
6 do think that they need some time for those who have had
7 difficulty raising the money to repay the money borrowed.

8 Mr. Chapoton. Senator, we are opposed to that. I
9 remember it was given a time, I believe a year, after TEFRA.
10 What you are proposing is a further extension of that year,
11 and we simply don't think that is necessary. We agree with
12 the rest of the package, but I don't think this is really
13 part of that package. This is a separate element of it,
14 and we would not like that.

15 Senator Bentsen. Well, Mr. Chairman, then I would like
16 to push for that, if it is all right with the co-author of
17 this particular legislation. Instead of pushing it onto
18 1988, which we had originally proposed in our bill, I would
19 like to see if we can't strike a compromise on this and
20 make it until -- oh -- the end of 1985. Give them time
21 to repay these loans where they have had problems raising
22 the funds. And that's three years sooner than we had under
23 the legislation we proposed.

24 The Chairman. Everything else is agreed to?

25 Senator Bentsen. Yes.

1 The Chairman. Well, as I understand, there is no
2 objection to any other provision; is that correct? So why
3 don't we agree to those provisions, and why don't we agree
4 to this 1985. We could have a vote on it, but --

5 Mr. Chapoton. Well, we would certainly like that better
6 than a longer extension. These are people who have had loans
7 before, people after the rules changed -- they have an
8 advantage and have had an advantage over the others already.
9 I think we ought to keep it as low as we can. If the
10 committee decides '85, that's fine.

11 Senator Chafee. The problem is that some have paid them
12 back, isn't it?

13 Mr. Chapoton. That's true; some of them have paid it
14 back. But the law has required them to pay it back.

15 Senator Chafee. And we are giving the others an
16 extension. I am not going to quarrel over the 1985.

17 Mr. Chapoton. They still have to pay it back.

18 Senator Bentsen. They still have to pay it back, and
19 some have had trouble raising the funds.

20 Senator Chafee. All right. I am amenable to Senator
21 Bentsen's proposal.

22 The Chairman. All right. Without objection.

23 Senator Moynihan?

24 Mr. Chapoton. Mr. Chairman, would it be possible to
25 limit that to non-key employees? I mean, the problem has

1 been in the key employee area.

2 Senator Bentsen, would that be acceptable to you? I
3 mean, we are giving them something the law has already
4 denied them.

5 Senator Bentsen. All right, I'll go along with you.
6 Fine.

7 The Chairman. Senator Moynihan?

8 Senator Moynihan. Mr. Chairman, under TEFRA we imposed
9 limits on the amount of pensions that could be available to
10 employees under a qualified defined benefit pension plan,
11 \$90,000 at age 62, and then by steps to a lower level. The
12 limit at age 40 is \$26,741.

13 Later, we adjusted this to permit airline pilots to
14 receive larger pensions in this schedule, because they are
15 required to retire before 62.

16 There are a fair number of police and fire departments
17 around the country where at 20-year retirement at age 40
18 or later the pensions actually are higher for executive
19 personnel than the present law allows.

20 All these situations would be resolved if we permitted
21 a \$40,000 limit for persons retiring earlier in police and
22 fire departments at the executive levels.

23 The Chairman. Does Treasury have a comment?

24 Mr. Chapoton. Yes.

25 Senator Moynihan, this problem has come up. You are

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1 right, the limits cut back if they retire before age 55.
2 The theory, of course, is that we have a limit, and a receipt
3 of a pension earlier than that obviously has to be
4 discounted to make it consistent with the limit at the later
5 age. These people will retire, will get other jobs, and will
6 create other pensions. I think we have to recognize that
7 fact, that while in total dollar amount it is different, they
8 are retiring at an earlier age, and they are going to --
9 in all probability, almost a certainty -- generate another
10 pension.

11 It has been suggested -- and I don't think it has been
12 done, but it is in the House bill -- to make it such an
13 exception for airline pilots, because of the theory that
14 they are mandated for early retirement.

15 Senator Moynihan. The House has made an arrangement
16 for airline pilots.

17 Mr. Chapoton. That's right, the House has done it for
18 airline pilots. But we did not like that, although we could
19 see a reason when early retirement is mandated.

20 In the case of a policeman or fireman, it is not so
21 mandated under the law, and frankly the argument was made on
22 the House side that because of their occupations they ought
23 to be given special consideration. But from the pension
24 standpoint, they are getting a benefit that others do not
25 get.

1 The Chairman. You are opposed to the amendment?

2 Mr. Chapoton. We are opposed to the amendment.

3 Senator Moynihan. I don't know if I just want to leave
4 it there, Mr. Chairman. These are occupations, police and
5 fire, which for good reason have limited periods. As part of
6 the understanding, you retire early, and they desire that
7 they retire early.

8 The Chairman. Well, I would suggest -- it may have a
9 great deal of merit, but if we don't stop opening up the
10 program here, we are never going to finish the bill. What
11 I would like to do is to reject all of these amendments and
12 let Treasury take a look at them, and see where we are.
13 Everybody can bring up four or five little things they have
14 got on their minds. We need to finish, hopefully, by 4:00
15 today. Is there anything you can work out between now and
16 this afternoon?

17 Senator Chafee. Well, Mr. Chairman, I think what
18 Senator Moynihan is proposing is undermining what we were
19 doing last year. The airline pilots -- we didn't even
20 take them up in this committee. They took that up in the
21 House. That is a unique situation, because by Federal law
22 these people have to retire.

23 But with the policemen and firemen, now we are getting
24 into another whole category, and everybody else can fall in
25 under it. The policemen and firemen aren't mandated to

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1 retire. Yes, they might retire. But so do a lot of other
2 people.

3 So if we are starting down that path, we might as well
4 repeal what we did.

5 The Chairman. Well, do you want to vote?

6 Senator Moynihan. Could we have a show of hands,
7 Mr. Chairman?

8 Mr. Chapoton. As I understand the amendment, it would
9 allow -- say the Section 415 limits don't apply to policemen
10 and firemen. I guess basically it would say they could have
11 a \$40,000 limit whenever they retire. So the cutback from
12 age 55 would not cut them below \$40,000.

13 The Chairman. Is Senator Chafee correct? Would you
14 start unraveling -- ?

15 Mr. Chapoton. Yes. It is inconsistent. It is providing
16 a special exception to the limits that we adopted in TEFRA,
17 for policemen and firemen.

18 Senator Chafee. And right on the heels of this,
19 somebody will come with the sanitation people, who are in
20 exactly the same category.

21 The Chairman. Well, those in favor indicate.

22 (Showing of hands)

23 The Chairman. Those opposed?

24 (Showing of hands)

25 The Chairman. The Nays have it.

1 Senator Moynihan. I think I lost four to three.
2 Boschwitz is voting, Mr. Chairman.

3 (Laughter)

4 The Chairman. Let's go to Number 11, transition rules
5 on public property leasing. Are we ready for that?

6 Senator Danforth. Mr. Chairman, I regret to say that
7 I was not here at the beginning of the meeting when, as I
8 understand it, Senator Bentsen suggested expanding the
9 provision that is already agreed to at the staff level, at
10 least, with respect to Section 6166 and the deferral of
11 payment of estate taxes, and that he proposed certain
12 expansions of that provision, and that Treasury said that
13 it would agree to the expansion, provided that certain
14 changes were made in 6166.

15 I don't know exactly what the discussion was, but I
16 do understand that that has presented at least some
17 questions. I hope that we could work that out and that I
18 could be part of the negotiations before we agree to it.

19 The Chairman. Fine. We have agreed to it, but if they
20 can't satisfy your concerns we can raise it again.

21 All right, let's go -- Number 11, fast.

22 Mr. Yin. Mr. Chairman, these are a number of minor
23 technical modifications to public property leasing that have
24 at least been approved at the staff level.

25 The Chairman. Let me just ask this: Are they purely

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1 technical in nature?

2 Mr. Yin. I believe so.

3 The Chairman. Have they been looked at by the Joint
4 Committee staff?

5 Mr. Brockway. They have, Mr. Chairman.

6 The Chairman. Have they been signed off on by
7 Treasury?

8 Mr. Chapoton. Which are these?

9 Mr. Brockway. These are the technical changes on this
10 list.

11 Mr. Chapoton. Mr. Chairman, I am sorry, I have to
12 review this.

13 The Chairman. I understand somebody has.

14 Mr. Hardee. Mr. Chairman, we haven't seen them.

15 The Chairman. All right. Well, let's get our work
16 done before we bring them out.

17 Number 12, classification of research and development?

18 Mr. Chapoton. This is a clarification of the effective
19 date on the net operating loss provision that the committee
20 has already approved. We wanted to ask, there is a problem
21 with respect to the extension. These are the pre-1976
22 Act rules, in the effective date.

23 The Chairman. We have been here an hour now, and we
24 have only covered three items. Is there anything on this
25 agenda that we could take care of -- in the first group?

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1 Mr. Chapoton. I'm sorry, Mr. Chairman. This is to
2 make it clear that the 1976 Act rules do not come into
3 effect before the end of 1985. And we just need
4 clarification. It seems to me, frankly, it is a drafting
5 change; but as to clarification, I thought that was what
6 the committee had previously adopted.

7 The Chairman. Is this the matter that Senator Grassley
8 was concerned about? Or was that something else?

9 Ms. Moran. That is the next item, Senator.

10 Mr. Brockway. This is an item -- I thought that the
11 way it was suggested now was the way it originally was done.
12 This just means that the 1976 Act rules don't go into effect
13 at all, because otherwise they would be in effect only for
14 a three-month period. It is net operating losses, is what
15 this item is, and it is just to provide that the rules that
16 have been in place up to this year would continue in place
17 until you have a new regime.

18 The Chairman. All right.

19 Mr. Chapoton. Yes. That is what I thought we had done
20 last time.

21 The Chairman. Without objection, we will agree to that.

22 Then, number 13?

23 Mr. Chapoton. Mr. Chairman, if we want to go back, I
24 have information on Number 11, where our staff has been over
25 them, and we do agree that these amendments are technical and

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1 we will sign off on them.

2 The Chairman. What about Mr. Hardee?

3 Mr. Hardee. We need a little more time.

4 The Chairman. All right. Sure. We will wait until
5 David looks them over.

6 Number 14?

7 Mr. Brockway. This is an item where the committee
8 adopted a provision that would require that lessors in large
9 leases of real estate, where the rentals exceeded \$250,000 to
10 the lessor, would have to be on an accrual basis. This would
11 extend this also to equipment, where sale leasebacks of
12 equipment might use the same device where the lessor would
13 be on a cash basis and sell it to accrual basis. A person
14 would lease it back, and there would be a mismatch between
15 the payments. This would apply to equipment where the lease
16 rentals exceeded \$250,000.

17 It would raise approximately \$500 million over the
18 period.

19 The Chairman. Treasury?

20 Mr. Chapoton. Yes, we are supportive of this. We think
21 it is needed to back up the rule we have already adopted.
22 And it is another mismatching rule that we think should be
23 adopted, consistent with what the committee has already done.

24 The Chairman. All right, then, without objection we will
25 agree to that.

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1 I understand now we can go back to Number 6, factoring
2 of trade receivables.

3 Mr. Pearlman. Mr. Chairman, we are in agreement with
4 Senator Grassley's proposal with one exception, and that is
5 a rule regarding the treatment --

6 The Chairman. I understand that that has been taken
7 care of. I have just been advised by Senator Grassley's
8 staff.

9 Mr. Pearlman. Let me check that and come back to you.

10 The Chairman. She is right here. Let's check it now,
11 because we don't want to come back.

12 (Pause)

13 Mr. Pearlman. All right. We are onboard. We are
14 okay on Senator Grassley's proposal.

15 The Chairman. You have worked out the one problem?

16 Mr. Pearlman. We have worked out the problem.

17 The Chairman. Without objection, then, Number 6 will
18 be approved.

19 Senator Heinz yesterday raised the repeal of dividend
20 reinvestments. We have placed that on the agenda. What
21 would be the revenue pickup there?

22 Mr. Brockway. There would be a revenue pickup of
23 \$450 million, Mr. Chairman.

24 Senator Heinz. Every little bit counts.

25 Mr. Brockway. That would be a revenue increase of

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1 \$450 million.

2 The Chairman. All right, then, without objection we
3 will agree to that.

4 Senator Durenberger. May I be recorded in the negative
5 on that one?

6 The Chairman. Right.

7 All right, let's go back to Number 4, the use of
8 related party structure to reduce tax on the coal
9 operations. We passed over that yesterday for Senator
10 Wallop, but as I understand it, it doesn't affect the
11 industry.

12 Mr. Brockway. This is only in situations where there
13 are two subsidiaries -- one leases coal reserves to the
14 other -- that the one who is receiving the rent takes
15 capital gain on it, and the other deducts it against
16 ordinary income, the same related group of corporations.

17 So there is a mismatch of the treatment of that item,
18 and you would give them the same treatment as iron ore has.

19 The Chairman. Well, there is not much revenue involved
20 in any of that.

21 Mr. Brockway. I think it is about point-one.

22 The Chairman. All right. Without objection, we will
23 agree to that.

24 Let's go to Number 2, definition of earnings and
25 profits.

1 Mr. Brockway. These are the items that were up
2 yesterday. It would say that, where a corporation made a
3 distributions that were treated as dividends for State law,
4 in effect they would be taxable as dividends to the
5 shareholders for tax purposes, also. It would conform the
6 definition of "earnings and profits" more closely to reflect
7 economic income of the distributing corporation.

8 The Chairman. Does Treasury support this proposal?

9 Mr. Chapoton. I think we agree with the changes,
10 except Number 10. ~~Nine~~ is deleted, or I believe it has been
11 deleted.

12 On Number 10, we were suggesting that these expenses
13 be amortized over the period in which they are amortized for
14 income tax purposes; for example, pre-opening expenses would
15 be over a 5-year period, whatever is applicable under the
16 current tax rules rather than a straight 20 years. That is
17 just a judgment call, which I understand is acceptable.

18 The Chairman. All right, with those changes and
19 without objection, we will agree to that.

20 Senator Heinz. Mr. Chairman, have we stricken Number 9?
21 Is that right?

22 The Chairman. Yes.

23 Senator Heinz. And we have adjusted Number 10?

24 Mr. Chapoton. And we also were going to suggest a
25 transitional rule. We'll let Mr. Pearlman describe that.

1 Mr. Pearlman. Mr. Chairman, in connection with the
2 E&P item involving deep-discount bonds --

3 Mr. Brockway. That provision was earlier done.

4 Mr. Pearlman. Thank you.

5 The Chairman. All right, then, without objection.

6 Let's go over to page 2. What have we done on Number 3,
7 volunteer mileage? Did we volunteer anything?

8 Senator Armstrong. Mr. Chairman, I think Secretary
9 Chapoton has some figures, but I also have some figures
10 that were furnished by the IRS if it is helpful. Or perhaps
11 if you are ready, Buck, go ahead.

12 Mr. Chapoton. Mr. Pearlman just got these numbers. We
13 will let him go.

14 Mr. Pearlman. Senator, the last time the volunteer
15 mileage was changed was in 1981. At that time the fuel and
16 oil per mile was determined to be 6.81 cents. That was at
17 the height of the oil embargo. A judgment call was made
18 that that 6.81 should be rounded up to 9 cents, and that's
19 what was done.

20 As of 1983, August of 1983 when they looked again at
21 the mileage allowance, they determined that fuel and oil
22 per mile had indeed dropped from 6.81 cents to 5.47 cents.
23 They determined, nevertheless, not to change the 9 cents
24 per mile.

25 Now, if you go further and say -- well, let's include

(00)

1 not only fuel and oil per mile, but certain operating costs
2 per mile other than depreciation and certain other minor
3 items, such as taxes that are deductible anyway, but if you
4 include maintenance and tires, then the per-mile cost is
5 determined to be 7.53 percent, which is still under the
6 9 cents that is the current rule.

7 Finally, if you include all costs, including insurance,
8 license, registration, but not depreciation, excluding
9 depreciation, then the per-mile cost is just a bit over
10 12 cents per mile.

11 And, as you are aware, if you include depreciation,
12 the number goes up to almost 21, which is what the business
13 rule is.

14 So I think the analysis that we have been provided would
15 indicate that 9 cents is adequate to cover current costs
16 per mile.

17 The Chairman. Well, how do you get 12 cents?

18 Mr. Pearlman. The 12 cents includes insurance,
19 license and registration, sales taxes -- which are
20 deductible anyway, in fact.

21 The Chairman. You can't drive a car without a license.

22 Mr. Pearlman. That's correct.

23 And that gets you to just a fraction over 12 cents a
24 mile.

25 Senator Armstrong. Mr. Chairman, I think the figures

1 which the Treasury has come up with are really useful and
2 put the issue in perspective, but it appears to me there are
3 about three questions we need to think about as we adjust
4 this:

5 The first is just the equitable question. You can make
6 a case for 12 cents; you can make a case for 9 cents, you can
7 make a case for leaving it like it is, just on the ground
8 that it costs something; but the reality is that everybody
9 gets to deduct a different rate than the volunteers, the
10 people who are getting paid, who are getting reimbursed,
11 government employees, they all get 20 cents, and in fact a
12 little over 20 cents, whereas the volunteers get 9 cents.

13 Second, when we are talking about a deduction -- I
14 want to wait until the Chairman returns, because I think he
15 will be interested in this.

16 (Pause)

17 The Chairman. Well, as I understand, Treasury is
18 opposed to any change. Is that correct?

19 Mr. Chapoton. Well, yes, Mr. Chairman, but -- well, yes.
20 We are opposed to any change.

21 But I think the issue is clear. I think Senator
22 Armstrong understands that it is whether the fixed costs
23 that are going to be incurred anyway should be allocable
24 to a charitable use. And I think we understand the issue.

25 Senator Armstrong. Mr. Chairman, let me make three

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1 points that I really hope that you and other Members of
2 the committee will consider.

3 The first is, why should volunteers deduct at a different
4 rate than people who are being reimbursed, when they are
5 frequently -- not always, of course, but in many cases --
6 performing exactly the same functions?

7 Second, while you can make a case for 12 cents, you can
8 make a case for 9 cents, in reality we are talking about a
9 deduction. So if you went all the way to 20 cents, which is
10 what I think we ought to do on equitable grounds, and you
11 have got somebody in the 50 percent bracket, according to
12 the Treasury's figures they are still going to recover less
13 than the 12 cents which they say is the out-of-pocket cost
14 of operating the car less depreciation.

15 So it appears to me there is ample justification to
16 go to the 20-cent, even if you assume that every one of these
17 volunteers is in the 50-percent tax bracket.

18 If you start with the recognition that they are more
19 likely in the 30-percent tax bracket, and you take a 20-cent
20 deduction, that means they are going to get back 6 cents,
21 which is half, roughly, of the 12 cents which the IRS figures
22 show is the actual out-of-pocket cost of operating it,
23 assuming that you don't think depreciation is an out-of-
24 pocket cost. And of course it really is, because while
25 you can't allocate it on a per-trip basis, the using up of

1 this resource is a real cost, and in many instances we
2 are talking about volunteers who don't just drive 100 miles
3 a year but who may drive several thousand miles a year.
4 That appears to be the pattern of volunteer services, that
5 people who get into it jump in with both feet.

6 So I think we ought to just treat these volunteers the
7 same way we treat everybody else.

8 The Chairman. Well, we haven't decided how we are going
9 to treat everybody else, yet.

10 Senator Armstrong. Well, Mr. Chairman, by "everybody
11 else" I mean simply put into the statute that volunteers
12 may deduct at the same rate as government employees or at
13 the same rate as business does, whatever that rate is. It
14 happens to be 20 cents now, and it fluctuates up and down
15 a little.

16 The Chairman. Well, then they are not volunteers.

17 Senator Armstrong. Pardon me?

18 The Chairman. It seems to me if you volunteer, you
19 are going to contribute something. I thought that was the
20 purpose.

21 Senator Armstrong. Well, the point I was trying to make
22 is that they are contributing their time, and even if they
23 get the maximum deduction under consideration, they are still
24 not made whole for their out-of-pocket costs. I mean, even
25 if we go all the way to 20 cents and they are in the

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1 50-percent bracket, they are still not even breaking even
2 on their own expenses.

3 Mr. Chapoton. Senator, I don't think the charitable
4 deduction provisions are supposed to take all of the
5 expense out of charitable activity.

6 Senator Armstrong. No, indeed. And in fact, the
7 volunteers we are talking about, Mr. Chapoton, frequently
8 have very large expenses of other kinds that are not
9 related to automobiles.

10 Mr. Chapoton. Well, an alternative middle ground would
11 be to cover all expenses. I think we have to leave, and
12 I think you will agree, a shifting number here, depending
13 on costs in future years, which it has been in the past.

14 Another way to do it would be to allow all expenses
15 including these other fixed costs, other than depreciation.
16 I think we would have strong concerns about including
17 depreciation for the reasons I have stated earlier.

18 But if you interpret everything but depreciation, that
19 would take it from 9 cents to 12 cents, under these current
20 figures.

21 The Chairman. What would be the cost of that?

22 Mr. Chapoton. About \$100 million over the three year
23 period.

24 The Chairman. I would be willing to try to convince
25 the Conferees to accept that. I may have to try to convince

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1 them to accept the other.

2 Do you have an offsetting revenue?

3 Senator Armstrong. Mr. Chairman, I am not ready to
4 offer one at this moment, although I guess I would have to
5 say that in the whole bill, which I probably am going to
6 support, I have not approached this from quite the same
7 viewpoint that some others have. If all we are talking about
8 is raising taxes, then I wouldn't be for this bill. The
9 reason I am probably going to support it is because most of
10 the changes which we have discussed and have adopted reflect
11 loophole closing or other equitable changes. So I guess
12 I don't feel quite held to the same standard of desire to
13 find offsetting revenue increases; although, I will be happy
14 to propose some if somebody wants them.

15 The Chairman. I think there is some merit -- a great
16 deal of merit, excuse me -- to Senator Armstrong's argument.
17 But I am not certain depreciation should be a factor. It
18 would seem to me that if we could agree on 12 cents with
19 maybe some increase in that, because -- I assume the same
20 law stays in place where you continue to update it. Is
21 that correct?

22 Mr. Chapoton. That is correct. Yes.

23 The Chairman. Does it require an annual change?

24 Mr. Chapoton. It is reviewed annually. I am not sure
25 whether the law actually requires it to be done annually.

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1 The Chairman. Why couldn't we agree on 12 cents with
2 a requirement of an annual review?

3 Senator Durenberger. I think, Mr. Chairman, because of
4 the fact that this is not a matter of reimbursing somebody
5 directly for their out-of-pocket expenses. It is a matter
6 of reimbursing people for the services that are comparable
7 to what other people are delivering. If these nonprofits
8 have to go on the outside and buy transportation services
9 from a bus company or from an airline or from a variety of
10 other places, they are going to pay 20 cents for a car,
11 45 cents-per for a bus, \$1-something for some other form of
12 transportation.

13 This is purely an incentive to replace an out-of-pocket
14 expenditure by volunteers. And that's why we have landed
15 on the 20 cents as the average that everybody else is being
16 paid, without trying to nit-pick whether it is gas,
17 insurance, depreciation, this, that, or the other thing.
18 Let the experts handle those things as they adjust the
19 public employee reimbursement or the business reimbursement.
20 That is the point at which the experts can deal with
21 depreciation and gas and insurance, and all the rest of that
22 sort of thing.

23 We just want to put the volunteer on the same basis as
24 everybody else and not deal with what depreciation happens
25 to be this year.

1 Mr. Chapoton. You would be basically changing the
2 rule that it doesn't have to be a current payment for a
3 charitable deduction, it is an estimated expense, including
4 all fixed costs as well. I think that is the issue.

5 And we are saying that it ought to be current costs,
6 and these fixed costs that will be incurred anyway should
7 not be allocated to this activity.

8 The Chairman. I think that is the only difference.
9 I would seem to me if we could agree on -- and you wouldn't
10 care for it, but if we had dropped the depreciation, then
11 you don't have as much of a problem?

12 Mr. Chapoton. No. If we dropped depreciation, but I
13 think Senator Durenberger would include depreciation in
14 his statement.

15 The Chairman. Well, I know he would. But I spoke to
16 the Junior League the other morning, and this is high on
17 their list. So are deficits.

18 Senator Chafee. Mr. Chairman, just so you won't think
19 there is unanimity on this --

20 The Chairman. I hope not.

21 Senator Chafee. What we are trying to do is to reduce
22 the deficit. And it may end up that there is some perceived
23 unfairness here, but we are not going to get all the
24 unfairness or everything fair under this legislation, and
25 I think the best thing we can do is to hold down the deficit.

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1 I was supposed that volunteers get anything, to tell
2 you the truth, for their mileage.

3 We have done some pretty good things for charities
4 here. We have kept, and actually it is going to be increased,
5 the amount that a non-itemizer can deduct. We have had
6 the bill that you can give very substantial amounts to
7 certain foundations. And I think we ought to stick with what
8 we've got, with the provision suggested by Treasury -- going
9 up to the 12 cents.

10 Senator Durenberger. I would say, Mr. Chairman, that
11 this is not the only place in the country that people are
12 dealing with the deficit. I mean, one of the reasons we are
13 dealing with foundation reform and we are dealing with
14 charitable contribution reform and we are dealing with
15 reforming mileage is that a whole lot of public service in
16 this country that we used to spend money in this committee
17 and other committees on is being taken care of by volunteers,
18 without any cost to the budget.

19 And this is a deficit reducer, even though it shows up
20 as a so-called \$100 million revenue loss on the blackboard.

21 The Chairman. That is 400. We will settle for 100.

22 Senator Durenberger. Well, I forget the number.

23 Mr. Chapoton. Senator, let me ask one thing: Are
24 you suggesting, if we go this way, that I could claim
25 actual depreciation on my automobile?

1 Senator Durenberger. No. I am just saying you claim
2 whatever the current that-year business deduction is.

3 Mr. Chapoton. Well, the business deduction is, now,
4 actual depreciation. This is a rule the taxpayers can
5 use.

6 Senator Durenberger. Well, whatever the reimbursement
7 is that year -- 20 cents -- you figure it out. You look
8 over the public employees and the business, and if the
9 average reimbursement is 20 cents that year, then you put
10 in your little book that goes out to all of the taxpayers
11 that it is 20 cents.

12 Mr. Chapoton. But I wanted to clarify that the
13 taxpayer cannot -- it comes back to the expensive car thing.
14 If he has a very expensive car, he would do a lot better,
15 as he can do under existing law, to claim actual depreciation.

16 Senator Durenberger. I don't care whether it is a
17 Volkswagen or a Cadillac.

18 The Chairman. Senator Packwood?

19 Senator Packwood. Well, I guess we have all been
20 involved in charitable activities of one kind or another.
21 And I thought the charitable deduction that we added was good,
22 because it is going to encourage people to give. For the
23 life of me, I don't find very much demand from volunteers
24 I talked with about this particular provision.

25 I understand the argument for it, but the thing that

1 motivates people to work for the Hepatitis Foundation, or
2 anything else, I don't think is whether or not they get a
3 mileage deduction on their car. And I think they will
4 continue to work whether they do or don't get it. And
5 if that is true and not just my hunch, then I am not sure
6 we ought to give away revenue to achieve something that we
7 are going to achieve whether or not we give it away.

8 Senator Armstrong. Bob, would you yield to me for just
9 a moment? Your instinct about what motivates people to
10 volunteer is exactly the same as mine. But the testimony
11 that we had, and we had quite a lot of testimony on this
12 issue, is that in fact this problem is actually curtailing
13 to a serious degree the people who would otherwise volunteer,
14 that the out-of-pocket costs of operating automobiles are
15 sufficiently high, and the perceived unfairness, according
16 to the testimony, and that is all I am going on, is a serious
17 deterrent.

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1 The indicated that they felt it was seriously hampering
2 their work, and in any case, even under the most extreme
3 assumption about the tax bracket and operating costs,
4 we are still not making people hold.

5 If you go even to the 20 cents and somebody is in the
6 30 percent tax bracket, they are only getting back 6 cents
7 of a 12 cent operating cost, assuming you don't think
8 depreciation is a reasonable cost.

9 So, it is not a generous deal under any circumstances.

10 The Chairman. My wish would be to go to 12 cents, but
11 I think Senator Armstrong is certainly entitled to have a
12 vote on the 20 cents. Do you want to vote on it, Bill?

13 Mr. Chapoton. The 20 cents, Mr. Chairman, would be
14 \$300 million, and the 12 cents would be \$100 million.

15 Senator Armstrong. Mr. Chairman, could I suggest one
16 possible other way around the problem? I understand your
17 concern about the revenue impact, and I would be glad to
18 accommodate some kind of a phase-in deal because part of
19 the problem that we had testimony on was not just the
20 dollar impact but the perception that it is unfair.

21 And this is widely known among people who are affected
22 that those who are being paid for their good works get to
23 deduct 20 cents a mile, while those who are giving their
24 time only get to deduct at the present time nine.

25 In order to establish the principle of parity, I would

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1 be glad to phase it in over some reasonable length of time
2 in order to minimize the revenue impact if that would respond
3 to the concern that you have expressed and which I share.

4 Of course, I am not eager to give away revenue either.
5 What would happen, Buck, if we phased it in over six years
6 or something so that maybe it would have only \$150 million
7 impact in the three years we are concerned about.

8 Mr. Chapoton. You could do that. We would have to
9 design it, but obviously you could put the revenue impact
10 off by keeping the amount -- obviously, if you kept it at
11 12 cents for the three years, then you would have \$100
12 million -- if you moved up to 15, it would have something
13 over that.

14 The Chairman. All right, then, let's do this. Let's
15 do it at 12 immediately and then phase in the difference over
16 a five-year period.

17 I know that Treasury's objection is not the money -- it
18 is the principle of the thing.

19 Mr. Chapoton. No. It is the principle that we are
20 concerned about.

21 The Chairman. We can vote either way.

22 Senator Durenberger. That is a good solution.

23 Senator Chafee. Mr. Chairman, I just don't think that
24 is what we ought to do. I think Treasury's point is a good
25 one that they made here. I know that in the testimony

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1 undoubtedly they had a lot of testimony that people cared
2 about this.

3 I have been fairly active in charitable activities,
4 and frankly, I didn't even know this existed. Nobody has
5 ever even talked to me about it -- not that they necessarily
6 would.

7 The Chairman. Well, anybody won't talk to you any more.

8 (Laughter)

9 Senator Chafee. Yes. My principal charitable activity
10 has been a very small organization with bad attendance
11 called the Republican Party.

12 (Laughter)

13 Senator Chafee. But I agree with Treasury's position
14 and what they are doing here. In effect what the difference
15 is is whether we are going to give something for their
16 depreciation. That is what it comes down to.

17 Mr. Chapoton. That is correct.

18 Senator Chafee. And I think Treasury has got a good
19 position, and this can be reviewed in the future. And I
20 think the suggestion of 12 cents is a good one. If we have
21 got to settle it by a vote, that is all right with me.

22 Senator Long. Mr. Chairman, I just want to make this
23 point. It seems to me that we ought to consider all these
24 proposals about deducting the automobile expense all in one
25 package. Now, if we are going to adopt the Treasury package

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1 -- they are suggesting that you have got to use the automobile
2 50 percent of the time for business -- then it ought to be
3 the same way for charity and all the rest, it would seem to
4 me.

5 If they are going to require that you keep a log, then
6 everybody ought to be required to keep a log, and so forth.
7 Frankly, I am just about ready to vote to say that you
8 can't deduct any automobile expense of any sort. That would
9 really simplify it and make a lot of money.

10 I hope you will get the figure for us. Do you want to
11 make some money? How much would you save if you said you
12 can't deduct any automobile expense?

13 Mr. Chapoton. Where there is a personal use element
14 with the automobile,-- is that what you are saying?

15 It is a personal use element.

16 Senator Long. Make it simple. You can't deduct period.
17 Now, that would really save us some money.

18 I would think that we would do it all at one time and
19 then decide what we are going to do about it, but let's try
20 to be consistent. That is my basic point -- try to be
21 consistent.

22 Right now we are being asked to vote for these little
23 ladies that get involved with the Junior League -- and I am
24 sure they do some fine work -- but I have got some doubt
25 whether that is a very efficient operation.

1 So, it seems to me that we would do well to say that
2 we will just reserve what we are going to do about this
3 Junior League until we see what we are going to do about
4 everybody else, and then try to treat them all the same
5 because I personally think that Mr. Bradley has a point
6 about uniformity and treat them all the same and get rid
7 of automobile deductions, and see which way you want to go.

8 Mr. Chapoton: I think one thing I can point out.
9 While it has revenue impact, on the individual case we
10 are talking about very minor deductions. If they drive
11 100 charitable miles, we increase it by 12 from 9 to 21
12 cents. That is a 12 cent increase times 100.

13 The Chairman. What we might do is this. Why don't
14 we go ahead and agree to the 12 cents, but agree not to
15 do anything else until we settle the bigger question.
16 Would that be all right?

17 Senator Armstrong. Mr. Chairman, that is fine with me.
18 You mean the question about where we are going with the
19 luxury automobiles and all of that.

20 The Chairman. Right. The phase-in would come in time
21 to go ahead and increase it to 12.

22 Senator Armstrong. It appears to me that your
23 suggestion that we phase it in over five years is a reasonable
24 one, and that is what I would be for when you get to it later
25 on in the agenda.

1 The Chairman. Can we agree to change to 9 to 12 and
2 then we can look at the other later on today?

3 Senator Armstrong. I think that would be fine.

4 While we are on the subject, may I just add this footnote
5 to it, Mr. Chairman, because I think members are not aware
6 of the reality of how this stuff works.

7 Senator Chafee, I don't know if you know this, but if
8 the same people to whom we are restrictive on the mileage
9 deduction wish to go to a national convention of this
10 charitable cause in Bermuda, they can deduct 100 percent
11 of the cost of their airplane trip, 100 percent of the
12 taxi, 100 percent of the hotel.

13 The people who are really being put at a disadvantage
14 by holding this mileage to an unrealistically low level are
15 not, in most instances, persons of affluence and wealth
16 but the people who are distributing the meals on wheels
17 kinds of things -- the real service providers -- and
18 frequently at great sacrifice and hardship to themselves.

19 Mr. Chapoton. Senator, if I could, let me say that
20 a big problem that we have in the law right now is the
21 perception of that type of thing, and we are enlarging that
22 problem when we enlarge this. I can understand the motive
23 is quite good, but how do we -- a large deduction for this
24 would be \$45.00 -- the IRS is not going to be able to audit
25 that -- so the word will be around that, sure, you can take

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1 depreciation deductions on your automobile if you estimate
2 your mileage. That is the type of deduction that is just
3 granted. Whether it has an incentive effect, I don't know,
4 but it certainly does cause a perception problem in the tax
5 law.

6 Senator Armstrong. Secretary Chapoton, that kind of
7 deduction exists in the tax law now.

8 Mr. Chapoton. That is correct, and that is a real
9 problem.

10 Senator Armstrong. And so every taxpayer who fills out
11 his tax return estimates his mileage and applies the
12 deduction for gasoline taxes, for example, so it is not
13 conceptually any different than what we have, but the real
14 perception problem is what we are saying to these volunteers
15 about how we, as a society, value their services.

16 I don't think in a lot of cases it is just the dollar
17 question -- it is a question of when they know that if they
18 were employed to go do these tasks, they would get 20 cents
19 deduction, and when they do it for free, even when they have
20 to pay somebody at home to take care of their children,
21 for example, out-of-pocket expenses which they will never
22 be reimbursed for if they only get to deduct nine.

23 Mr. Chairman, I think we have aired the issue, and I
24 am satisfied with the direction we are moving, and I
25 appreciate your interest.

1 The Chairman. It is 12 cents, and we will try to work
2 out the other in connection with what Senator Long suggests
3 with the overall problem of where do we go with luxury cars
4 -- or any car.

5 Let's try number two -- the foreign tax credit. The
6 mirror image rule. And again, I think, Mr. Pearlman --

7 Mr. Brockway. As I understand, Mr. Chairman, they
8 are still doing work on this. They would like it to be
9 put off until a little bit later.

10 The Chairman. Okay. Just let me know. As I understand
11 there have been some discussions trying to make it revenue
12 neutral, but I think when you do that, you are going to be
13 helping someone and harming someone else.

14 Mr. Brockway. We are considering a couple of options
15 where there are sort of clear problems with current laws
16 -- items that Treasury would have come back and recommended
17 on their own.

18 The Chairman. That is all right. Let's pass it over
19 then. What about the hot water amendment -- number four?
20 Or geothermal energy? Did you get that worked out, Steve?

21 Mr. Chapoton. Mr. Chairman, could we have a little
22 more time on that one -- on the geothermal?

23 The Chairman. All right. Then, let's go and do
24 number five -- extend residential energy tax credits.

25 Senator Packwood. Mr. Chairman, I would simply like to

1 move that we do as we did yesterday with the business credits
2 to extend the residential energy tax credits for the same
3 period of time. As I recall, we extended those to -- what
4 -- 1988?

5 The Chairman. Yes.

6 Mr. Chapoton. Senator, are you saying all residential
7 credits? That is, the conservation credits as well as the
8 solar?

9 Senator Packwood. Yes. It is solar, geothermal, and
10 wind in terms of the energy credits. The conservation
11 credits -- refresh my memory, Bob, on what they are.

12 Mr. DeArment. The home insulation, storm doors, storm
13 windows, caulking.

14 The Chairman. Let me suggest that you have someone
15 work with Senator Packwood on this amendment. Have you
16 got someone?

17 Mr. Chapoton. Yes, sir.

18 The Chairman. We will do that then, and maybe you can
19 work it out, and then you can bring it back up.

20 Senator Packwood. Okay. That is fine.

21 Senator Danforth. Let me ask one question, Mr. Chairman.
22 Has anyone ever analyzed whether or not these energy credits
23 -- either business energy credits or residential energy
24 credits -- do what they were purported to do back whenever
25 it was that we passed the windfall profits tax?

1 We have these elaborate detailed projections -- the
2 number of barrels of oil saved by all these credits. And
3 I am wondering if they have ever been analyzed.

4 Mr. DeArment. There have been some studies. Some of
5 the studies have been quite controversial. There as a study
6 that the OTA did at this committee's request of the business
7 conservation credits, and one of their conclusions was that,
8 looking at sort of corporate planning generally, that these
9 credits were not significant in the decision to undertake
10 a project or not.

11 There have been some studies done of various other
12 credits, and I recall particularly one that had a very low
13 success rate or indicated that, for instance, the tax credit
14 for storm doors was not very significant.

15 The Chairman. That is why I think we ought to review
16 these. Now, Senator Packwood has agreed to do that with
17 Treasury.

18 Senator Packwood. On wind, solar, and geothermal, the
19 geothermal and wind are relatively small parts of your
20 revenue implications. The bulk of it is solar power by far.

21 The only evidence -- the only study I have seen -- on
22 residential solar is that indeed the tax credit is a
23 determining factor in the sale of the equipment because
24 you are talking about a 40 percent credit at the Federal
25 level, and some States have credits, on equipment up to

1 \$10,000. Most solar hot water residential facilities are
2 around \$4,000, so in the purchaser's mind, the credit is
3 significant.

4 The argument as to whether or not having made the
5 purchase, you then save the requisite barrels of oil that
6 you otherwise would have used to generate hot water I have
7 not seen studies on one way or the other.

8 Senator Danforth. What did we do yesterday on the
9 business credits? We extended them for how long?

10 Mr. DeArment. We extended them for three years plus
11 on an affirmative commitment basis for an additional year.

12 Senator Long. Are we talking here just about extending
13 the business credits, or are we talking about the residential
14 credits, too?

15 Mr. DeArment. Yesterday we were talking about the
16 business credits. Senator Packwood is talking about the
17 residential credits, but only certain residential credits.
18 He was talking about solar, wind, and geothermal, and he
19 may want to add others.

20 Senator Packwood. What I would like to do is this.
21 I would like to talk to Treasury about the conservation
22 credits. The solar I feel quite strongly about and in
23 fairness ought to be extended. The wind and geothermal
24 -- Buck or somebody check me on this if I am wrong -- they
25 are relatively slight parts of the revenue laws. The solar

1 is, by far, the biggest.

2 Senator Danforth. Mr. Chairman, when we went through
3 this, whenever it was that we had the windfall profits tax,
4 we had all of these projections as to number of barrels
5 saved. I would like to see how many barrels we are saving
6 and how much the cost is to the taxpayer per barrel.

7 What is the cost of the business energy credits, and
8 what is the cost of the residential energy credits?

9 Does anybody know the cost?

10 Mr. Chapoton. No, I have available here --

11 Senator Bentsen. Could I comment on that? To save
12 my friend from Missouri. We have made incredible progress
13 in conservation in this country. The question is what
14 caused it. Was it the price or was it just kind of an
15 incentive? We have cut the importation of oil down from,
16 as I recall, around 12 million barrels to 5 million barrels.

17 No other country in the world has made the major progress
18 that we have made in conservation. Now, how do you finally
19 nail it down as to whether it is this tax incentive or
20 just the fact that the price went up, and the fellow was
21 motivated to try to cut his utilities a bit.

22 Senator Danforth. I don't know. That was always a
23 thought a few years ago when we went through this that it
24 could be that just the fact that prices were increasing would
25 have the effect. Some people have suggested that the

1 recession we were in had the effect of reducing our dependence
2 on oil. I don't know, but my guess is that these were
3 oversold at the time that we agreed to them.

4 I don't know how much they cost.

5 Mr. Stretch. The extension of the solar, wind, and
6 geothermal for three years would cost \$600 million in the
7 1984 through 1987 period and \$2 billion --

8 Senator Packwood. No, wait a minute. Say that again
9 because I have got different estimates than that.

10 Mr. Stretch. I think the number we had for the
11 residential, Senator, was \$600 million in the period 1985,
12 1986 and 1987, and then another \$1.4 in 1988 and 1989
13 combined.

14 Senator Packwood. Those are your figures, but I have
15 got estimates from the Solar Energy Industry Association
16 based upon actual sales in 1983, 1984, and 1985, and actual
17 cost of the equipment. And the revenue loss is significantly
18 less than that by about one-half, and that is why I am
19 curious what your estimates are based on.

20 Mr. Stretch. We will have to check with the estimator.

21 Senator Packwood. I wonder if I might do this, Mr.
22 Chairman. I would be willing to drop the credits on
23 insulation, caulking, and storm doors in exchange for
24 keeping them on wind and geothermal and solar, and my hunch
25 is that the wind and geothermal are so insignificant that

1 you would actually -- if you trade those two off against
2 insulation, caulking and storm doors -- would save money.

3 Senator Danforth. Mr. Chairman, I would like to
4 renew my question as to what the revenue cost is of all
5 of these business credits and all of these residential
6 credits. And if we have any idea of the barrels of oil
7 saved. My guess is that if we come to the end of the day
8 and we are still short, this is one area where we can just
9 reopen the question.

10 Mr. Chapoton. We will get that figure for you, Senator
11 Danforth. Our estimate, and we have been through the credits
12 every budget period now, and we have concerns about them
13 all. We have more concerns about the residential than the
14 business.

15 Senator Danforth. But Rod DeArment just said that
16 there is a study that said that the business credits are
17 just not factored into --

18 Mr. DeArment. That was the Office of Technology
19 Assessments. I have that study in my office. I will be
20 happy to bring it in.

21 Senator Danforth. It seems to me that if the Office
22 of Technology Assessments says that the business energy
23 credit is not factored into the decision, then it is just
24 a loss of revenue to no avail.

25 Senator Heinz. Mr. Chairman, let me ask Treasury a

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1 question. Have the business conservation credits expired?

2 Mr. Chapoton. Yes.

3 Mr. DeArment. And those were the specific ones that
4 the OTA studied. They expired at the end of 1982.

5 Senator Heinz. Just to be clear, there are a variety
6 of studies. It was the business conservation credit, Jack,
7 that got a mark somewhere below low pass and unsatisfactory
8 as being important.

9 Senator Danforth. What did we extend --

10 Mr. DeArment. That was primarily the business renewable
11 credits -- the solar, wind, geothermal and also the
12 synthetic fuels credits like oil shale.

13 Senator Danforth. Is there any study about whether
14 those have done any good?

15 Mr. DeArment. I have not seen a study on the business
16 renewables. There is a study, however, I know on the
17 residential side that we can get a copy of, I am sure.

18 SENator Durenberger. Mr. Chairman, let me suggest
19 that the studies of business is all sort of relative. The
20 kind of study that you and I normally do -- the one I do
21 is walking through my county fairs back home and seeing
22 all of the displays of solar energy equipment and wind
23 energy alternatives, and so forth.that have come about
24 obviously since both we and at State level have put out
25 some encouragement for this sort of financing.

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1 And when you look at what they are advertising,
2 obviously they are advertising -- and I am sure it is as true
3 in Oregon and Missouri as it is in Minnesota -- that there
4 is a credit provided in connection with the purchase.

5 Now, if the credit didn't make any difference to the
6 potential purchaser, why in the world would every place
7 you go -- at least in my State -- would they be selling them
8 on the basis of the credit. It is important.

9 And when it is installed, it is permanent conservation.
10 It is not like carpooling where, when the price of gas goes
11 down, we quit carpooling. Once the solar is in or once the
12 insulation is in, it is there and it is saving constantly,
13 and nobody can tell us how much was saved by that insulation
14 versus recession or something else.

15 I think that would be very difficult to do.

16 The Chairman. I think Senator Packwood made a proposal,
17 and I think that this is like a lot of things in that we
18 are going to fence them into a little corral if we can find
19 offsetting revenues. That includes about everything we
20 have done.

21 Mr. Chapoton. Senator, I think one of the problems of
22 the discussion you just had -- clearly that is correct.
23 Once the insulation is there, it saves energy thereafter,
24 but we always have trouble determining what they would have
25 done anyway. When energy prices go up, people tend to

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1 react, and one way they react is that type of expenditure.

2 The credit is going to make it less expensive for them.

3 Senator Packwood. I wonder if I might make this
4 proposition? A three-year extension on wind, solar, and
5 geothermal. Drop the credits on -- or let them expire --
6 insulation, caulking, and storm doors.

7 Senator Durenberger. Bob, would you consider dropping
8 it from 40 to 30?

9 Senator Packwood. I am hesitant to do that because
10 I would rather keep it at 40 and drop the insulation,
11 caulking, and storm doors. There the credit is less and
12 I am not sure that the credit there is a sufficient
13 incentive.

14 The sales incentive you see on insulation is how much
15 it is going to save on your fuel bill. You seldom see the
16 argument of the credit, and because I don't think it is
17 effective, I would just as soon drop those and keep it at
18 40 percent.

19 Mr. Chapoton. Senator, the renewable credit now -- and
20 I think you are right -- solar is now 40 percent of the
21 first \$10,000, so we will pay up to \$4,000 -- the Federal
22 Government will pay up to \$4,000 -- for a solar heating
23 device, for example.

24 We have studied this. We have worked on this with
25 Senator Wallop on the business side. We have worked with

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1 the Department of Energy. We simply must oppose any
2 extension of the residential credits -- either the renewable
3 energy or the conservation credits.

4 We simply do not think they have done their job. They
5 have lowered costs, and clearly any time you lower costs,
6 you are going to have more activity in an area than you
7 would if the cost had not been lowered. But we don't think
8 it is a cost-effective use of Federal revenues.

9 Senator Packwood. I wonder, Mr. Chairman, if I might
10 ask for a quick vote, but conclude by this. By practical
11 experience, most of us know that the residential credits
12 are probably the factor that causes most people to buy
13 solar energy for purposes of hot water heat, and indeed,
14 when it is put in, it heats hot water. And indeed, that
15 is a substitute for whatever other form of energy you were
16 using to heat hot water -- whether it is oil or gas or
17 electricity.

18 So, there is an energy saving, or at least an energy
19 transformation, to solar from whatever else you were using,
20 and I would be perfectly happy to just very quickly put it
21 to a vote on the extension of solar, wind, and geothermal
22 and dropping the insulation, caulking, and storm doors.

23 Senator Long. Mr. Chairman, I think the Senator has
24 made a good proposition, and this would save money compared
25 to what it costs at present.

1 The Chairman. How much does it save?

2 Senator Long. And it seems to me that if you continue
3 this tax subsidy, it is going to improve the technology
4 because when you are using it and it is in operation, they
5 find ways to make it more efficient. And eventually, the
6 day is going to come when this oil and gas is going to play
7 out, and we are going to have to shift over to solar.

8 I think the Senator has made a good proposition.

9 The Chairman. What is the difference in revenue?
10 If you extend them all or if you extend as Senator Packwood
11 has suggested?

12 Mr. Chapoton. We have a number on extending the solar
13 -- the renewable credits -- the number Mr. Stretch gave.
14 I will have to get a number on extending the others.

15 Senator Packwood. I would even be willing to repeal
16 the insulation credit a year earlier if you are looking
17 for some alternative.

18 Mr. Brockway. That might raise some revenue if you
19 took those conservation credits and sunset those earlier.
20 We can come back with a number on that in a relatively
21 short time.

22 The Chairman. Let's incorporate that into the proposal
23 and let's vote.

24 Senator Bentsen. How much money are we talking about
25 adding to this cost at the present time? Can you give us

1 a number?

2 Mr. Stretch. Senator, we are talking about, as I
3 understand the proposal, would be to terminate the
4 conservation credits at the end of 1984, to do a three-year
5 extension for the renewable credits. We don't have the
6 revenue gain from the earlier termination of the conservation
7 credits.

8 The renewable piece would cost \$600 million over the
9 1985, 1986, and 1987 period. It would cost \$2 billion over
10 the 1985 through 1989 period, so it would be some savings
11 from the early repeal of the others.

12 Senator Bentsen. What about if we do nothing?

13 Mr. Chapoton. If we do nothing, they terminate at the
14 end of 1985 -- all of these credits do. I estimate -- and
15 this would be rough -- that it would save in the neighborhood
16 of \$300 million, though that is very rough.

17 Senator Packwood. But in fairness, look again at the
18 estimates. The Administration, for the solar credits for
19 1985, estimates \$445 million. Right?

20 Mr. Chapoton. All I have is \$600 million over the
21 three-year period.

22 Senator Packwood. Then, the Joint Committee had \$275
23 million looking at a three-year period. Your three-year
24 period for 1983, 1984, 1985 is about \$1.7 billion. The
25 Joint Committee's is -- unless I am misreading it -- is about

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1 \$1.1. Is that correct?

2 Mr. Chapoton. The figure I heard was the same as ours.

3 Mr. Brockway. Senator Packwood, I wasn't aware that
4 there was a question -- it may be just different -- to the
5 growth of the use of --

6 Senator Packwood. I think it is.

7 Mr. Brockway. We will have to look into that.

8 The Chairman. Let me suggest that we do that. Can
9 somebody do that between now and 1:30?

10 Mr. Brockway. Yes, we can, as long as we can work
11 with the industry and Senator Packwood's staff, we can
12 find out.

13 The Chairman. Okay.

14 Senator Bradley. Mr. Chairman.

15 The Chairman. Senator Bradley?

16 Senator Bradley. I think yesterday when we talked about
17 the Olympic checkoff that there might have been a
18 misunderstanding as to what it was and that might have
19 occasioned a few of the members to vote the way they did.

20 I would just like to clarify for the record that what
21 we are talking about here is not an appropriation. It is
22 not like the political checkoff. This proposal would
23 entitle someone who would like to contribute to the Olympic
24 Committee to pay a dollar more in taxes. That money would
25 be held by the Treasury. The expenses of processing it

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1 would be deducted, and the contribution would be sent
2 directly to the United States Olympic Committee.

3 It is not an appropriation. It is in a sense a
4 refund to the taxpayer that is sent instead to the United
5 States Olympic Committee.

6 The Chairman. In other words, he is not in effect
7 appropriating \$10.00 like we do in the Federal elections?

8 Senator Bradley. Absolutely not. No.

9 Senator Bentsen. You are adding that much more.

10 Senator Bradley. Adding that much more to your tax
11 liability. In other words, if your tax liability is \$1,000,
12 you send \$1,001. And it is one dollar.

13 The Chairman. Or you take one dollar off your refund.

14 Senator Bradley. That is right.

15 The Chairman. I assume that Treasury would still
16 oppose on the basis of complicating the system?

17 Mr. Chapoton. Yes. Would this provision be sunsetted,
18 Mr. Chairman, or is it open-ended?

19 Senator Bradley. It is open-ended.

20 The Chairman. I assume the Olympics are going to
21 continue.

22 Mr. Chapoton. We don't like the provision for the
23 reason I stated yesterday, but we would like -- if it is
24 adopted -- it to be sunsetted and then we could reexamine
25 it to see how much problem it has caused us.

1 Mr. Belas. You might sunset it after the next Olympics,
2 and see how many gold medals we win in 1988.

3 (Laughter)

4 Senator Long. Might I suggest, Mr. Chairman, that we
5 try it for one year?

6 Senator Bradley. If we could, I think it is important
7 that you try it for an Olympic cycle, and if you are going
8 to sunset it, then sunset it after the 1988 Olympic games.

9 Mr. Brockway. I think that would be more sensible,
10 that is to sunset it after the next Olympics.

11 The Chairman. I assume the 1985 --

12 Mr. Chapoton. Yes, I assume you are talking about the
13 1985 return for the first one?

14 Senator Bradley. That is right. The 1984 return would
15 be filed in 1985.

16 Mr. Chapoton. Oh, the 1984 return filed in 1985.

17 The Chairman. They haven't printed those up yet,
18 have they?

19 Mr. Chapoton. No.

20 The Chairman. Knowing IRS, they will probably be late.
21 Is that all right? I think that, as I understand it now,
22 I don't have any problem with it.

23 Maybe I just didn't understand it yesterday.

24 Senator Bradley. Maybe I was not as clear as I should
25 have been, Mr. Chairman.

1 The Chairman. This doesn't add to the deficit, does it?

2 Senator Bradley. It doesn't add to the deficit at all.

3 It doesn't increase the deficit at all.

4 The Chairman. It doesn't complicate the system or
5 anything?

6 Senator Bradley. Right here is an example of the form
7 that would have the checkoff in it, and as I look at this,
8 there are a few other things here that are a little more
9 complicating than this one would be. It is simply another
10 line.

11 Senator Boren. Can we specify pole vaulting, or broad
12 jump, or --

13 (Laughter)

14 The Chairman. That is a sub -- 1A or 1B -- yes.

15 Without objection --

16 Could we go back? Have you finished that technical
17 thing yet, David?

18 Mr. DeArment. David needs some time to look for some
19 other cases.

20 Senator Wallop. Mr. Chairman, I just want to raise a
21 point about the earnings and profits thing that was adopted
22 when I was out of the room, with regard to the provision
23 eliminating the offset of earnings and profits with
24 attachable drilling costs.

25 The point that I want to raise, and I want to be able

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1 visit is, if the committee agrees, is that this impacts the
2 small energy company, more than anything else.

3 It raises their cost of capital and makes, as a
4 developing corporation, life just increasingly difficult.
5 What happens is that, once again, the committee seems to
6 be going after the small, independent companies who are
7 the ones who find the principal areas of oil and gas
8 reserves in this country.

9 And also the one segment of the community which is
10 still suffering a depression. I don't know what this raises
11 because all we have been told is that the major portion of
12 the revenues is from the utility companies.

13 Maybe we ought to go carefully before we eliminate
14 this from the independent and the developing companies.
15 I just think that it may be shooting ourselves in the foot.
16 for relatively small amounts of revenue.

17 The Chairman. I asked that question yesterday. I
18 asked if it didn't have an impact, and Mr. Brockway --

19 Mr. Brockway. It only has the impact on the shareholder
20 which is what I understand is --

21 Senator Wallop. Mr. Brockway, doesn't it have an
22 impact on --

23 Mr. Brockway. Because the dividend is no longer tax
24 exempt, then they would have to pay out a higher dividend.

25 Senator Wallop. Under existing law, earnings and

1 profits are offset by IDBs just as taxable income is offset
2 because it represents an out-of-pocket expense. Now, when
3 you are talking about small energy companies that are growing,
4 it raises their cost of capital. That was the testimony
5 of Treasury yesterday.

6 Mr. Chapoton. I think, Senator, it is going to say
7 they cannot pay tax-free dividends. I guess that works
8 through the marketplace eventually, and then it would be
9 reflected in the cost of capital.

10 The Chairman. I wonder if we might do this. Let's
11 discuss this with Senator Wallop and Treasury. Maybe there
12 is something we can do to assure that will not happen.

13 Senator Wallop. That is all I mean. I just want
14 to make that point -- to find out what it raises and see
15 if there isn't a way in which we can assure that smaller
16 companies are able to raise the capital that they need
17 at a time when it is very difficult for them.

18 The Chairman. Okay. We will do that.

19 Senator Symms. Mr. Chairman, how about number three?
20 Did we do that one?

21 The Chairman. Number three? Volunteer mileage.

22 Senator Symms. No. Repeal of divided reassessment.

23 The Chairman. Right.

24 Senator Symms. Is that done? When was that done?

25 The Chairman. We do that every year.

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1 (Laughter)

2 Senator Symms. I would just like to make the point
3 that that is going to raise the capital costs for the
4 utility companies.

5 The Chairman. It is a terrible thing that started
6 anyway. It is Congressman Pickle's amendment. We repeal
7 it every year, and then we go over there, and we trade him
8 for something.

9 Senator Symms. I would just like to be recorded that
10 I hope you trade it away because it is very vital to the
11 hydropower company that happens to operate in my State.

12 The Chairman. No, I think we will be all right.

13 Senator Bradley. Mr. Chairman, yesterday when we
14 discussed the spousal IRA, I raised the question of the
15 earned income tax credit, and you said that at some point
16 we would be able to consider that. Could we look at that
17 now?

18 The Chairman. I would rather go down the list here.

19 Senator Bradley. Could we at least put it on the list,
20 then?

21 The Chairman. All right. I want to knock out some
22 of these things. There are about 70 amendments floating
23 around that we hope we are not going to even see in this
24 committee, and we hope to finish this afternoon.

25 Senator Wallop. Could I just ask the staff if I could

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1 be recorded no on the use and related party structure to
2 reduce the tax on coal operations?

3 The Chairman. Is Senator Danforth prepared on the
4 foreign tax credit? Are we ready on that?

5 Senator Danforth. I think the problem on that was
6 whether or not the offset -- But as I understand it, the
7 only issue is the cost of it. I don't think it is a tax
8 policy question or an economic policy question, but just
9 the cost.

10 We have proposed a fallback from the original idea
11 which would reduce the cost to \$105 million over the
12 three-year period. It would grow after that however.
13 And Dave Brockway was looking at some ways to pay for it.

14 The Chairman. Is Treasury prepared on that?

15 Mr. Pearlman. Mr. Chairman, we have looked and just,
16 frankly, we do not have proposals. Perhaps Senator Danforth
17 does, but we do not have offsetting proposals. I am sorry.

18 The Chairman. Dave, do you have any?

19 Mr. Brockway. There are a couple of proposals that
20 we are looking at, and I think that if you should measure
21 this in looking at the total revenue loss as originally
22 proposed rather than the reduced revenue loss from just
23 moving the money out of the 1984 to 1987 window into later
24 years, that is \$500 or \$600 million revenue loss.

25 I don't know whether we have proposals that would reach

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1 that far. The two proposals really we are looking at
2 principally are proposals to eliminate some game playing
3 and how you compute the foreign tax credit by changing
4 the years and then also having return rules to offset any
5 tax credit.

6 The Chairman. But when will that be available -- that
7 information?

8 Mr. Brockway. I think if we could do that after lunch
9 so that we have agreement among the principals as to what
10 the proposals would be.

11 The Chairman. Okay. Let's go to number seven.
12 Fringe benefits. Permanent rule. That costs \$1 billion,
13 is that correct?

14 Senator Symms. Mr. Chairman.

15 The Chairman. Senator Symms.

16 Senator Symms. I think we -- Senator Moynihan, Senator
17 Matsunaga and myself -- introduced a bill earlier this
18 year, and there is a handout to describe it to everyone.

19 Basically, if I could simplify it, what we do with
20 this legislation is codify present practices. Now, Treasury
21 has a couple of problems that they may want to speak to.

22 The House has passed legislation to codify it, and my
23 general purpose in introducing this legislation was that
24 every year we have to go through this routine of extending
25 these things.

1 I think we should codify what is presently done and
2 settle the issue once and for all so we don't constantly
3 have all the airline ticket people and everybody asking
4 us if they are going to take their benefits away from them
5 or tax them on their benefits and so forth.

6 So, I think that the big dispute that I have with
7 Treasury is how much they think this will cost. I have a
8 hard time seeing how this can be anything but revenue
9 neutral since we don't tax these benefits presently.

10 Yet Treasury has some numbers that it is not revenue
11 neutral.

12 The Chairman. I think they are estimating \$1 billion.

13 Senator Symms. No, they have changed that number down
14 to \$125 million over a three-year period, and for the life
15 of me, I can't see how it can cost \$125 million. There is
16 one place where I could see that it could cost a little
17 bit more.

18 With Senator Moynihan, we agreed to put this in the
19 legislation, and he asked to put faculty housing. I believe
20 it is, to clarify faculty housing.

21 So, the three differences between what is in the House
22 bill and what is in this bill is that our bill would allow
23 parents of airline employees and directors of corporations
24 to be eligible for the benefits that are offered to the
25 employees of those corporations, and our bill does not have

1 the limitation on the line of business. In other words,
2 if Company A buys Company B, then they can pass these
3 fringe benefits on to the employees of the other company,
4 and the requirement that corporations aggregate all de
5 minimum fringe benefits, which is really such a small thing
6 -- we are talking about, for example, if somebody gives
7 away turkeys for their employees at Christmas -- that they
8 would have to list all of these things that they received
9 and turn in. And in the de minimus case, I don't see how
10 there can be a cost.

11 Mr. Chapoton. Senator Symms, we had gotten an estimate
12 on your proposal before modification of over \$900 million.
13 The principal element of that was the employee discount
14 without discrimination -- without a nondiscrimination
15 requirement.

16 Now, I am not sure I understand the modifications to
17 your proposal, but you are now making -- I will have to
18 look at the revenue estimates again.

19 The Chairman. Are you getting close?

20 Senator Symms. My understanding was that they just
21 about had it worked out last night.

22 Mr. Weiss. Senator Symms, there are a large number of
23 modifications that were discussed in your original bill,
24 and our estimates were that that brought the revenue loss
25 down considerably to the neighborhood of \$125 over three

1 years.

2 Senator Packwood. Can I ask a question? Are you
3 codifying and saying in essence that what will be treated
4 as nontaxable benefits are those now in limbo?

5 Senator Symms. Yes, sir.

6 Senator Packwood. And this would be all fringe
7 benefits that are now in limbo?

8 The Chairman. That is correct.

9 Senator Packwood. I would support that.

10 Senator Symms. Thank you.

11 Mr. Chapoton. That is what has been done in the House
12 bill, and you are going beyond the House bill.

13 Senator Symms. The House has some limitations. For
14 example, in the House bill, they can't have a discrimination
15 say for parking places. I think those things are so
16 difficult to try to deal with that we should not interfere
17 with things like that.

18 In other words, some companies only have so many parking
19 places -- like senators, they have got three for each
20 senator. Normally, I find that a senator uses one of the
21 parking places, not the most junior member of his staff.
22 This would be the kind of thing the House bill doesn't
23 address.

24 Or say, in the retail industry where there is a different
25 level of a discount that some people can get as they work

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1 their way up the company -- work there more years, earn
2 more stripes, and so forth -- and then they are allowed a
3 bigger discount.

4 So, the House bill does not allow for that. And our
5 bill does.

6 Mr. Chapoton. Let me say that we would like to get
7 a legislative solution of the problem. I would like to
8 look at the revenue again because the House bill had a
9 slight revenue loss. I want to just be clear on what
10 changes have been made to reduce our revenue loss as of
11 yesterday.

12 Senator Symms. Let me say that I can't, for the life
13 of me, understand how we have a revenue loss when Treasury
14 has already agreed to extend this two more years.

15 Mr. Chapoton. If we codified existing law, we would
16 not have a revenue loss.

17 Senator Symms. And so if we are codifying existing
18 law, I don't see how it can have a revenue loss.

19 Mr. Chapoton. I agree. So, the revenue loss would
20 tell me that we are doing more than codifying it.

21 Senator Symms. What we are doing is codifying
22 existing practice.

23 Senator Packwood. Let's take an example. We just
24 extended for two years educational fringe benefits provided
25 by the employer. This would now codify that exemption, and

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1 they will not be taxable. Is that correct?

2 Mr. Chapoton. No, that is a different item. That is
3 a statutory benefit that the law says is exempt. The ones
4 we are talking about are items like parking spaces, store
5 discount. There is no provision in the law that says these
6 are not taxable. Taxpayers maintain in some cases they
7 are taxable and in some cases they are tax exempt.

8 The IRS has had continuing controversy where the line
9 is drawn. The House bill attempts to draw the line at about
10 existing law, and as a result, we carry no revenue impact
11 or no significant revenue impact in the House bill.

12 And Senator Symms' proposal liberalizes the exclusion
13 considerably from the House bill, and as a result, we
14 are carrying almost \$1 billion revenue loss on that.

15 Senator Packwood. But I am confused. Which ones are
16 going to be codified? Which fringe benefits?

17 Mr. Chapoton. You would have to go down a long list.
18 Airline passes, store discounts, faculty housing, tuition
19 remission for college students. Those are items that are
20 all specifically exempted.

21 Senator Packwood. We are not talking about codifying
22 all existing non-taxed fringe benefits.

23 Mr. Weiss. Senator Packwood, the ones that Buck
24 mentioned are not now exempt through particular provisions
25 of the Code, whereas something like educational assistance

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1 does have a specific code exclusion.

2 Senator Packwood. Well, at the moment, it doesn't.
3 It ran out at the end of last year.

4 Mr. Weiss. Right.

5 Senator Packwood. And we extended it for two years
6 in this committee, but I am trying to find out if Steve's
7 proposal is a substitute for the Mattingly two-year
8 extension prohibiting you from any enforcement.

9 Mr. Weiss. It defines additional types of fringe
10 benefits and would add additional exclusions for those.

11 Senator Packwood. And in addition, we would keep
12 the Mattingly amendment of the two-year prohibition.

13 Mr. Chapoton. No, this would be in lieu of the
14 Mattingly amendment. This would attempt to resolve the
15 issue on what is taxable and what is tax-exempt.

16 Senator Symms. This would solve the problem.

17 Senator Packwood. No, it wouldn't solve the problem.
18 What the Treasury is looking for is -- they are willing to
19 trade it off -- and for what you have got -- and get rid
20 of the Mattingly amendment, and then they will try to start
21 taxing all of the other fringe benefits that they can.

22 Senator Symms. What Treasury wants to do is start
23 taxing all these things next year when they come back
24 with a new plan.

25 Senator Packwood. They have wanted to do that for 20

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1 years. And we have adopted the Mattingly amendment and
2 said for another two years they can't do it.

3 Now, Buck just answered that what they want to do is
4 trade off your amendment and get rid of the Mattingly
5 amendment. Anything you don't codify then becomes taxable.

6 Mr. Chapoton. Senator, we have the Mattingly amendment.
7 There is no need for this amendment.

8 The Chairman. Has Treasury done any projections on
9 how long it will be before everybody will just live in
10 a fringe benefit society? You know, walking around money.
11 You get a company car, and you get a company lawyer, and
12 a company doctor, and a company house, and then you get
13 charitable deductions if you happen to give anything away.

14 (Laughter)

15 Mr. Chapoton. We have not had any projections.
16 Obviously, there is a tremendous incentive for employers
17 to design fringe benefits in lieu of tax compensation.
18 And we are seeing that problem grow.

19 Senator Matsunaga. Mr. Chairman, it should be pointed
20 out that the Symms bill -- of which I am a co-sponsor
21 along with Senator Moynihan -- would allow fringe benefits
22 only where there is no cost to the employer in extending,
23 such as in the case of a free ticket on a standby basis.
24 The plane is going to fly anyhow. It won't cost the employer
25 anything.

1 Senator Packwood. I understand that but the Treasury
2 Department wants to trade it off for the Mattingly amendment
3 for these other fringe benefits that we have protected for
4 two years.

5 Senator Symms. But, Bob, there aren't any other fringe
6 benefits.

7 Senator Packwood. Okay. If they will keep Mattingly,
8 that is fine.

9 Mr. Chapoton. Senator, we are not accepting the Symms
10 amendment, and we are not going to propose regulations on
11 taxing fringe benefits. We said that we had a self-imposed
12 moratorium. If Senator Mattingly's amendment passes, that
13 is fine. That will impose a moratorium. But we said that
14 at some point Congress has got to deal with the problem.
15 Senator Symms is attempting to do just that. We prefer
16 the House bill because we think it codifies existing
17 practice, and we think that the Symms amendment would go
18 further than that.

19 Senator Symms. The problem of it is though, Buck, is
20 what I have been told by people in the Administration the
21 reason that the White House hasn't accepted my bill -- not
22 in favor of the Mattingly bill -- is that they are talking
23 about coming back in 1986 or 1985 with a base broadening
24 tax proposal where they are going to include all these things
25 under the tent.

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1 The Chairman. That is a deferred tax. I have heard
2 about that.

3 Senator Symms. I hope they do do that. The whole
4 point of what I am saying is that we have left this thing
5 up in limbo for the 12 years that I have been in the
6 Congress. Every time I go to the ticket counter of United
7 Airlines or some other airlines in Boise, they want to
8 know how come they are trying to take my tax benefit for
9 riding on the airline away from me again.

10 And I am trying to say what I want to do is codify
11 existing practice so that we will not have this issue up
12 unless Congress votes to do it. That is essentially what
13 the House did with the differences that I pointed out.

14 The Chairman. You are right about the airlines. The
15 last time you brought this up, I was flying to Kansas City.
16 All the pilots and all the stewardesses were around my
17 seat. They had it on auto pilot.

18 (Laughter)

19 The Chairman. And I agreed to go along with them.

20 (Laughter)

21 Senator Symms. You see, Buck, I don't think you can
22 give me the assurance, can you, that you won't come in and
23 try to tax these next year?

24 Mr. Chapoton. I can give you the assurance that we
25 are not going to come in and change the rules under existing

1 law. If we were directed to design where the line is drawn
2 between taxable and tax-exempt fringe benefits, we would do
3 so, but we are looking at a fundamental of a system, as
4 you know. What might happen after that I couldn't even
5 guess now.

6 Senator Durenberger. Mr. Chairman, everybody on this
7 committee in the last couple of weeks has had some proposal
8 on fringe benefits, and I think that is laudable. We
9 haven't even gotten to the one that you and I authored on
10 tax caps.

11 And I applaud Steve for coming up with this and Bob
12 and Jack. The only reason I voted against Danforth yesterday
13 is that I really wasn't ready to do the Symms kind of thing
14 or even our kind of thing yet.

15 It strikes me that we ought to put all this stuff back
16 in limbo for another year and try to do it right.

17 Senator Symms. Mr. Chairman, I would rather vote on
18 this proposal.

19 But before we do -- Senator Moynihan is tied up, as
20 you know, with the Irish Ambassador -- and he has got two
21 amendments.

22 Senator Durenberger. He is tied up?

23 (Laughter)

24 Senator Symms. Or maybe he is the Irish Ambassador.

25 Senator Matsunaga. Or the prime minister.

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1 Senator Symms. But he has two amendments to this.
2 One of them is on graduate tuition, and the other one is
3 on mass transit. Now, I think it would be only fair if we
4 could offer his amendments to this when he is here.

5 Senator Packwood. Steve, let me say this. I know what
6 you are trying to do. I am going to vote against it for
7 this reason.

8 If we have got the Mattingly proposal in here -- and
9 I have told this to Bob --

10 Senator Symms. Mattingly supports my proposal.

11 Senator Packwood. I know that. I understand that.
12 And if we could get both of them, that is fine. I would be
13 able to vote for yours and keep Mattingly's.

14 But I would be perfectly willing on the Tax Subcommittee
15 to hold extensive hearings on the whole theory and
16 philosophy of fringe benefits, including those that don't
17 cost the employer anything and those that do.

18 But I just want to make sure that if we vote for yours,
19 we are not dropping the Mattingly prohibition.

20 Senator Symms. Then, let's amend it into it.
21 And then we will solve the issue.

22 Senator Packwood. That would also take care of the
23 Moynihan problem for the ensuing two years.

24 Senator Symms. That is true. I will accept that.

25 The Chairman. Accept what?

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1 Senator Symms. The proposition that Senator Packwood
2 just made.

3 The Chairman. What is Symms running up on us? He is
4 not going to vote for the bill. How much is it going to
5 cost here?

6 Mr. Chapoton. Since he has modified his proposal a
7 little bit, the Joint Committee now has an estimate down
8 from our \$900 million yesterday to \$125 million over the
9 three-year period.

10 Senator Bradley. Mr. Chairman, could I ask Mr. Chapoton,
11 how do fringe benefits cost anything?

12 Mr. Chapoton. Because they are in lieu of taxable
13 compensation.

14 Senator Bradley. In lieu of taxable compensation,
15 so the more fringe benefits you have, the less tax revenue
16 you have?

17 Mr. Chapoton. Sure. The employer gets the deduction
18 for the cost, and the employee has not taxable item.

19 Senator Bradley. That means therefore, the higher the
20 tax rate will have to be.

21 Mr. Chapoton. Absolutely.

22 Senator Bradley. So, I think that we have got to think
23 about what we are doing. You know, fringe benefits give
24 all the impressions of being a free lunch, but they are not.

25 And at some point, you have got to draw the line.

1 Senator Packwood. I would be happy to make the argument
2 of how much it would cost the Federal Government to provide
3 the same kind of health insurance that we now get through
4 prepaid health insurance premiums from employers. Your
5 revenue estimate loss on that is about \$25 billion to cover
6 130 million people, and you look at the cost of Medicare
7 and Medicaid -- which we do pay for -- and I would defy
8 the Federal Government to supply the same level of health
9 coverage for any place close to that price.

10 Senator Chafee. Yes, but I am not sure the Federal
11 Government would be flying airline hostess's parents around
12 the country if this didn't pass.

13 Senator Symms. The only thing about it is how do you
14 put a value on an empty seat on an airliner? I mean, that
15 airliner is flying anyway, as Senator Matsunaga pointed out,
16 and they are not going to -- if you try to start getting
17 into those kinds of things, then you are asking to calculate
18 FICA taxes and all other kinds of withholding, and the
19 companies will just say they won't do it any more.

20 So, what it will mean is that it will cost the companies
21 more money in wages to pay people to work for them and the
22 price of airline tickets is going to go up.

23 So, I can't understand why Congress isn't willing just
24 to take the responsibility for this to codify what we have
25 been doing and incorporate what Senator Packwood is talking

1 about and end this issue. We don't have to talk about it
2 every time we get on an airplane again if we would just do
3 that.

4 The Chairman. Why don't we vote on it?

5 Senator Symms. I am willing, Mr. Chairman.

6 But I want to protect Senator Moynihan's position.

7 Senator Packwood. Incorporate the Mattingly provision
8 in it.

9 Senator Symms. Incorporate Mattingly which would then
10 take care of the graduate tuition.

11 Senator Packwood. It would take care of it for two
12 years because they won't be attempting to enforce anything.

13 Senator Symms. Let me just offer then the protection
14 for Senator Moynihan. He wants to include --

15 The Chairman. When he comes back, he can offer those
16 amendments.

17 Senator Symms. Graduate tuition and he has an amendment
18 on mass transit that I am not sure I can explain, but I can
19 explain his amendment on graduate tuition.

20 Presently, undergraduate tuition is acceptable for
21 college professor students to go to college. He wants to
22 include graduate tuition.

23 Mr. Chapoton. That has a revenue impact of more than
24 your amendment, Senator Symms.

25 Senator Symms. I don't see how that could have revenue

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1 impact either.

2 Mr. Chapoton. Because you are providing what is now
3 provided at a taxable basis on a tax-exempt basis.

4 Senator Symms. No. They are doing it now --

5 Mr. Chapoton. But on undergraduate tuition.

6 Senator Symms. No, they are doing it on graduate
7 schools now.

8 The Chairman. How much does that cost?

9 Mr. Chapoton. \$218 --

10 Senator Symms. If you accept the Mattingly proposal,
11 I think you will have it.

12 Senator Durenberger. When I vote on this and Mattingly,
13 when do I get to vote on the moratorium, because I want
14 to be on record for the moratorium.

15 The Chairman. We agreed on that yesterday.

16 Senator Durenberger. We did? Okay.

17 The Chairman. Do you want to vote on that?

18 Senator Durenberger. All of us who vote against this
19 are not hung up then --

20 The Chairman. Do you want a record vote on the
21 moratorium?

22 Senator Durenberger. Yes, I think we ought to.

23 Senator Bradley. Yes.

24 The Chairman. All right. Let's vote on the two-year
25 moratorium.

1 Senator Symms. Let's vote on mine first, Mr. Chairman,
2 if we could.

3 The Chairman. We have already agreed on the one. We
4 haven't had a roll call on the two-year moratorium, so let's
5 do that.

6 Senator Symms. Let's just include the moratorium in
7 it.

8 The Chairman. We will do it both ways. We will put
9 it in yours, too.

10 Mr. DeArment. Okay. This is the vote on the two-year
11 moratorium.

12 The Chairman. This is the Mattingly airline amendment.

13 Senator Bradley. Two-year moratorium on?

14 Mr. DeArment. Treasury's bill to issue regulations
15 in the nonsaturated fringe benefits area.

16 Mr. Packwood?

17 Senator Packwood. Aye.

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. Aye.

- 1 Mr. DeArment. Mr. Wallop?
- 2 Senator Wallop. Aye.
- 3 Mr. DeArment. Mr. Durenberger?
- 4 Senator Durenberger. Aye.
- 5 Mr. DeArment. Mr. Armstrong?
- 6 Senator Armstrong. Aye.
- 7 Mr. DeArment. Mr. Symms?
- 8 Senator Symms. Aye.
- 9 Mr. DeArment. Mr. Grassley?
- 10 Senator Grassley.
- 11 Mr. DeArment. Mr. Long?
- 12 Senator Long. Aye.
- 13 Mr. DeArment. Mr. Bentsen?
- 14 Senator Bentsen. (No response)
- 15 Mr. DeArment. Mr. Matsunaga?
- 16 Senator Matsunaga. Aye.
- 17 Mr. DeArment. Mr. Moynihan.
- 18 Senator Moynihan. (Senator Baucus responded aye by proxy)
- 19 Mr. DeArment. Mr. Baucus?
- 20 Senator Baucus. Aye.
- 21 Mr. DeArment. Mr. Boren?
- 22 Senator Boren. Aye.
- 23 Mr. DeArment. Mr. Bradley?
- 24 Senator Bradley. Aye.
- 25 Mr. DeArment. Mr. Mitchell?

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1 Senator Mitchell. (No response)

2 Mr. DeArment. Mr. Pryor?

3 Senator Pryor. Aye.

4 Mr. DeArment. Mr. Chairman?

5 The Chairman. Aye.

6 On this vote the ayes are 16, and the nays are zero.

7 Mr. DeArment. That is correct.

8 The Chairman. Now what we have done, in effect, is
9 to forestall any action --

10 Mr. Grassley votes aye -- that makes the ayes 17.

11 To forestall any action for two years. Is that correct?

12 Mr. DeArment. Yes.

13 The Chairman. To what date? Two years from what date?

14 Mr. DeArment. I think it is 1986.

15 The Chairman. Now, what Senator Symms would like to
16 do is incorporate that amendment with his proposal.

17 Senator Bradley. And what is your proposal?

18 Senator Symms. My proposal essentially codifies what
19 we just voted to delay for two years. It codifies existing
20 practice with fringe benefits, and it would make it --

21 Senator Packwood. That is not quite the same thing,
22 Steve. What you are codifying, as I understand it, fringe
23 benefits do not cost the employers any money.

24 What we had the two-year moratorium on --

25 Senator Symms. That is not quite correct. I can read

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1 through the list here. We have involved parking, automobiles,
2 tuition, airlines, faculty housing,-- the normal list of
3 things that we are discussing here.

4 So, there may be some of the benefits that I think you
5 couldn't say that a parking lot doesn't cost somebody
6 something, and that would be part of it.

7 The Chairman. Why don't we vote on it?

8 Senator Packwood. Mr. Chairman, as much as I sympathize
9 with what Steve wants to do, I am going to vote against it,
10 and I will hold these hearings, and I am hoping that we
11 will hold in conference this two-year moratorium.

12 The Chairman. I think we can hold that.

13 Mr. Chapoton. Mr. Chairman, I am very confused if
14 we have a moratorium, and we also have something that is
15 supposed to clear up where the line is drawn.

16 We would not be able to issue regulations under your
17 legislation. I think the moratorium really solves the
18 problem, and we ought to wait until we discuss it more
19 fully.

20 We think that is probably a good way to go.

21 The Chairman. That is not a problem. Let's vote.

22 Mr. DeArment. Mr. Packwood?

23 Senator Packwood. No.

24 Mr. DeArment. Mr. Roth?

25 Senator Roth. (Senator Symms votes aye by proxy)

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

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1 Senator Baucus. No.

2 Mr. DeArment. Mr. Boren?

3 Senator Boren. No.

4 Mr. DeArment. Mr. Bradley?

5 Senator Bradley. No.

6 Mr. DeArment. Mr. Mitchell?

7 Senator Mitchell. (No response)

8 Mr. DeArment. Mr. Pryor?

9 Senator Pryor. No.

10 Mr. DeArment. Mr. Chairman?

11 The Chairman. No.

12 On this vote, the yeas are 7, and the nays are 13.

13 The no's have it.

14 The amendment is not agreed to. Senator Danforth?

15 Senator Danforth. Mr. Chairman, I have an amendment
16 relating to cafeteria plans which would pick up an additional
17 revenue over the three-year period of \$150 million.

18 The amendment would limit cafeteria plans so that they
19 could not offer any participant more than \$3,000 of tax-free
20 benefits annually.

21 They would also limit the permitted benefits to cash
22 and statutory tax-exempt fringe benefits currently permitted
23 in cafeteria plans.

24 Therefore, cafeteria plans under this amendment would
25 not be able to offer nonstatutory benefits such as, for

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1 example, vacation facilities nor deferred compensation.

2 The amendment would provide that cafeteria plans would
3 have to be both offered and used on a nondiscriminatory
4 basis and it would also provide for reporting requirements
5 so that annual reports would be required on the cost of
6 a number of employees receiving statutory fringe benefits.

7 Mr. Chairman, Section 125 of the Internal Revenue Code
8 was enacted in 1978, and that was the origin of cafeteria
9 plans. And the result of that provision in the law was
10 that what otherwise would be constructive receipt of cash
11 and thereby taxable has become nontaxable.

12 So, now we have a situation where an employee in a
13 company that has a cafeteria plan is able to make an
14 election between receiving cash or receiving any of a
15 range of benefits, and that is an unlimited election.

16 And the result of providing that election is that
17 again we have stacked the deck --

18 (Continued on next page.)

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1 Senator Danforth. Mr. Chairman, when you are
2 providing that is that again we have stacked the deck in
3 favor of fringe benefits and against the receipt of cash.
4 So that what we are saying now to an employee is you have a
5 choice between receiving your compensation as cash or
6 receiving your compensation as fringe benefits.

7 And all we in the government are going to tell you is
8 that if you exercise your election by choosing cash, we are
9 going to tax you at your highest marginal rate on your
10 compensation.

11 However, if you choose to elect to receive your
12 compensation in the form of fringe benefits, we are not going
13 to tax you at all. And that is a very substantial incentive
14 for the employee asking for fringe benefits.

15 And under cafeteria plans, this isn't a matter of
16 collective bargaining. This is something that the employee
17 decides all by himself. And the point of this amendment is
18 that if we are going to have such a provision in the code --
19 and I'm not sure we should have such a provision in the code
20 in Section 125 -- let's at least have some limitations on
21 it rather than the sky is the limit.

22 Otherwise, we can have the sort of thing, Mr. Chairman,
23 which you were suggesting earlier where we provide just a
24 little walking around money to the employee and a whole
25 range of benefits that he can select tax free.

1 So what this would say is that limit that election to
2 \$3,000.00. Limit it to \$3,000.00, and limit it to cash
3 plus statutory tax exempt fringe benefits currently per-
4 mitted.

5 Senator Durenberger. Mr. Chairman.

6 The Chairman. Senator Durenberger.

7 Senator Durenberger. Just very briefly, if I may. As
8 I indicated earlier, I want to compliment Jack Danforth and
9 everyone else for dealing with these issues. My position is
10 that we ought to deal with them in the way that Senator
11 Packwood proposed to us, and that is by an extensive set of
12 hearings.

13 I like a lot of what I see in here. I think my main
14 problem is with the \$3,000.00 limitation on benefits. Now
15 all by itself, I can't argue that \$3,000.00 might be an
16 appropriate limit. But I also like cafeteria plans. And
17 I know I read in the New York Times last week an article
18 that indicated that Chrysler pays \$6,000.00 a year for each
19 of its employee's health plan.

20 Now there is no way that Chrysler is going to go into
21 a cafeteria plan. So there are a lot of other companies in
22 that category between three and six thousand. So part of
23 part is behind this is whether or not you like cafeteria
24 plans or not. Whether you like giving employees choices or
25 not.

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1 I happen to like it because I think that part of the
2 solution to the problem of high premiums in health care is
3 people making choices of health plans or making choices
4 between health plans and dependent care credit and so forth.

5 I guess my main objection here, Jack, to this proposal
6 is that you are going to discourage a lot of people from
7 going into the choice business just with your cap. I can't
8 find anything else wrong with it. You are limiting it to
9 cash, statutory fringe benefits, all that sort of thing. I
10 like that. But the cap imposed today on today's world is
11 really going to discourage cafeteria plans.

12 Senator Danforth. Let me just give you an example of
13 what we are getting at.

14 Right now we provide in the code that an individual who
15 wants to pay for child care gets a deduction. If instead of
16 taking the deduction for child care you go into a cafeteria
17 plan and have the cafeteria plan pay for your child care, the
18 affect of that is to reduce your tax payment. So that is you
19 are in the 50 percent bracket, you are getting, in essence,
20 half of your cost of child care being paid for by Uncle Sam
21 as opposed to maybe 20 percent or so, which is what we have
22 provided for in the law if you take the deduction the usual
23 way.

24 So you are going to have two people living side by
25 side in adjacent houses, same families, same situation, same

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1 income and have radically different tax situations depending
2 on whether or not they pick the cafeteria plan.

3 Senator Durenberger. You don't need the cafeteria plan
4 to have that discrimination. You can have that same problem
5 without a cafeteria plan. I don't understand how you can
6 only get it if you can get your employer to pay the cost of
7 the child care for you.

8 Senator Danforth. Right.

9 Senator Durenberger. And if you get your employer to
10 pay the cost of child care, you end up getting Uncle Sam to
11 pay half of your child care cost as opposed to the more
12 limited deduction which we have provided.

13 The Chairman. Obviously, this is controversial. And
14 I'm concerned too about where we are going with all the
15 different fringe benefits.

16 Senator Packwood has agreed, when we took up the Symms
17 amendment, to have hearings. He just indicated to me he
18 could even do some of that this year. So I think rather than
19 get hung up on this issue, maybe if that's all right with
20 you, Jack, we will just put it in the package.

21 Senator Heinz. Mr. Chairman, could I just ask Senator
22 Durenberger one question?

23 The Chairman. Sure.

24 Senator Heinz. We won't prolong the discussion.

25 David, when you indicate that a cap will discourage

1 choice, why isn't it equally evident that not having a cap
2 will result in people not having to make choices? And
3 the real issue is not whether or not there is a cap, but at
4 what level it is.

5 Senator Durenberger. The real issue is whether or not
6 they are in a cafeteria plan forum of choice. You can have
7 a choice of health plans without having a cafeteria plan.
8 You can have a choice of day care facilities or a variety of
9 other things without the cafeteria.

10 It's just that a cafeteria plan does facilitate the
11 process of making choices in an institutional environment.

12 Senator Heinz. In a sense, the logical conclusion of
13 that, without trying to put the conclusion in your mouth, is
14 that you end up with having a cap for all these kinds of
15 things, not just cafeteria plans, not just health benefits,
16 but a cap in which people choose among all of those.

17 Senator Durenberger. I wouldn't mind putting a cap on
18 the individual benefit within a cafeteria setting rather than
19 just putting it on the cafeteria itself, I don't think.

20 Senator Danforth. Mr. Chairman, I am willing to lay
21 this aside, as you recommend, and let it be brought up. I
22 would only end with one short editorial comment.

23 We are providing at least three different types of
24 incentives in the law for people going the fringe benefit
25 route as opposed to the direct compensation route. The

1 fringe benefits are tax free. That is the first and most
2 basic incentive.

3 The second incentive is the free funding possibility,
4 which is available under VEBAs. We discussed that
5 yesterday.

6 The third possibility is this constructive receipt
7 idea, which was opened up by Section 125, which says that
8 an individual employee can make the choice as to whether he
9 wants his compensation tax free or taxable. And that
10 really, I think, a very heavy weighting in the direction of
11 fringe benefits.

12 It seems to me that this really deserves careful
13 attention. That if we want to save revenue for the Treasury,
14 this is an obvious area where we should get it. And that
15 this whole fringe benefit concept has been greatly over done
16 by the Congress.

17 And if later in the day we need some money to make up
18 the package, I think we know some areas where we are going to
19 find it.

20 Senator Packwood. Mr. Chairman?

21 The Chairman. Yes.

22 Senator Packwood. I want to respond to Senator Danforth.
23 I will consider these. But we are talking about a
24 significant difference in philosophy between, I think,
25 Senator Danforth and myself and maybe some others.

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1 We use the tax code for all kinds of incentives. Some
2 of them are non-taxable fringe benefits; some of them are
3 deductions like home ownership. And we say when there are
4 certain things we want to encourage beyond the marketplace,
5 we will use the tax code.

6 And the alternative to not using the tax code is to have
7 a direct government program, whether it be a national housing
8 authority or a national health insurance plan. And I would
9 much prefer in areas where the public is going to demand
10 services -- and they will, whether it's health, day care or
11 legal care -- I would much rather that those be provided
12 between employers and employees with a tax incentive than
13 with a straight government appropriation and a badly managed
14 and overly expensive program, which in the last analysis
15 will cost the Treasury more than anything that is provided
16 by something jointly bargained or offered by an employer, if
17 you don't have a collective bargaining situation.

18 And on that subject, I think we ought to have hearings,
19 and lengthy hearings. But it is a difference in philosophy
20 as to how social services in this country are going to be
21 provided.

22 Senator Durenberger. I think you over-simplified the
23 philosophy when you say if it's private and employer based
24 it works better. I mean \$6,000.00 for health insurance per
25 year is ridiculous. We don't give that in Medicaid or

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1 Medicare or anything else. That part of the system doesn't
2 work any better than having the government do it. So
3 somewhere in between here is where we ought to end up
4 hopefully.

5 The Chairman. I think that will be a good hearing.

6 (Laughter)

7 The Chairman. What I would like to do now is take up
8 number 10 and 12 and then number 8 -- insurance company tax
9 changes -- before lunch.

10 Number 10, mutual protection trust. I understand that
11 is one that there is no problem with. Senator Symms, can
12 you explain that? Or Ron? Or Anne or somebody?

13 Senator Symms. Mr. Chairman, I can explain it. What
14 the mutual protection trust -- Senator Durenberger, Senator
15 Matsunaga and I have introduced it, and it would amend the
16 Internal Revenue Code to provide certain physicians and
17 surgeons the mutual protection associations with tax exempt
18 status for certain purposes.

19 Now it's not a revenue loser, and I will get to that.

20 The Chairman. I have already checked that.

21 Senator Symms. It actually will probably make money
22 for the Treasury.

23 This bill would provide that payments to nonprofit
24 mutual protection indemnity associations providing medical
25 malpractice coverage for doctors will not be subject to tax

1 upon receipt by the association, but such payments would
2 be deductible by doctors to the extent of normal insurance
3 premiums paid to a private carrier.

4 Now as a result of these escalations of jury awards
5 in medical malpractice litigation, there has been a
6 continual crisis, which this committee is very well aware
7 of, and the skyrocketing cost of medical malpractice
8 insurance which directly impacts the cost of medical care
9 in this country.

10 And one response of this crisis has been the adoption
11 of special state laws which permitted the establishment of
12 doctor controlled insurance organizations to help reduce the
13 risks and to help lower the cost of malpractice insurance.

14 Within these organizations, doctors are required to
15 make a large initial contribution, and then provide a fund
16 to meet potential insurance risks. If additional amounts
17 are deemed necessary to pay claims later by the organization,
18 the doctor members are subject to later assessments.

19 And with the combination of this self-contribution and
20 the ability to assess their own members, the incentive
21 exists to keep health care costs down, as well as to improve
22 the level of practice of their members.

23 More importantly, self-insurance trust costs of
24 operation are significantly lower than the private insurance
25 carriers. Unfortunately, under current tax law, the initial

1 contributions made to these self insurance trusts are not
2 considered to be deductible business expenses to doctors
3 who make such payments even though a similar payment for the
4 insurance premium to a profit making organization.

5 Now the reason they are able to lower their malpractice
6 cost is because the doctors go through these cases very
7 carefully, and the ones that they think that they are right,
8 and it's just simply a malpractice charge that's based on
9 outlandish charges by some damage case, the doctors fight
10 these and they are winning a great percentage of these cases.

11 So it will increase Treasury revenues by encouraging
12 doctors to use this type of system and lower costs. It will
13 correct the inequity where the premium costs paid to private
14 carriers.

15 And essentially what we are doing is to set up a system
16 where doctors can do this. And Senator Matsunaga may want to
17 speak to this. They have already done it in Hawaii,
18 California and other places. New York is looking at it.

19 The Chairman. Well, I understand Treasury has no
20 objection to this amendment.

21 Secretary Chapoton. Mr. Chairman, I have not seen it.
22 We were working on something on the House side. Our people
23 have not seen this provision at all. Mr. Thomas on the
24 House side had a similar provision which we were trying to
25 work out, and I think we did work it out. But I have no way

1 of knowing whether this is it until we have looked at it.

2 Senator Symms. It's the same as the Thomas bill.

3 Secretary Chapoton. Well --

4 The Chairman. Let's give Treasury 5 minutes to look
5 at it.

6 Senator Symms. H.R. 4859.

7 Secretary Chapoton. I know, but that was too broad.

8 The Chairman. Number 12.

9 Senator Symms. It has been reintroduced.

10 The Chairman. Is that all right, Steve?

11 Senator Symms. Sure.

12 The Chairman. Just wanted to take a look at it.

13 Senator Symms. I have got a statement here where Mr.
14 Pearlman testified over in front of the House where he was
15 agreeing with what I just said there.

16 The Chairman. All right.

17 Number 12. Dave, do you have that? Tax treatment of
18 sale, lease backs of principal residents.

19 Senator Packwood. Is this, Senator, Specter's bill?

20 Mr. DeArment. Yes, this is Senator Specter's bill.

21 The Chairman. As modified.

22 Mr. DeArment. It would permit --

23 Senator Packwood. This is where the elderly person can
24 sell their home to their children or to an investor?

25 Mr. DeArment. That's right. He can sell it --

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1 Senator Packwood. So they have got some money and
2 some liquidity and then they can rent it back?

3 Mr. DeArment. That's correct.

4 Senator Packwood. I thought it was a good idea.

5 The Chairman. But I think there was one modification
6 on ACRS.

7 Mr. DeArment. The question was -- and the Treasury
8 rased this point -- to the extent that you claimed ACRS
9 on the -- the investor claimed ACRS deductions --

10 Senator Packwood. Excuse me. I can't hear you.

11 Mr. DeArment. If the new investor claimed ACRS
12 deductions, the Treasury would not agree with that aspect of
13 it.

14 In other words, I think that Treasury would want a
15 slower rate of depreciation in this case.

16 Secretary Chapoton. Mr. Chairman, we are not in agree-
17 ment with this. We had rased questions about it before.
18 And I think it might have significant --

19 Senator Packwood. You are not in agreement with the
20 whole bill, as I recall.

21 Secretary Chapoton. That's correct.

22 Senator Packwood. Treasury was opposed to it at the
23 time. And you are not even in agreement with it with this
24 modification?

25 Secretary Chapoton. That's correct.

1 Mr. Brockway. There was a discussion of using the
2 same depreciation schedule as you would use in the public
3 property leasing one. Sell, lease back. That would
4 reduce the potential revenue loss, if they were put on a
5 straight line over the E&P life of -- or the 40 year life
6 that you use the public property leasing, so you would not
7 have a large net tax loss.

8 The Chairman. Now go ahead, Dave.

9 I was visiting with Treasury this morning. They
10 indicated that they would have no problem with it if we took
11 out the ACRS portion.

12 Secretary Chapoton. No, Mr. Chairman, that has not been
13 our position. Let me reexamine that.

14 The Chairman. All right. Let's examine it during the
15 noon hour.

16 Secretary Chapoton. All right.

17 The Chairman. Let me just go down this revenue loser
18 subject to approval of revenue offset.

19 As I understand -- Rod, do you want to keep track as to
20 know where we are going to start?

21 We have completed number 1, three year extension on
22 target of jobs credit; number two is open; number three is
23 partly completed, it depends on the overall solution;
24 number four, definition of geothermal energy. That's not
25 yet been resolved. Is that correct?

1 (No response)

2 The Chairman. Number 5 is still open.

3 Mr. DeArment. We are going to study that.

4 The Chairman. Number 6 we will pass over. Number

5 7 --

6 Mr. DeArment. That has been resolved.

7 The Chairman. -- has been disposed of. Number 8, we
8 are going to take up in about 1 minute. Number 9, that will
9 come later today. Number 10, they are checking on.

10 Number 11 has been completed. And Number 12 Treasury has
11 a reservation on.

12 And then on the first page --

13 Mr. DeArment. On the first page I have number 1 open;
14 2 through 6 we have completed. The 30 percent withholding
15 is still open.

16 The Chairman. That's finished.

17 Secretary Chapoton. That was agreed to. Well, I
18 think we did agree to it. I suggested it. I think I could
19 propose the modification as to whether we want to consider
20 the -- the resourcing rule that we have already adopted has
21 the effect of denying the foreign tax credit for taxes paid
22 until -- on Euro-bond transaction. While we were phasing
23 in the withholding, the repeal of withholding, I suggested,
24 and I now have a proposal that we would like to propose if
25 Senator Chafee agrees, that we would allow the credit for

1 Euro-bonds during this transition period, but design it
2 so that it does not allow the credit for other taxes paid
3 elsewhere. In other words, it would allow the status quo
4 for the credit and until the tax is paid on Euro-bond
5 transactions during the transition period.

6 Mr. Brockway. Mr. Chairman, let us see if we can get
7 some revenue estimates on that. We don't have the basic
8 package yet.

9 The Chairman. All right. Leave it open.

10 Senator Chafee. Do we have to leave it open, Mr.
11 Chairman?

12 Mr. DeArment. The 30 percent withholding we can
13 agree on. We will just write up a different provision.
14 It's basically that they want to reopen the resourcing rules
15 that the committee has already agreed to. And we will write
16 it up that way.

17 Mr. Brockway. Right. The basic proposals are already
18 adopted. It's solely a question of going back and reopening
19 the other issues.

20 The Chairman. All right. So Number 8 is still open.
21 Number 9 is still open. And Number 10, is that completed?

22 Mr. DeArment. That's completed.

23 The Chairman. Number 11. Mr. Hardee is still looking
24 at that.

25 Number 12 --

1 Mr. DeArment. We've completed that.

2 The Chairman. Number 13?

3 Mr. DeArment. That's still open.

4 The Chairman. That is Senator --

5 Mr. DeArment. That is Senator Grassley's concern.

6 The Chairman. Number 14, that's completed.

7 All right. So let's then go to Number 8, insurance.

8 Could I just say on the insurance proposal that we have
9 a basic package that I think has been -- well, there is a
10 little ad hoc subcommittee -- myself, Senator Bentsen,
11 Senator Chafee, Senator Durenberger -- and I think we have
12 agreed on a basic package.

13 What I would like to do is have Rich present that basic
14 package. It's no secret what is in it. And I know there are
15 four or five amendments. Senator Moynihan has an amendment
16 or two. I think Senator Durenberger has an amendment.
17 Maybe Senator Bradley does too.

18 And then if we could present the package, agree on the
19 basic package, and then during the noon hour give Treasury
20 some time to look at these amendments. And if we can
21 agree -- if not, we will vote.

22 Senator Grassley, do you have an amendment?

23 Senator Grassley. Two amendments by myself, and then
24 one in conjunction with Senator Boren.

25 The Chairman. Well, whatever the amendments are, we can

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1 look at those during the lunch hour.

2 Senator Pryor has one also.

3 All right, Rich, let's go with the basic package, and
4 give us the highlights.

5 Mr. Belas. Mr. Chairman, the basic package is S. 1992
6 as introduced by Senators Bentsen and Chafee and others on
7 the committee and from elsewhere. The major changes from it
8 are a reduction in the amount of reduction of tax -- the
9 basic bill has a provision that reduces the bottom line
10 tax by 25 percent for each company. That would be reduced
11 under this proposed compromise to 20 percent, which would
12 significantly reduce the revenue cost of the bill.

13 The second major area is in the policyholder provisions.
14 The policyholder loan limitations would be dropped from
15 S. 1992. The group term life insurance provisions for
16 retirees would be retained.

17 There would be a change in the transition rule so that
18 all employees who are aged 55 or older would not be affected
19 by these provisions. Basically, that means there is a 10
20 year grandfather of the rules. They would not go into
21 effect for 10 years for older employees who have planned on
22 having this group term life insurance.

23 There is also a loosening of the provisions for variable
24 life and annuity business along the lines of what the people
25 in the industry who sell these products prefer.

1 There are also two transition rules that are of a
2 major significance to both small mutual and smaller stock
3 life insurance companies.

4 One for the stock companies is popularly referred to
5 as the art proposal, which would provide an elective provision
6 in place of the taxable income adjustment, the 20 percent
7 reduction from tax liability.

8 The second is a provision that Senator Moynihan brought
9 up yesterday which is the transition rule for high surplus
10 mutual companies. The thought there was that the people who
11 are most effected by this bill adversely in that they would
12 have a higher tax liability are the smaller growing stick
13 companies and the high surplus, basically smaller mutual
14 companies. Both of them would get transitional relief over
15 the period '84 to '87.

16 I think that hits the highlights.

17 There are also about two or three pages of technical
18 corrections that also were brought to our attention by the
19 staffs of many of the members.

20 The Chairman. Well, I guess what I would do is yield
21 to Senator Bentsen and Senator Chafee and see if they are in
22 agreement with the basic package. I know there are probably
23 four or five amendments.

24 Senator Bentsen. Thank you very much, Mr. Chairman.

25 As you know, this package is the result of very long

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1 and arduous negotiations in trying to keep the playing
2 ground relatively even between the mutuals and the stock
3 companies, and still raising the amount of revenue that
4 we felt was necessary.

5 And, of course, this brings in additional revenue from
6 what the House version of this bill does. So I think we have
7 presented a balanced package. And certainly I support the
8 package as presented this morning.

9 The Chairman. Senator Chafee?

10 Senator Chafee. Yes, Mr. Chairman. I would like to
11 ask Mr. Belas one question on the \$50,000.00 limit on the
12 group term for retirees. Now what's the provision that you
13 have got in there?

14 Mr. Belas. The transition rule?

15 Senator Chafee. The transition rule. The way we had
16 it before was that if you had a plan, then we don't affect
17 the plan.

18 Mr. Belas. That's correct.

19 Senator Chafee. Now what are you doing? You are saying
20 even if you have a plan, those who are 55 or younger --

21 Mr. Belas. Under 55.

22 Senator Chafee. Those under 55 will not grandfather.

23 Mr. Belas. That's correct. What the concept would be
24 that a person who is an older employee may have relied upon
25 having totally excluded life insurance. And an 18 year old

1 who has gone into employment over the past year is not going
2 to have to worry about that until he reaches age at 65. He
3 has got 40-some odd years or whatever.

4 Senator Chafee. I understand that. And I approve of
5 it although I never approved this particular change in our
6 meetings.

7 Mr. Belas. The practical affect is that the proposal
8 will not go into effect for 10 years.

9 Senator Chafee. Does this solve the problem of a
10 plan, whether it subsequently is amended or whether it
11 remains the plan or not, that takes care of that problem?

12 Mr. Belas. Yes, sir. It's a much simpler provision
13 where the employers don't have to worry about that. All they
14 have to worry about is the age of their employees.

15 Senator Chafee. Yes. I'm for that.

16 The Chairman. I wonder if we might agree to the basic
17 package. Then I know there are amendments. Are there any
18 objections to agreeing to the basic package?

19 (No response)

20 The Chairman. If not, it will be agreed to.

21 I think Senator Pryor has an amendment that I don't
22 think there is any controversy on.

23 Senator Durenberger. Would you yield just one second?

24 Senator Pryor. Yes.

25 Senator Durenberger. I have one question about the basic

1 package. Is it my understanding that in the basic package
2 that where a company is organized under state statute as
3 both a mutual and a stock company that it will be treated as
4 a stock company?

5 Mr. Belas. Yes.

6 Senator Durenberger. I thank my colleague for yielding.

7 The Chairman. Mr. Pryor.

8 Senator Pryor. Mr. Chairman, I would like to pose a
9 question relative to the transition rule to the Treasury
10 Department. The transition rule that I think now has
11 commonly been called "OATs," standing for Oklahoma and
12 Alabama and Texas. Now what is the status in this bill of
13 the transition rule with regard to the OATs issue?

14 Mr. Belas. Senator Pryor, the proposal as it stands
15 would limit that transitional relief to those companies
16 in those particular states.

17 Senator Pryor. Well, Mr. Chairman, I want to compliment
18 Senator Bentsen and Senator Chafee for the work that they
19 have done. And in no way am I trying to be an obstruction.

20 What my amendment would do is to basically say that
21 all of the 47 states would have the same tax treatment in
22 the transition period, as would the states that I have just
23 mentioned. And I think it speaks to equity and fairness.
24 And I would like to propose that as an amendment to make it
25 apply to all 50 states rather than just three.

1 The Chairman. I wonder if we could look at that during
2 the noon hour, David.

3 Senator Pryor. That will be fine, sir.

4 The Chairman. Senator Bradley.

5 Senator Bradley. Thank you, Mr. Chairman.

6 I also would like the Treasury to take a look at an
7 inequity that I think is still in the package over the lunch
8 hour. It deals with the subsidiary dividend problem. And
9 we will provide that for the Treasury to take a look at during
10 the lunch hour. And then you can give us your opinion when
11 we come back.

12 Secretary Chapoton. Dividends from sub-mutuals?

13 Senator Bradley. That's right.

14 Senator Moynihan. Mr. Chairman?

15 The Chairman. Senator Moynihan. Excuse me. Senator
16 Baucus. Senator Moynihan.

17 Senator Moynihan. On the lunch hour question --

18 The Chairman. I know there are several amendments. We
19 might be able to save some time because we think we might
20 complete action on this entire bill by 4:00, hopefully.

21 Senator Moynihan. Earlier I raised with Secretary
22 Chapoton the question of the limitations which are placed on
23 the holding of Treasury securities by insurance companies and
24 mutual funds. That 55 percent limit.

25 Secretary Chapoton. I'm sorry. I meant to get back to

1 you earlier. The derivation of that requirement is a
2 revenue ruling dealing with the wrap-around annuity problem.
3 And it simply says that there must be diversity so that you
4 cannot as was the practice for a while wrap an annuity
5 around a particular investment asset, and have the favorable
6 annuity rules apply to it rather than the rules that you
7 would apply if you made the investment directly.

8 And so the requirement is a diversity requirement. And
9 we think there ought to be a diversity requirement. I
10 believe it is 65 percent.

11 Senator Moynihan. Fifty-five, I believe.

12 Secretary Chapoton. Fifty-five. I don't think there
13 is any magic in what the percentage is, but certainly a
14 diversity requirement, we think, makes sense.

15 The Chairman. In other words, they have no problem
16 with that?

17 Senator Moynihan. They do. I don't know why.

18 The Chairman. All right. Well, let's discuss it.

19 I know there are several of these. Senator Baucus, do
20 you want to raise one now for discussion?

21 Senator Baucus. Yes. Mr. Chairman, I understand that
22 this modification includes the fresh start rules.

23 Mr. Belas. That's correct, Senator.

24 Senator Baucus. Modified reinsurance agreements. I
25 don't know precisely what it is. But it is my understanding

1 that the modifications you have agreed to are pursuant to
2 the fresh start rule.

3 Mr. Belas. I think what you are referring to, Senator
4 Baucus, is a question of how you allocate between the
5 reinsurer and the reinsured companies of the so-called
6 fresh start under the bill. And that is included as one of
7 the technical questions.

8 Senator Baucus. Thank you.

9 The Chairman. In other words, his problem has been
10 addressed.

11 Senator Moynihan?

12 Senator Moynihan. How does the Chairman wish to
13 proceed?

14 The Chairman. I don't want to take any action on the
15 amendments now. I want to first see how many there are.

16 Senator Moynihan. All right. Then I have one more
17 that I would just like to offer. May I raise one more?

18 The Chairman. Sure.

19 Senator Moynihan. Mr. Chairman, there is a question
20 of variable life insurance. A set of rulings has developed
21 which prevents an insurance company from offering a
22 variable life insurance policy which is based upon a
23 pre-existing mutual fund.

24 And it is suggested that this limits very much what
25 consumers of these products can get for the simple reason

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1 that there is a whole range of mutual funds which cannot
2 be the basis of their life insurance. And these funds have
3 typically different -- first of all, they have records.
4 And, two, they have different mixes of objectives. Some
5 guarantee a steady flow of income and just invest in Treasury
6 bills. Others are -- well, teaches an insurance in annuity
7 as against CRES. That kind of variation. Some are very
8 much equity based. And you can take your choice.

9 And the established mutual fund, I think, legitimately
10 say this gives consumers a wider range of choice and a
11 better means of choosing. And I would like to propose that
12 they be allowed to do this.

13 Secretary Chapoton. Are you limiting your proposal to
14 a variable life?

15 Senator Moynihan. Variable life.

16 Secretary Chapoton. I think we should discuss this.
17 We will consider it over the lunch hour. This is part of
18 the broader question of the wrap-around annuity, as discussed
19 earlier.

20 Of course, the consumer can buy the mutual fund product
21 directly. And the question is whether he can buy that same
22 product through a variable product, whether life or
23 annuity, and have a better tax benefit than if he bought it
24 directly.

25 Now it is true once you have preferred rules for

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1 annuities or for variable life or for variable products, the
2 company that is issuing that product can make its own
3 investment, which is sometimes going to look a lot like a
4 purchase of a mutual fund.

5 The Chairman. I don't want to discuss them all now.
6 We wanted to sort of go over these during the lunch hour.
7 We want to just raise them now. And we don't have to do it
8 in the committee. I know Senator Boren has an amendment.
9 Senator Grassley has a couple. Senator Durenberger has an
10 amendment.

11 Senator Boren. I think ours is on the insurance side.
12 It was that Nebraska matter that we were raising for
13 Senator Exon and Senator Zorinsky. I think that has been
14 included already.

15 Mr. Belas. That was included.

16 Senator Boren. So I wouldn't have one on the insurance.

17 I would like for them over the noon hour, if they would,
18 to look -- yesterday I talked about the bank reserve
19 question. And they were going to look at some alternatives,
20 maybe limiting it to a certain amount of deposits or
21 something else that would reduce the cost of that that we
22 might come back to.

23 The Chairman. I don't want anybody to leave because we
24 have got a couple of things left to do. As I understand,
25 Senator Symms' amendment has now been cleared by Treasury.

1 Secretary Chapoton. Yes, that's correct. We have been
2 back over that. ~~That is the same~~ amendment that we worked
3 on on the House side and that we did approve.

4 The Chairman. How do we refer to that, Steve?

5 Mr. DeArment. S. 1745, tax treatment for physicians
6 and surgeons.

7 The Chairman. All right. Then without objection, we
8 will agree to that.

9 Secretary Chapton. S. 1745, as modified by agreement
10 on the House side.

11 Senator Symms. As modified, right.

12 The Chairman. Now as I understand, you will look at
13 Senator Moynihan's -- whatever the insurance amendments are.
14 I'm not suggesting we take them all. We may not want to
15 take any of them. But I think Senator Pryor raises a point.
16 I don't see how you can limit something to three states. I
17 don't know what the cost is if you make it apply to all
18 states.

19 Mr. Belas. It's \$40 million if you make it applicable
20 to all.

21 The Chairman. A year, three years?

22 Mr. Belas. Forty million over the period.

23 The Chairman. Pardon?

24 Mr. Belas. Over the '84 to '87 period.

25 The Chairman. All right.

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1 Now are there any other matters on the agenda as
2 published that we can clear up here right quickly before
3 we adjourn for lunch.

4 Senator Matsunaga. Mr. Chairman, is my understanding
5 that the mutual protection trust has been approved?

6 The Chairman. We have taken care of the Symms-
7 Matsunaga amendment. I guess you already have that though,
8 don't you?

9 Senator Matsunaga. Yes.

10 Senator Moynihan. Mr. Chairman, I am told I should ask
11 once again the question -- a number of mutual companies have
12 trouble with the way the capital surplus is handled under
13 the new insurance bill. And I understand that the staff has
14 been able to work out a compromise that satisfies the high
15 surplus mutual companies.

16 The Chairman. In fact, that's in the package.

17 Senator Moynihan. You weren't quite sure. I gather
18 today you are.

19 Mr. Belas. We included that as a transition rule for
20 the high surplus as well as a transition rule for the
21 growing stock companies.

22 Senator Moynihan. I thank you.

23 The Chairman. Are there any other tax matters on page
24 two under the caption "Revenue Losers Subject to Approval
25 of Revenue Offset" that we can address at this time? The

1 mutual protection trust has been resolved? And I guess the
2 others we can't resolve at this time.

3 I would like to ask Sheila Burke to come forward now.
4 We've tried to develop in the past several days a
5 modification of the spending package.

6 Senator Baucus. Mr. Chairman, before we get to that
7 one, may I just ask a question?

8 The Chairman. Sure.

9 Senator Baucus. That's as to a disposition of an item.
10 On the first page, repeal dividend reinvestment. What have
11 we done with that item?

12 The Chairman. We have completed action on it.

13 Senator Baucus. Mr. Chairman, I just would like to
14 record my views against that action. I think that we should
15 not repeal the dividend reinvestment. And I would like the
16 record so to state.

17 The Chairman. We will have the record indicate that.

18 There will be no more tax proposals considered this
19 morning so some in the back may want to go to lunch. But we
20 would like to take up this modification of the spending
21 package.

22 There have been a number of discussions with a number
23 of Senators. Initially it was with Senator Mitchell and then
24 Senator Baucus, Senator Durenberger, Senator Chafee and
25 others. It was particularly about the Part B action which

1 would raise \$3.3 billion. We have gone back and instead
2 of trying to raise that to 35 percent, we would increase the
3 Part B premium to 26 percent in '86, and maintain it at
4 that percentage. I think that's rather minimal, but I think
5 it does eliminate much of the concern.

6 And then to pick up the \$2 billion we lost, I think we
7 have agreement on a number of minor proposals that address --
8 we don't pick it all up. We probably still lose about a
9 billion dollars.

10 Sheila, maybe it would be better if you just discussed
11 that.

12 Ms. Burke. Very briefly, Mr. Chairman, the members have
13 before them a package entitled "Modifications of Spending
14 Package," dated March the 15th of 1982. The first page of
15 that simply describes the Part B premium proposal which you
16 just noted.

17 The Chairman. Is there any objection to making that
18 change in the Part B premium?

19 (No response)

20 Senator Boren. Not increasing the premium?

21 The Chairman. We just go up to 26 percent instead of
22 35.

23 Without objection, we will agree to that.

24 Ms. Burke. Item number two is a modification, the
25 physician freeze proposal, the committee previously

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1 considered. This modification would provide for no rollback
2 in physician fees, but would simply begin the freeze in
3 July of 1984 on all customary and prevailing fees. That
4 would be in place for one year.

5 For the second year, those physicians unwilling to take
6 assignment would be required to have their prevailing fees
7 continue to be frozen.

8 The Chairman. And again I would say with reference to
9 that that we had a discussion with the American Medical
10 Association, and I think they are making a real effort to
11 be of assistance. And this would satisfy some of the real
12 concerns they have.

13 We would lose a bit of revenue, but I think overall it's
14 the right thing to do.

15 So unless there is some objection, we will agree to that.

16 Ms. Burke. Item number three is a modification of
17 the labs proposal previously agreed to. This would simply
18 reduce the rates to the independent labs and physicians'
19 offices to 60 percent, and maintain the hospital labs at
20 62 percent.

21 The date of initiation of the proposal is delayed
22 slightly simply because of the timing of the committee's
23 action. That gained approximately \$100 million.

24 The Chairman. Without objection, we will agree to that.

25 Senator Durenberger. Are we on the labs, Sheila?

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1 Ms. Burke. Yes, sir.

2 Senator Durenberger. I just want to be sure that we
3 have statutory language in there giving the secretary
4 discretion to exempt the uncommon low volume test from the
5 fee schedule. For example, just for the record, chromosome
6 analysis, cydogenetics (phonetic), viral immunology and
7 trace metal and others.

8 Ms. Burke. Yes, sir. We would suggest giving flexibility
9 to the secretary to make adjustments for low volume and also
10 emergency laboratory tests. I need it for bonafided
11 emergencies and hospital outpatient departments or ERs. So
12 we would recommend that modification.

13 The Chairman. I want to make certain that all these
14 changes have been agreed to by HHS.

15 Ms. Burke. There are no objections to the items we
16 have discussed.

17 Mr. Schieber. We have no objection to the items so
18 far proposed.

19 Ms. Burke. Item number four is a modification of the
20 hospital provision previously agreed to by the committee.
21 This would modify the proposal by limiting the increase in
22 the market basket on the hospital cost portion to simply the
23 market basket. And to the market basket on the DRG side of
24 the equation to the market basket plus a half. That picks us
25 up approximately \$500 million.

1 And the proposal, again, would be for two years for
2 1985 and 1986. We would also suggest -- and this would have
3 no revenue affect -- that similar treatment be given to those
4 hospitals exempt from the prospective payment system
5 currently. For example, psychiatric hospitals, rehabilitation
6 hospitals. That they also be given a fractional amount in
7 the market basket.

8 Senator Durenberger. Mr. Chairman, Sheila and I haven't
9 had much time to talk about this, but there is an alternative
10 way and maybe it's the sort of way you want to approach this
11 issue. That's in term of the market basket and the hospitals
12 specific.

13 When I offered my original proposal, which was to
14 reduce the hospital specific portion by 1 percent, and leave
15 the prospective at market basket plus 1 percent -- I don't
16 know if I have made that clear -- anyway, a 1 percent
17 distinction. I did it because I know there is a whole lot
18 of hospitals out there that think we aren't ever going to get
19 the prospective. And they are over on the House side right
20 now trying to maintain this 75-25 split as long as they
21 can.

22 I would really like to keep at least a 1 percent
23 distinction between the hospitals specific and the DRG.
24 And you can do that if you do the market basket minus a
25 half a percent for the hospitals specific, and market basket

1 plus a half a percent on the DRG side. And you can also
2 pick up, I think, about \$170 million over her proposal.

3 The Chairman. I have no objection to that change. Do
4 you understand that, Sheila?

5 Ms. Burke. Excuse me. Market basket minus a half?

6 Senator Durenberger. On the hospitals specific, and
7 market basket plus a half on the DRG.

8 Ms. Burke. That would result in an additional
9 \$100 million in savings.

10 The Chairman. What about the policy?

11 Ms. Burke. Mr. Chairman, we were somewhat concerned
12 about the precedence of providing for a negative in terms of
13 market basket rather than simply holding them at full market
14 basket. That really was the only policy question that we
15 had. That was the precedence of going in a negative with the
16 number.

17 The Chairman. Well, we discussed at some length a
18 postponement, didn't we, of six months?

19 Ms. Burke. Yes, Mr. Chairman. It was suggested that
20 perhaps we simply delay, similarly to the COLA delay, that
21 market basket. That would effectively cut the market basket
22 in half for a year to about 3.2 percent.

23 So that would reduce it even further.

24 Senator Durenberger. And our friends at OMB want to
25 cut it in half too. So that's why I didn't think it would be

1 a great problem with just a half a percent.

2 The Chairman. I think the Durenberger proposal,
3 obviously, is superior to that.

4 Ms. Burke. Yes, sir.

5 Senator Chafee. Mr. Chairman, let me just say that I
6 get somewhat nervous about going to this market basket
7 minus a half. What are the ramifications? That's pretty
8 tough on those hospitals, I think.

9 Ms. Burke. The suggestion, as we understand it, is to
10 do that on the hospital cost portion only. So, of course,
11 over time, that would, in fact, become a non-issue because
12 we had moved to a fully prospective rate.

13 Our concern, which I indicated, was the precedence of
14 going in a negative number. The market basket, of course, is
15 supposed to be a measure of the value or cost of services
16 hospitals purchase. It's projected at about 6 percent at
17 this point. So it would go to 5.5 alternatively.

18 Senator Chafee. What's the purpose of it, Dave?

19 Senator Durenberger. Well, the purpose of it is, if
20 we are going to be about in the billion dollars, is to try
21 to strike at least a 1 percent balance between prospective
22 and hospitals specific or cost portion of it.

23 And the reason for doing that is that we are moving the
24 system from hospitals specific towards prospective. And we
25 want to keep that movement going. And that 1 percent

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1 distinction will facilitate that.

2 Senator Chafee. Well, I will have to confess I'm not
3 sure enough of the potential ramifications here. I'm a
4 little queasy about it, that's all.

5 Ms. Burke. The difference in the savings, Senator
6 Chafee, is approximately \$100 million.

7 Senator Chafee. It's not the savings. That's not the
8 point. I mean I'm talking -- here the market basket is
9 in effect what it cost them to operate. And you are giving
10 them a negative figure.

11 Ms. Burke. Yes, sir.

12 Senator Chafee. And it just makes me feel uneasy. That
13 is all.

14 Senator Durenberger. But if they keep moving, John,
15 from the 25 to the 50 to the 75 it really lessens their
16 problem each year.

17 Senator Chafee. I won't say anything else.

18 The Chairman. Without objection, we will make that
19 modification.

20 Now the additional budget proposals, as I understand,
21 are not very earth-shaking, but they do pick up, when you
22 add them all up, \$500 million.

23 Ms. Burke. Yes, Mr. Chairman, that's correct.

24 The Chairman. We lost \$2 billion on the Part B so we
25 are trying to pick it up.

1 Rounding down Part B payments to providers -- we do
2 that for beneficiaries, don't we?

3 Ms. Burke. Yes, we do, Mr. Chairman, with the SSI
4 program and AFDC and social security.

5 The Chairman. I have no objection to doing it on the
6 provider side.

7 Number two is the lesser of --

8 Senator Baucus. Mr. Chairman, rounding down -- there is
9 one slight problem we should be aware of. That's going to
10 hit low cost doctors and rural people disproportionately.
11 Lower cost doctors that cost lower fees. It is going to
12 hurt that low income person, that lower cost doctor, more
13 than it is going to affect a higher cost doctor with higher
14 fees.

15 The Chairman. But it can't affect anybody very much.
16 It's only about .1 a year, I think. Isn't it?

17 Ms. Burke. That's correct, Mr. Chairman. That's
18 assuming about 200 million claims, which is what the
19 actuaries project are the volume of claims that are dealt
20 with.

21 So they have averaged that it's about \$.40 a claim on
22 average.

23 Senator Baucus. It's still going to disproportionately
24 affect the lower people. It just is. I don't know whether
25 it makes that much difference to round down.

1 The Chairman. We thought compared to Part B Medicare
2 it would probably be less painful. We are trying to recoup
3 some of the --

4 Senator Baucus. I understand. But what you are
5 recouping, you are recouping from the lower.

6 The Chairman. We can put it over and vote on it, but
7 I had hoped we might agree to it. And then if there is a
8 demand for a vote, we can do that.

9 Senator Matsunaga. Do you go on the basis of \$.50
10 over -- or above \$.50. Or all lowering? If it is \$4.95,
11 you lower it to \$4.00?

12 Ms. Burke. That's right, Senator Matsunaga. It's to
13 the next lower dollar, and I misspoke a moment ago. The
14 actuaries estimate it will be a difference of about \$.30
15 per claim; not \$.40 a claim. But they lower it to the next
16 lower dollar. That is correct.

17 The Chairman. But I think you should know we are
18 already doing it for a lot of recipients.

19 Ms. Burke. That's correct.

20 The Chairman. SSI recipients. They get lower.

21 Ms. Burke. In terms of cash payments, that's correct.

22 Senator Durenberger. We are knocking cents off. I mean
23 like a \$60.50 bill becomes a \$60.00 bill. Isn't that what
24 rounding it down means?

25 Ms. Burke. Yes, sir.

1 The Chairman. Can we go ahead and approve it? If
2 you want a roll call, we will have a roll call.

3 Senator Baucus: This is the first time anybody has
4 seen these. This is the first time that the -- the
5 Democratic staff hasn't even seen these. I just wonder if
6 over the noon hour we can just look at them a little bit.
7 That's kind of quick here. I don't know if I have an
8 objection or not.

9 The Chairman. All right.

10 Senator Baucus. If we can just look at them. Nobody
11 has seen them on our side.

12 The Chairman. Let's go ahead and explain the others.

13 Ms. Burke. Item number two is, in effect, an accounting
14 issue. And that is in calculating the lower costs or
15 charges that institutions be required to basically split
16 their outpatient departments from their inpatient services.
17 Medicare pays, of course, on the basis of lower costs or
18 charges. And we have found historically that costs have,
19 in many cases, exceeded charges on the outpatient side, but
20 that has not really been shown because of the aggregation
21 with inpatient where in fact the reverse is true.

22 This would simply require them to split. And in doing
23 so, would avoid the payment of excessive costs on the out-
24 patient side. The savings is estimated at approximately
25 \$300 million.

1 Item number three is a proposal that actually each
2 administration since the Carter Administration has put
3 forward to the Congress having to do with competitive
4 bidding for Medicare claims processing.

5 This proposal would give the secretary more flexibility
6 in negotiating those contracts. It would provide for pay-
7 ment not solely on the basis of cost, and would allow them
8 to select intermediaries in addition to carriers, and not
9 permit hospitals to continue a nomination process.

10 The administration believes that it can save a sub-
11 stantial amount in these negotiations, achieving a savings
12 of approximately \$200 million over a three year period of
13 time.

14 Senator Baucus. May I ask, Mr. Chairman? Apparently
15 this item has been before this committee the last couple
16 of years. And it's my understanding that at least the staff
17 at that time thought that the HHS wasn't ready to do all
18 this. I am just wondering, Sheila, whether something has
19 changed.

20 Ms. Burke. Senator Baucus, the administration has
21 indicated to us they believe that they are in a position to
22 renegotiate.

23 The Chairman. The administration is here so we can
24 hear from them.

25 Mr. Schieber. Senator Baucus, we feel that at this

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1 point in time that we would be able to do that. That we
2 would have some contract type provisions. We would
3 negotiate the other contracts down.

4 A 5 percent reduction in the claims processing account
5 reveals first year's savings of about \$35 million. And we
6 feel that a 5 percent reduction in that account would not
7 present any hardship on our contract.

8 Senator Baucus. My question really is -- either
9 Sheila or Bob -- is that my understanding has been that in
10 past instances when this kind of request was made -- correct
11 me if I am wrong, either or both of you -- that despite the
12 department's views, in your view you were not sure that
13 they were ready to proceed. Have your views changed?

14 Mr. Hoyer. Well, Senator, I think the problem in the
15 past has been one of setting standards that competitors
16 would be required to meet in order to assure that you were
17 going to get quality services. Without standards, it's
18 very difficult to compare competing bids.

19 So in buying the lowest claims processing per claim,
20 you may wind up spending a great deal more in terms of lost
21 services to beneficiaries, or in terms of unwarranted pay-
22 out in program expenditures. I don't know that that's
23 changed. I don't know whether we now have better standards
24 that we have had in the past for judging these offers.

25 Ms. Burke. If I might, Senator Baucus. In our

1 conversations with the administration over the last couple
2 of years on this subject, we have, as Mr. Hoyer suggested,
3 encouraged them to, in fact, work on standards. We under-
4 stand that the program policy people have, indeed,
5 continued their work in that area.

6 Much of the savings that they are suggesting are simply
7 not only a competitive bidding issue, but simply a pricing
8 issue which is not as related to the standards question that
9 is putting out bids, but rather negotiating a lower price
10 with those individuals who we currently contract with based
11 on their ability to become more efficient.

12 So it's not simply a handing it all out for competition,
13 but simply a better job of negotiating a price for con-
14 tracts current in place.

15 So the standards will continue to be important. But
16 that is not as critical to their current activities with
17 respect to the negotiation on a price issue.

18 Senator Baucus. So you are satisfied you have the
19 standards of error?

20 Ms. Burke. I believe that work still needs to be done,
21 but I believe work has been done over the past couple of
22 years.

23 Senator Baucus. Thank you.

24 The Chairman. Is that all right?

25 Senator Baucus. All right.

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1 The Chairman. Now as I understand the last two pages --
2 one, what is it? Studies? Can we go over those rather
3 quickly?

4 Ms. Burke. Yes. Very briefly, the non-budget items
5 are simply technical issues. The first are --

6 The Chairman. In other words, there are no revenues
7 involved in them?

8 Ms. Burke. None at all, Mr. Chairman.

9 They are technical changes to the Social Security Act
10 amendments that we are, in fact, discussing to make sure
11 there are no controversies. Cardia pacemakers is a simple
12 modification of the proposal currently in the package which
13 would provide for FDA rather than manufacturers to maintain
14 a registry.

15 The physician bonus issue is a request made by the
16 minority to have included, having to do with the payment of
17 the Director of the Prospective Payment Commission.

18 The fifth item is an item that both Senators Durenberger
19 and Baucus have been concerned with, and that is the
20 temporary provision of funding for PSROs so that they don't
21 run out of funds due to the delay in the implementation.

22 The last is the repeal of a provision which, in fact,
23 if it were implemented would cost us money, but we have
24 been unable to negotiate savings with CBO.

25 The Chairman. Do you have any problems with any of these

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1 technical changes?

2 Mr. Schieber. No, sir.

3 The Chairman. HHS have any problems with the last
4 two pages?

5 Mr. Hoyer. No, sir.

6 Senator Durenberger. Mr. Chairman, just for the record
7 I would like to indicate that I would have been prepared to
8 add at least three other major items to this since this
9 might be our last vehicle.

10 One is the cost cap that we talked about earlier on
11 health premiums.

12 The second is a major revision of Medicare to do some-
13 thing that has needed to be done since 1965, and that is
14 provide catastrophic health care coverage for every elderly
15 person in America.

16 And the third is to income test the Part B premium. I
17 mean I'm satisfied that we stayed at 26 percent because next
18 year I will propose that we take that percentage down to
19 20, and get our money back by income testing the Part B
20 portion of Medicare. And I guess I have said that before,
21 and I would like the record to indicate that it is my
22 intention in the future to improve the Medicare program in
23 those respects.

24 Senator Chafee. Well, Mr. Chairman, it's my under-
25 standing that Sheila is going to come forward with -- with

1 the people she has been meeting with and so forth -- with
2 some recommendations on the total Medicare program the
3 first of next year.

4 Isn't that the objective, Sheila?

5 Ms. Burke. Yes, Senator Chafee, that's the purpose
6 of having the hearing with the Advisory Council, talking with
7 the administration on their suggestions and the meetings that
8 you had suggested last fall that have been ongoing. And that
9 is to put together some suggestions for solvency.

10 Senator Chafee. But that is still happening?

11 Ms. Burke. Yes, that's correct.

12 Senator Chafee. So the suggestions which Senator
13 Durenberger has, which I think are good suggestions --

14 Ms. Burke. Are among those considerations.

15 Senator Chafee. Those will be in the things we will
16 all be looking at?

17 Ms. Burke. Yes, sir.

18 The Chairman. As I understand then on the additional
19 budget proposals, number one is still open -- rounding down
20 Part B payments. Is that all right, Max? And the others
21 we have agreed to. I know we lose some money on the spending
22 side. What does that --

23 Ms. Burke. I believe it's approximately \$24.3 billion.
24 So including other reconciliations, it would take up to
25 approximately \$36.1 billion. And that's assuming the set

1 aside is not included in this package. The item which we
2 just put aside which was .2, which is \$200 million.

3 The Chairman. We lose about a billion dollars.

4 Ms. Burke. Approximately, yes.

5 The Chairman. But I do think with all the concern
6 expressed by members on both sides on the Part B that this
7 ought to ease that concern.

8 I might also add that I discussed this with the
9 President at the White House and even though it was in his
10 budget, the 35 percent, I indicated there was rather an
11 uneasy feeling even though we had voted to do it. And he
12 indicated that there would be no problem for him if we
13 undid it. So we have undone it. Is that all right?

14 Senator Baucus. Fine.

15 The Chairman. Now if we can work out that one, that
16 would put us less than a billion dollar losers.

17 I think we will come back at 2:00, at which time we
18 will address the loose ends on insurance. And also the
19 other items that were on the agenda that we didn't reach.
20 And by that time -- we are probably going to do truck
21 taxes last so if there is anybody interested in truck tax,
22 if you probably come at around 3:30 or 4:00.

23 Thank you.

24 (Whereupon, at 12:40 p.m., the mark-up session was
25 recessed.)

BERRY

AFTERNOON SESSION

(2:10 p.m.)

1
2
3 The Chairman. Dave, I understand that some of those
4 technical things -- I don't know who has the agenda. Some-
5 body is walking around with the agenda. If there isn't any
6 agenda, we will just go ahead and pass what we have done and
7 quit. It will be all right with me.

8 Number eight, clarification on enterprise zones. Where
9 is George Pieler? What's the problem there, George?

10 Mr. Pieler. What page are we on?

11 The Chairman. It's on Page 1 of the afternoon agenda.
12 I think we will get some copies here. Do you have the
13 afternoon agenda copies?

14 Mr. Pieler. Mr. Chairman, there are just two fairly
15 minor issues on zones. One is that last year when the
16 committee reported this out, four amendments were adopted
17 that were offered by committee members, which the committee
18 may wish to readopt.

19 I have a hand-out describing the four. They are
20 fairly technical. One is by Senator Durenberger on allowing
21 zone authorities to make some alterations in commitments
22 during the course of the zone. One is by Senator Bentsen
23 clarifying the definition of a rural area. One is by
24 Senator Chafee regarding inventories of historic properties.
25 And one by Senator Long dealing with the kinds of items that

1 a state and local government could come up with in terms
2 of equity ownership in setting forth the zone proposal.

3 The Chairman. Do these four sponsors still support
4 the amendments?

5 Mr. Pieler. As far as I know, they do. They were
6 okayed by the administration last year. And they are, I
7 believe, aware of these items.

8 The Chairman. But they are technical in nature?

9 Mr. Pieler. I would say so.

10 The Chairman. Are there any objections to the technical
11 amendments? They don't add to the cost, as I understand it.

12 Mr. Pieler. That's correct.

13 Mr. Chairman, in addition, we are advised by the Joint
14 Committee that the revenue loss estimates on zones assume
15 that no more than 25 zones are actually designated in each
16 year. The bill itself says 75 zones over three years. The
17 committee might want to clarify that those zones could not
18 all be designated in the first year or two, but that they
19 would have to be spread out over the three years.

20 The Chairman. Twenty-five a year?

21 Senator Chafee. Yes. I think what -- the concern was
22 that they wouldn't get started promptly and that in the first
23 year there might be 20 and then the next year there would be
24 others.

25 Why don't you say not more than 25 in the first year?

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1 How is that?

2 Mr. Pieler. We just checked with the Joint Committee
3 as to whether that would meet the revenue estimate.

4 Senator Chafee. Well, what you are worried about is
5 that in your three year period you have too many up front.
6 If you had all 75 in the last year, that wouldn't affect
7 your estimate.

8 Why don't we just say not more than 25 in the first
9 year?

10 Mr. Pieler. I'm advised that HUD agrees to 25 in each
11 of the first three years would be acceptable. And we can
12 do that.

13 Senator Chafee. The thing is that in the first year
14 they might not get 25 out. That's what I'm worried about.
15 So why don't we just say not more than 25 the first year.
16 That ought to take care of your problem.

17 Mr. Pieler. Fine.

18 The Chairman. All right. Is that it?

19 Mr. Pieler. Yes.

20 The Chairman. All right, without objection, we will
21 agree to that. Do you have some problem with that, Dave?
22 If you don't have one, let's don't create one.

23 Senator Bradley.

24 Senator Bradley. If we are looking for things to do
25 could we do that skilled nursing home amendment that you

1 agreed to?

2 The Chairman. I think I indicated to Sheila that you
3 would get CBO to give you some savings. They gave us no
4 savings.

5 Senator Bradley. No savings? If you will recall, this
6 is a law that we passed that OMB did not implement.

7 The Chairman. Let me check with Sheila. We thought
8 we had enough savings to offset it, and we went back to CBO
9 yesterday and they said no.

10 Senator Bradley. The issue, I don't think, is a matter
11 just of savings. The issue is whether a law that is passed
12 by Congress is going to be implemented or whether OMB
13 unilaterally violates the law.

14 The Chairman. I'm aware of it, and I want to work it
15 out. But I don't see Sheila in here right now, so let me
16 have her come in on that.

17 Senator Chafee. Mr. Chairman, I've got a very
18 technical, simple one, if you want to take some time.
19 Treasury is in agreement with it. It costs no revenue.

20 The Chairman. I can't believe it, but let's hear about
21 it.

22 (Laughter)

23 Senator Chafee. This deals with a charitable interest
24 and a split interest trust, a trust which is part charitable
25 and part non-charitable. And this would make a permanent

1 rule which would permit reformation of governing instruments
2 of charitable split interest trust, which do not meet the
3 requirements of the 1969 Act.

4 It's incredibly complicated, but basically if a person
5 sets up a trust which then pours over into another trust,
6 which becomes a charitable one, and this one decedent
7 didn't quite qualify although that was clearly the objective.
8 And may well be that that is the interpretation of the tax
9 court now, but in order to straighten this out, we would
10 like this technical change.

11 The Chairman. What number is that?

12 Senator Chafee. Well, it's not in your numbers.

13 The Chairman. I think it is. I think I saw it in
14 the agenda. It's number -- charitable split interest trust
15 is number nine on the afternoon agenda.

16 Senator Chafee. Well, you are ahead of me.

17 The Chairman. Is that all right?

18 Secretary Chapoton. Yes, that was all right with us.

19 The Chairman. All right. No objection, it will be
20 agreed to.

21 Senator Chafee. Thank you.

22 The Chairman. What about number eight? Tax treatment
23 of sale lease-backs of principal residences.

24 Mr. Brockway. We are still working on the revenue
25 consequences of that, Mr. Chairman.

1 The Chairman. All right. Let me see if there is a
2 clarification. That is not done. Modification, that is
3 not done.

4 Number four, I don't think we are going to be prepared
5 to get into oil company antimerger proposals in this package.
6 So unless there is some objection, I'm just going to remove
7 that from the agenda.

8 Senator Heinz can raise it later.

9 Senator Bradley. Mr. Chairman, where is the agenda that
10 you are working from?

11 The Chairman. Mike, could you give him a copy?

12 The Chairman. Number five, what about the public
13 property leasing? David Hardee had a chance to go over that
14 yet?

15 (No response)

16 The Chairman. Those are some technical amendments.

17 Mr. DeArment. As I understand it, there is no problem.

18 The Chairman. There wasn't any problem this morning
19 except David Hardee hadn't had a chance to look at them.

20 Mr. Wilkins. The minority staff has taken a look
21 at the list, and we had some additional projects that had
22 been brought to our attention that we understand are all
23 right to add to the list. And with those changes, it's fine
24 with us.

25 The Chairman. Has Treasury looked at those?

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1 All right. Without objection. If they haven't looked
2 at them, they can look at them later.

3 What about number six, clarification of research and
4 development credit?

5 Mr. Brockway. That is Senator Grassley's vocational
6 schools provision.

7 The Chairman. And I understand Treasury may not have
8 been able to work that out.

9 Secretary Chapoton. No, sir, we have not been able
10 to. We have strong concerns about broadening that. This is
11 a further broadening of the gift of this type of equipment,
12 but to a larger number of schools and pulls back into the
13 Apple computer problem.

14 The Chairman. Well, I'm going to ask that we --
15 obviously, Senator Grassley can raise it again. I had
16 indicated to him that I would take it up with Treasury. I
17 have done that. I think I am sympathetic with the concern
18 expressed by Treasury. You are going to open the door here
19 to Apple computer and everything else.

20 So let's just assume that that can't be done at this
21 time. That doesn't mean it can't be done later, if we can
22 work it out.

23 What about number seven? That's Treasury and
24 miscellaneous.

25 Mr. Brockway. These are a variety of miscellaneous

1 provisions that are in the House bill simplifying the code
2 like repealing the tax on strip stamps that have been
3 agreeable, I think, on all the staffs and the Treasury
4 Department.

5 Mr. Wilkins. Can we hold on those for just a minute?

6 Mr. Brockway. I gather you are interested in maybe
7 putting some more.

8 Mr. Belas. Mr. Chairman, I cleared that with David
9 Hardee. He had one additional item which we cleared with
10 Treasury that was also in the House bill.

11 Mr. Brockway. Dealing with excise taxes.

12 The Chairman. All right. We will go ahead on that one.
13 And if there are others, we can add them. All right.

14 Let's see. Luxury automobiles. They are still in
15 limbo.

16 Senator Moynihan. What's out of limbo?

17 The Chairman. I think we are going to have to have a
18 board meeting here after a while of the members only and
19 decide where we pick up \$5 billion or so.

20 And I think we will maybe raise it in the board meeting.

21 Is that resourcing thing complicated? If it is, I
22 don't want to get into it now. Number two.

23 Mr. DeArment. It's expensive.

24 The Chairman. It's also expensive, I understand. About
25 \$500 million.

1 Secretary Chapoton. I have not gotten the revenue on
2 it.

3 Mr. Brockway. In the earlier compromise, that was a
4 cost of \$200 million. This would be an additional \$300
5 million above and beyond it, as I understand the proposal.

6 The Chairman. Let's pass it.

7 What about number four then in the next column, extend
8 residential energy tax credits? Has that been addressed
9 during the noon hour?

10 Mr. Brockway. There has been some work on it.
11 Unfortunately, it would be -- without some significant
12 changes, it would be difficult to make it revenue neutral.
13 The solar credits that we are looking at are \$6 or \$7 million
14 a year loss for their extension on the conservation credits.
15 Even if they were to be sunset the middle of this year, that
16 would only pick up maybe .4 to .5. And so we had been
17 looking at mix and match, but it would be very difficult to
18 get it revenue neutral.

19 Senator Packwood. Where do you get 600 for residential
20 solar credits alone? Or add wind and geothermal, if you
21 want. They are relatively the same. How do you get \$600
22 million a year?

23 Mr. Brockway. I don't have the sheet in front of me.
24 We were estimating .7, weren't we, on this?

25 Senator Packwood. For three years, including residential

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1 and business, solar, geothermal and wind for '86, '87, '88,
2 you were initially -- the revenue estimate from the Joint
3 Committee was \$1.3 billion. And that was residential and
4 business.

5 Mr. Brockway. I don't have the sheet.

6 Senator Packwood. Well, let me tell you, Mr. Chairman,
7 the figures I have for solar energy at the 40 percent
8 credit, solar energy, wind and geothermal. That's \$675
9 to \$700 million three year revenue loss, which can be over
10 the three years offset with the elimination of the con-
11 servation credits.

12 Mr. Brockway. A one year extension we are estimating
13 at .6.

14 Senator Packwood. Now we are talking about residential
15 only?

16 Mr. Brockway. Solar, wind and geothermal.

17 Senator Packwood. Yes, but residential only. The
18 figures I have got from the Joint Committee are .1, .5,
19 .7 for '86, '87, '88.

20 Mr. Wetzler. That's right, Senator Packwood. That's
21 a three year extension of the solar, wind and geothermal.

22 Senator Packwood. Residential.

23 Mr. Wetzler. Residential was 1.3.

24 Senator Packwood. Yes.

25 Mr. Brockway. It gets up to .7 so it's .1, .5, .7.

1 Senator Packwood. So the total that you have is
2 1.3. The total I have is \$675 million, based upon
3 estimated sales of 131, 142 and 167 thousand. I'm curious
4 what your base is one because on your projections two years
5 ago when we extended this, you were off dramatically on
6 your projections. You were high.

7 Mr. Brockway. We have some people over here working
8 on it. I talked to them over the noon hour and they were
9 going to come back with more detail. They said that
10 the industry numbers that are showing a low revenue estimate
11 are different than what we are picking up off of the returns
12 for '82. That our numbers are based on what is being claimed
13 on tax returns.

14 Senator Packwood. Let me ask you a question. What do
15 you estimate for '85, '86 and '87, if we eliminate the other
16 conservation credits starting -- and pick a date -- first of
17 July of this year?

18 Mr. Brockway. I believe that's --

19 Senator Packwood. For '85, '86, '87.

20 Mr. Brockway. I believe it's .4, .5.

21 Senator Packwood. All right. You are in the ball park.

22 The Chairman. Why don't you just refine that some?

23 You need a little more time, as I understand it.

24 Mr. Brockway. That's correct. And then we would
25 like to be able to talk to John and just go through these.

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1 The Chairman. Yes, John is available.

2 What about in that second list? Is Treasury ready to
3 move on any of those? Number two fits in with the
4 discussion of automobiles generally.

5 Secretary Chapoton. Yes.

6 The Chairman. We have agreed on the \$.12. What about
7 the geothermal, the hot water?

8 Secretary Chapoton. I understand that has been worked
9 out with Senator Symms. That the problem is that coming
10 from the same reservoir there are two different temperatures,
11 and depending on where it is withdrawn. You would have an
12 unusual situation on one side of the street. The energy is
13 drawn and it's below the temperature minimum. And the other
14 side of the street from the same reservoir is above it.

15 If that's the case, we are perfectly willing to look
16 at the highest temperature of that reservoir -- and
17 Senator Symms' assistant indicated that would be satisfactory
18 to them. Just do that in committee report language. You
19 wouldn't need a statutory change.

20 The Chairman. All right. Let's make certain we include
21 that in report language.

22 What about the insurance company tax? I understand you
23 have looked at some of them, and there may be one or two that
24 you can agree with, and the others we cannot.

25 Our sound system isn't too good here. I think we are

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1 making more noise than they are. And we apologize for
2 you having to stand. It's not very good.

3 Rich?

4 Mr. Belas. I think, Secretary Chapoton, we could
5 probably speak to what Treasury can't accept on these.

6 Secretary Chapoton. Oh, I see. I didn't recognize
7 the first one. The first one is the three state rule that
8 Senator Pryor mentioned.

9 And we opposed that rule on the House side. We think
10 it is certainly -- certainly doesn't make sense to have such
11 a rule for three states. We would prefer that it not be
12 available for any states or we would prefer that it be
13 applied to all states as it is in the House, but limited to
14 a two year period.

15 The Chairman. Why don't we apply it to all states and
16 limit it to one year?

17 Secretary Chapoton. That would tend to be acceptable
18 to us.

19 Senator Pryor. I understand, Mr. Chairman, and Buck,
20 that this is only at the most liberal times about a \$40
21 million revenue loss over a three year period. And so that's
22 the most liberal terms. I have also heard \$20 million con-
23 sidering those companies that had a loss.

24 And I wonder if you have any recent figures for us,
25 Buck, other than the \$40 million over the three year period.

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1 Mr. Stretch. The numbers that we are carrying for
2 this, Senator, are that the provisions already included in
3 the bill cost \$20 million a year during the relevant periods.
4 And then that the addition of the remainder of the states
5 would be another \$10 million a year.

6 So over the four year period we have already got
7 80 in the bill and this would add another 40.

8 The Chairman. We will come back. Let's go to the six
9 and then come back and deal with it.

10 Senator Pryor. All right.

11 The Chairman. Number two.

12 Secretary Chapoton. I'm sorry, Mr. Chairman, I don't
13 recognize this. Let me see what this is.

14 Number two involves a case where the company -- I don't
15 know the name of the company -- but by an acquisition it
16 made in an earlier year simply triggered additional tax
17 under prior law. It has nothing to do with the amendments
18 that we are now talking about. And so we would strongly
19 oppose this change which would just simply reduce the tax
20 liability for an insurance company.

21 The Chairman. What's the revenue impact there?

22 Mr. Belas. That's about \$10 million for that one
23 company over one year.

24 The Chairman. One year.

25 Mr. Belas. Right.

1 The Chairman. All right. Number three.

2 Secretary Chapoton. This is a matter involving mutual
3 companies, dividends from subsidiaries of mutual companies.

4 There is a problem here, Mr. Chairman. But we cannot work
5 it out without opening up a much larger problem. It may
6 cause an organizational difference in the mutual companies,
7 but, frankly, unless we can work it out then -- we have
8 attempted to do so before today. We have to strongly
9 oppose this because it frankly just would allow them to put
10 their tax exempt in a separate company and override what we
11 are trying to do altogether.

12 The Chairman. We have tried to work that out earlier
13 and we couldn't do it either.

14 Senator Bradley. Mr. Chairman?

15 The Chairman. Yes.

16 Senator Bradley. Can't Treasury write some very tough
17 and stringent rules so that you take care of people who would
18 abuse it without penalizing your natural insurance companies
19 that has some legitimate downstream tax exempt interests?

20 Secretary Chapoton. There certainly is a case as you
21 described. Legitimate downstream interest, but we have not
22 been able to design a rule, even anticipating what we could
23 put in regulations that would prevent --

24 The Chairman. My suggestion is on something like that
25 is that we haven't gone to the -- I think the problem is we

1 asked Treasury and all these staffs to perform miracles
2 here while we all go off to lunch. We looked at this in
3 a little subcommittee group. It seems to me Treasury could
4 still look at it even though we can't agree to it now.

5 Secretary Chapoton. Maybe we could continue to look at
6 it. I don't want to hold out a whole lot of hope except I
7 know there is a problem, and maybe we could do it by floor
8 amendment if we could figure out a way to do it between now
9 and then.

10 Senator Bradley. How much time would it take you to
11 try to draft the kind of tough rules that I think you are --

12 Secretary Chapoton. It's really not a matter of time.
13 We just cannot figure out how you would state a rule that
14 couldn't result in wholesale avoidance of what the basic
15 principle --

16 The Chairman. Is this a hundred and some million
17 dollars?

18 Mr. Belas. It could conceivably. The problem with this
19 is that we don't know how many loopholes we would be opening
20 up by doing this. And it's not that we have not been trying
21 over the last few months, Senator Bradley. We have been
22 trying very hard.

23 The problem is that there are always loopholes that you
24 open up whenever you try to make a change of this magnitude.

25 Senator Bradley. Well, I think that in the committee's

1 deliberations to date we have done a lot of things that
2 probably will open up some other loopholes as well.

3 My question here is whether you couldn't do it so that
4 the tax exempt interest couldn't exceed the business'
5 reasonable business needs, and let Treasury define what
6 reasonable business needs are any way they want to.

7 In other words, there are some companies that have
8 legitimate interests in this who also do not want to see
9 an abuse take place. So giving Treasury the authority to
10 just write the rules the way they would like to write them
11 to assure the abuse is -- that's the way to approach it.

12 The Chairman. This is not in the House bill, is it?

13 Mr. Belas. No, it is not. They discussed it as well,
14 and came up with a very limited rule which is slightly
15 better than current law, but not as good as some of the
16 mutual companies would prefer.

17 The Chairman. Let's try to cover the other three. We
18 have a vote going on and then we will come back.

19 Senator Grassley. Mr. Chairman, before you move on, I
20 want to say that I have got an interest in that same matter.
21 And I would like to urge the committee staff and Treasury
22 to work something out, whether it be by legislation or
23 whether it be by regulation, because I think that we have
24 got a situation here where some segments of the industry
25 through no fault of their own are being treated unfairly by

1 the tax laws. And I would like to see that we bring some
2 equity to the situation.

3 The Chairman. We are losing about \$1.5 billion in
4 this bill.

5 Mr. Belas. That's correct, Senator.

6 The Chairman. There are a lot of insurances that are
7 getting a very big tax reduction in this bill. But we will
8 continue to look at it.

9 Let's go on.

10 Secretary Chapoton. Number four, I think, is Senator
11 Roth's amendment which he would have an exception for
12 aggregation rules for a small company. This isn't basically
13 saying if a small insurance company is owned by a large
14 company or there are large companies affiliated with it
15 that the small company rules would not apply. We have
16 serious questions about the small company rules anyway.
17 They simply get small insurance companies significant
18 advantages over --

19 The Chairman. So you are opposed to this?

20 Secretary Chapoton. We are opposed to this. Right.

21 The Chairman. Next.

22 Secretary Chapoton. The next two involve the
23 diversification requirement applicable under a revenue ruling
24 with respect to variable products. We met with Senator
25 Moynihan, and we would be agreeable to putting -- making a

1 couple of changes.

2 One, putting a statutory diversification authority.
3 Making it clear that the authority to require diversifica-
4 tion exists. And then to allow variable life companies as
5 opposed to variable annuity products to use an independent
6 advisor as a mutual fund, of a mutual fund, to advise it
7 with respect to its investment activities.

8 The Chairman. There is no cost involved in that, is
9 there?

10 Secretary Chapoton. No, I think there is no cost.

11 The Chairman. If we are going to adopt some of these
12 amendments, and hopefully go back into the package and pick
13 up the revenue, and not pick it out of the realtors or some-
14 body else.

15 Senator Grassley. I thought, Mr. Chairman, your idea
16 was, regardless of these amendments, to increase the income
17 from the insurance tax bill anyway.

18 The Chairman. No. We are losing about a billion and
19 a half.

20 Senator Grassley. All right. Say it anyway you want
21 to, but my understanding was that where we left off last
22 fall, you were going to try to get some more revenue from the
23 insurance tax portion of this overall tax bill regardless.
24 So if you pursue that course of action, then you automatically
25 have them for some of these. That's what I'm suggesting.

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1 Have you changed your mind?

2 The Chairman. No, I haven't changed my mind. But I
3 can't just tell you that there is a very fragile coalition
4 in the insurance industry that can tip either way. And they
5 have worked out this -- in fact, we do raise more revenue
6 in the Senate bill than they do in the House bill.

7 Secretary Chapoton. Yes. That's correct.

8 The Chairman. Treasury wanted to raise more, but there
9 was a compromise and they split it down the middle. Instead
10 of \$400 million it ended up at about \$200 million a year.
11 Is that right?

12 (No response)

13 The Chairman. But there is this delicate balance
14 between stocks and mutuals that I don't want to upset. But
15 I'm not going to prejudge the amendments. Obviously, the
16 committee can vote on them. But I say if we adopt a number
17 of them, we are talking about a couple of hundred million
18 dollars, and I don't know where we go for the \$200 million
19 unless we do the TIA.

20 Senator Grassley. But, Mr. Chairman, I think, too, you
21 need to be cognizant of the fact that sometimes when you get
22 the biggies together in working out a compromise sometimes
23 those with less political power and less economic persuasion
24 don't get their interest considered.

25 The Chairman. Well, the one Senator Bradley is talking

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1 about is for the biggies.

2 Senator Bradley. Well, I would like to clarify that
3 revenue loss. I would like to ask the Joint Tax Committee
4 what would be the revenue affect of the subsidiary dividends
5 amendment.

6 Mr. Stretch. It would depend on what you assumed.
7 Assume you are to get the abuse, to eliminate the abuse.
8 Then there would not be a noticeable revenue affect. Some
9 of this has already been taken into account in the House bill.

10 Senator Bradley. So, Mr. Chairman, the Joint Tax
11 Committee says there would be no noticeable revenue loss.
12 They said there would be noticeable revenue loss on the
13 subsidiary dividend bill if the Treasury could write the rules
14 that would tight enough to get the abuse.

15 Secretary Chapoton. And if we could write the rules,
16 that would be tight enough to get the abuse, we would not
17 mind the amendment. The problem is how you design the rule
18 that does cut out the abuse, but allows the problem to be
19 taken care of. And we just have not been able to do it.

20 Senator Bentsen. Let me further clarify. We are talking
21 about subsidiary casualty companies, aren't you?

22 Secretary Chapoton. Casualty subs of mutual.

23 Senator Bentsen. That's what I said. Subsidiary
24 casualty companies of mutual life insurance companies.

25 Secretary Chapoton. Right.

1 Senator Bentsen. And that's where you are saying you
2 cannot write the rules that will protect against possible
3 abuses.

4 Secretary Chapoton. That's correct.

5 Senator Bentsen. I wanted to be sure I understood
6 that.

7 The Chairman. There is still one more that we haven't
8 discussed?

9 Secretary Chapoton. No, that's all of them. The last
10 two are covered the same.

11 The Chairman. What happened to number six?

12 Secretary Chapoton. Six is the variable life. We would
13 make clear the authority for requiring diversification and
14 allow variable life to use an independent investment advisor
15 of a mutual fund as its advisor.

16 Senator Moynihan. Five and six are the same.

17 Secretary Chapoton. Five and six are related. And they
18 are both covered in that.

19 The Chairman. And that's satisfied.

20 All right. So there are four we need to consider when
21 we return.

22 Is there anything else we can take up before the second
23 bell? There is nothing else in the insurance area, is that
24 correct?

25 Secretary Chapoton. Not that I'm aware of.

1 Mr. Belas. That's correct, Senator.

2 The Chairman. That's correct, Rich?

3 Mr. Belas. Right.

4 The Chairman. That is the second bell. Let's come
5 back right after the vote and we will continue.

6 (Whereupon, at 2:39 p.m., the mark-up session was
7 recessed.)

8 AFTER RECESS

9 (3:05 p.m.)

10 The Chairman. Let's see. Are there any other areas
11 where Treasury, the Joint Committee or the Finance Committee
12 staff have been trying to resolve differences on technical
13 matters?

14 Mr. Brockway. Mr. Chairman, I think there is agreement
15 on earnings and profits dealing with oil and gas and mining,
16 and that would be to use a five year amortization for
17 intangible drilling costs, and a 10 year for mine development
18 exploration expenses.

19 The Chairman. Was that discussed with Senator Wallop?

20 Mr. Brockway. With his staff.

21 The Chairman. All right. Without objection, we agree
22 to that.

23 What is the tax treatment of sale lease-back to
24 principal residences?

25 Secretary Chapoton. Senator Specter had an interest in

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1 that and I think we are waiting to hear from him. We haven't
2 heard back from his yet. They are discussing it.

3 The Chairman. I just heard from him. He still has an
4 interest in it.

5 Secretary Chapoton. He still has an interest.

6 Mr. Brockway. We have worked out an agreement, I believe,
7 but they wanted to go back and check with Senator Specter on
8 it.

9 The Chairman. Have we done all we can do on it?

10 Mr. Brockway. I think you have done a fair amount.

11 The Chairman. We can agree on what we have agreed on
12 and then if he doesn't like it, we can disagree.

13 Mr. Brockway. I understand that his staff person would
14 like to be able to speak to the Senator first before we were
15 to act.

16 The Chairman. Well, I would like to finish this bill.

17 Mr. Brockway. We could do it and change it.

18 The Chairman. All right. We will agree to it.

19 Mr. Brockway. That would provide that the sale lease-
20 back treatment would be allowed as long as the sale lease-
21 back isn't to either a related party or a tax shelter
22 syndicate. Also there would be a 40 year straight line
23 depreciation on the composite basis, and that on these
24 transactions you could qualify for the section 121 exclusion
25 on gain of the sale of the home. But, otherwise, you could

1 not qualify in the sale lease-back or retain interest
2 situation.

3 The Chairman. What about number 11? Employee awards.
4 Have we whittled that down some more? And I don't agree with
5 Treasury on that.

6 Mr. Belas. Senator, the problem is that a dollar
7 cap needs to be put on the amount of award in order to keep
8 the revenue down. And that has been a point of disagreement
9 that just has not been resolved.

10 The Chairman. Well, let's resolve it. Or we just
11 take it off the agenda.

12 Mr. Belas. You could put a \$100.00 cap and keep the
13 revenue under \$100 million. That's what you would need.

14 The Chairman. I understood that there would be no
15 revenue at all, no loss, and then it went up to \$300 million
16 a year.

17 Mr. Brockway. I think that was the sponsor's revenue
18 estimate. I don't think we ever felt that it would not have
19 a significant revenue effect.

20 Mr. Pearlman. Mr. Chairman, as I understand, the
21 sponsors do believe there is no revenue effect on the theory
22 that these awards are not taxable under current law. That is
23 not our view. We believe they are taxable.

24 The Chairman. But the Treasury proposal would be about
25 \$300 million.

1 Mr. Pearlman. That's correct.

2 The Chairman. If we just keep adding \$300 million
3 somebody later on this afternoon is going to get to pay for
4 all these things. And I haven't noticed any volunteers.
5 Either we are going to go back and raise a lot of things
6 we have agreed to or find some offsetting revenues.

7 When will we be ready with a proposal on that? Fairly
8 soon?

9 Are there any other areas that we --

10 Mr. Brockway. There is a possibility that I just
11 discussed with Senator Packwood on the solar credits. There
12 is a possibility of extending those only for two years, and
13 then sunsetting the conservation credits at date of enact-
14 ment. And that might result in a revenue loss in the period
15 of no more -- only \$55 million.

16 The Chairman. I understand that's satisfactory. So
17 unless there is some objection, we can agree to that.

18 Secretary Chapoton. This is a two year extension of
19 renewables and a sunset of conservation?

20 Mr. Brockway. Correct.

21 The Chairman. The studies have indicated it had been
22 useless. We are going to terminate it.

23 Secretary Chapoton. Yes.

24 The Chairman. I'm not certain the others are much
25 better.

1 Secretary Chapoton. Yes. I was going to make that
2 comment. But this might be a good compromise.

3 The Chairman. At least we pay for it, right?

4 Secretary Chapoton. That's correct. At least we pay
5 for what might happen anyway.

6 The Chairman. All right. So that is taken care of.

7 Are you going to be able to write those rules on the
8 Bradley amendment?

9 Secretary Chapoton. Not yet, Mr. Chairman.

10 The Chairman. Why don't we agree to this? This isn't
11 going to be on the floor for two or three days.

12 (Laughter)

13 The Chairman. Or weeks. You know, if in fact we can
14 do what the sponsors suggest, then we ought to adopt the
15 amendment.

16 Secretary Chapoton. Sure.

17 The Chairman. But I think what I would like to do,
18 unless there is some strenuous objection -- hopefully there
19 will not be -- is to give Treasury some additional time,
20 the Joint Committee and others to see if we can write
21 appropriate rules.

22 Secretary Chapoton. We would like that.

23 The Chairman. Does that satisfy you, Senator Grassley?
24 You indicated an interest in that too.

25 Senator Grassley. I think that that will take care of

1 the situation. We have no reason to want to encourage
2 abuse. And whatever can be done to protect that, just allow
3 these companies to do what some others can do who are in
4 a different situation.

5 Senator Durenberger. Mr. Chairman, I wasn't here for
6 the argument. I will just cast a little different light on
7 it. I think we are giving something away we don't have to
8 give away to the stock companies. And so we are asking for
9 a little something for some mutual companies, and I hope
10 somebody can write some rules.

11 The Chairman. We gave a little something to mutual
12 companies.

13 Senator Durenberger. We already gave those away?
14 Oh, all right.

15 The Chairman. A rather substantial amount. But if there
16 is no revenue loss, it may be a policy problem.

17 Secretary Chapoton. But I think the revenue loss and
18 the problem go hand in hand. Because if we can take care of
19 the problem -- if we can define the problem and limit the
20 abuse, we take care of the revenue loss. But if we can't,
21 we have a revenue problem.

22 The Chairman. Well, Senator Bradley isn't here but I
23 had hoped he might agree to that.

24 That leaves three amendments in the insurance area. I'm
25 sympathetic with Senator Pryor's concern that if you are

1 going to include three states it's rather difficult to --

2 Secretary Chapoton. Absolutely. It would make no
3 sense. And that point came up in the Ways and Means
4 Committee. And that's why it was there broadened to all
5 the states and limited to a couple of years.

6 Senator Chafee. Well, Mr. Chairman, who do it to any?

7 Secretary Chapoton. We would prefer not to do it to
8 any.

9 Senator Chafee. As I understand this proposal, this
10 is a proposal -- this is where they went into a deal and
11 were anticipating some deductions, and as a result of the
12 change in the tax laws, they didn't receive the deductions.

13 Secretary Chapoton. No, they actually get a better
14 deduction than --

15 Senator Chafee. Not as much.

16 Secretary Chapoton. And so that makes the old
17 deductions worth less, and they want to keep the value of
18 the old deductions and the rates under the new rules. So
19 one could describe it as the best of both worlds.

20 Senator Chafee. Because the reduction in the tax rates
21 made the deduction worth less.

22 Secretary Chapoton. That's correct.

23 Senator Chafee. It's sort of like the child crying
24 because he doesn't have a vacation. He doesn't have a
25 vacation because he doesn't go to school.

1 (Laughter)

2 Senator Chafee. And that's the situation here. They
3 are not getting the deductions because the tax rates were
4 lowered so the deductions weren't so much, so they want it
5 both ways. That's a very peculiar way to do business.

6 Senator Durenberger. Mr. Chairman, this happens to be
7 one that I think he has probably characterized appropriately,
8 but I happen to have an interest in it.

9 (laughter)

10 Senator Chafee. This is OATs, not MOATs.

11 Senator Durenberger. Well, I would love to see it
12 come out MOATs. Either that or I would like to see it
13 somehow the M become MOATs when it gets over to the House.
14 It's practically there now, I understand. And if we could
15 agree to -- let's see if we could agree to leave the OATs
16 in here, but don't limit the term, then I think we might get
17 MOATs, wouldn't we?

18 Senator Chafee. Well, Mr. Chairman, at the appropriate
19 time or when Senator Pryor is back, I would move to cut the
20 whole thing out.

21 The Chairman. And you want people to pay taxes?

22 Senator Chafee. That's a shocking proposal to make,
23 I recognize, in this atmosphere. But just a little bit.

24 The Chairman. Well, Senator Pryor is not here. I was
25 just trying to figure out if there was some way we could work

1 it out.

2 Senator Chafee. I've made a proposal to work it out.

3 The Chairman. That's an option. But I think we
4 certainly don't want to act in his absence, unless we are
5 going to act favorably. So we wait until he comes back.

6 Now were there any others? As I understand the first
7 one you described had no reference --

8 Secretary Chapoton. Oh, the other insurance provisions?

9 The Chairman. We are trying to dispose of those four
10 amendments. Two were disposed of or agreed to or compromised
11 or modified.

12 Secretary Chapoton. Yes.

13 Mr. Stretch. The other two are Senator Roth's amend-
14 ments on the aggregation test for small companies and whether
15 you count in the assets of affiliated companies that are not
16 in the financial sector.

17 The Chairman. Was that discussed in the past several
18 weeks, months?

19 Mr. Belas. Yes, it was, Mr. Chairman. Other companies
20 had also asked for a similar relief. And the bill, as
21 designed, has a special provision which gives a special
22 tax deduction for small companies because they don't have
23 the ability to rely upon the capital from affiliated
24 companies.

25 The situation that Senator Roth's staff has sent to us

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1 is where the parent company is at least temporarily in
2 less good financial condition, and it's not providing that
3 financial resource to the subsidiary.

4 The problem that Treasury and the staff were wrestling
5 with is that there is no assurance, of course, that the
6 parent is going to continue in financial straits, and could,
7 in fact, be able to be a source of capital for the sub-
8 sidiary in the near future.

9 The Chairman. And Treasury is opposed to that?

10 Secretary Chapoton. Yes, sir. We are opposed to it.

11 Mr. Belas. One possibility would be to provide
12 this relief for a very short period -- a year or two years.

13 The Chairman. How about a year? What did you say first?

14 Mr. Belas. I suggested a year.

15 The Chairman. Or two you said. What's the second
16 year cost? We will take it out of your salary.

17 (Laughter)

18 Mr. Belas. It would far exceed my salary, Senator.

19 The Chairman. I wanted to hear from Treasury on it.

20 Secretary Chapoton. Mr. Chairman, you have got to
21 keep in mind we have a special rule for small companies
22 that frankly makes no economic sense in this whole design
23 where we are trying to tax the economic income of an
24 insurance company with a TIA. So right off the top they have
25 a 20 percent reduction in their taxable income. Then we

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1 just have a special rule for small companies under
2 different theories. Why we would have that -- one of those
3 theories happens to be they don't have as much capital
4 available and that rule doesn't apply when they are in an
5 aggregation basis. And this is one of those cases. It's
6 very difficult to see why we would make any exception here.

7 The Chairman. You want to vote on it?

8 Secretary Chapoton. In the future there are going to
9 be other companies where the parent is having economic
10 difficulties and they certainly won't have an advantage like
11 this.

12 (CONTINUED ON NEXT PAGE)

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1 Mr. Chairman. Well, that could take a year.

2 Mr. Chapoton. Well, one year is better than two years.

3 (Laughter)

4 The Chairman. What is the one year --

5 Mr. Stretch. For this one company, we understand that
6 it is \$200,000 for that company. We don't know whether
7 there are other similarly situated companies that would
8 fall into it. We tried to craft this narrowly, but we just
9 don't know.

10 The Chairman. All right.

11 Senator Packwood. Mr. Chairman?

12 The Chairman. Senator Packwood?

13 Senator Packwood. I will simply ask the question here
14 public that I asked you. What has been done with the
15 provisions that we accepted in November that have not
16 appeared any place else on this list?

17 Are they in the Finance Committee bill?

18 Mr. Chapoton. Yes.

19 Mr. DeArment. The only things that we are working
20 with are items that have been on the agenda and approved.
21 The things that we talked about in November, to the extent
22 that they are not on here, are not in the bill.

23 Senator Packwood. Then, when you are ready, I have got
24 two that I would like to talk about.

25 The Chairman. All right.

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1 Now, we have got the Pryor amendment and the others
2 have been disposed of. Anything else on this list we can
3 work on?

4 Senator Bradley. Mr. Chairman, on the list that we
5 were given today, there is the earned income tax credit.
6 Do you want to deal with that now?

7 The Chairman. Is that on there?

8 Senator Bradley. Yes.

9 The Chairman. All right. What number is that?

10 Mr. DeArment. That is number 10.

11 Senator Bradley. Page 2, number 10.

12 The Chairman. Oh, excuse me. Right. Yes.

13 Senator Bradley. Mr. Chairman, this is a proposal to
14 increase the earned income credit from 10.5 percent to 11
15 percent, and the ceiling from \$10,000 to \$11,000 and to
16 index the income amount to the credit that applies just as
17 we did the ZBA.

18 It basically is an attempt to allow those women, largely,
19 who do not have the income to put away in an IRA -- it gives
20 them some greater tax relief. If we do nothing, we will
21 have the income tax taxing people below the poverty line
22 in 1985.

23 I think that this is an attempt that really tries to
24 follow through for low-income people what we have done on
25 the spousal IRAs for middle and upper-middle income people.

1 The Chairman. What is the cost of this item?

2 Senator Bradley. We can let the staff tell us what
3 the costs are?

4 Mr. Weiss. The cost of this proposal would be about
5 \$625 million over the period, 1985 to 1987.

6 The Chairman. What was the IRA cost?

7 Mr. DeArment. As we phased it in, I think it was about
8 \$900 million.

9 The Chairman. Can we phase this in a little?

10 Senator Bradley. Sure.

11 Senator Chafee. A compromise, Mr. Chairman.

12 The Chairman. Just knock out the IRAs?

13 Senator Chafee. Knock out the IRAs. Knock out the
14 spousal IRAs, and then we wouldn't do any injustice to
15 anybody.

16 Senator Heinz. Mr. Chairman, what happened to my
17 suggestion to staff that they look for ways to make it
18 revenue neutral -- if we are going to add on spousals and
19 take away something else.

20 The Chairman. I think if we took out the index, then
21 we could save some money on it.

22 Senator Bradley. How much money would we save if we
23 did take out the index?

24 The Chairman. About \$290 --

25 Mr. Weiss. You could save \$200 million either by taking

1 out the indexing or by delaying the proposal for one year.
2 Both the increase and then the indexing.

3 The Chairman. I think you would rather start it than
4 take out the indexing.

5 Senator Bradley. I would rather get something than
6 nothing, and if \$400 million is better than --

7 The Chairman. I might want to put it in the same
8 category with all these others. What is that category?
9 Subject to approval of revenue offsets. That is where
10 spousal IRAs are.

11 Senator Bentsen. I think the senator has made a very
12 valid argument in trying to achieve some balance for lower
13 income, and I would like to support it.

14 The Chairman. If we could do that and modify it --
15 drop the indexing. We will put it in that category.

16 Senator Grassley. Mr. Chairman, then you aren't doing
17 anything to spousal IRA?

18 The Chairman. No, that is your proposal.

19 Senator Grassley. I know it, but when this suggestion
20 came up over here, I didn't hear an absolute no.

21 You talk about modifying -- what are you modifying?

22 The Chairman. I am modifying this proposal.

23 Senator Grassley. Okay.

24 The Chairman. Employee awards. Have we got that
25 whittled down yet?

1 (No response)

2 The Chairman. Apparently not. That leaves foreign
3 tax credits.

4 Senator Bradley. Mr. Chairman, could I just make one
5 clarification on the subsidiary dividends with the
6 Administration?

7 The Chairman. On which one?

8 Senator Bradley. On the subsidiary dividends. What
9 I understand them to have said is that Treasury is instructed
10 to come up with the rules that would curve any abuses, and
11 if that happened, there would be no revenue loss and, in
12 that case, the amendment would be acceptable to the
13 committee. Is that correct?

14 The Chairman. It will be offered on the floor. Yes.

15 Mr. Chapoton. That is true. I hope it will be
16 understood that that is if we can come up with that.

17 The Chairman. I will be glad to give you about two
18 or three weeks to try.

19 Mr. Chapoton. That will be fine.

20 The Chairman. If not, the amendment could be offered
21 in any event, but if we can work it out, it could be
22 accepted.

23 Senator Bradley. Would it be a committee amendment on
24 the floor?

25 The Chairman. It could be.

1 Senator Bradley. But would we have to act on it
2 prior to it coming to the floor if it is a committee
3 amendment? You can poll us.

4 The Chairman. If it is worked out, there won't be any
5 problem getting it done, but if not, it can still be brought
6 up.

7 Senator Bradley. When will we vote on this bill moving
8 out of committee?

9 The Chairman. I hope to approve final action today
10 on the bill itself and ask permission that it be reported.
11 In other words, we vote to have it reported when other
12 committees have done their good deeds.

13 Senator Bradley. Could we have a vote at that time?
14 In other words, not vote on it today but vote to report it
15 out when we have actually seen the work that is done in the
16 other committees?

17 The Chairman. I am not unwilling to do that except
18 you take a chance on opening it all up again.

19 You know, if you give all these people over the weekend,
20 there will be --

21 Senator Bradley. No, no. I am not talking about that.
22 I am talking about close off the spending side, close off
23 the revenue side, but hold on the vote of the package to
24 the floor until we have seen what the other committees do.

25 You know, I am not prepared to vote this out until I

1 have -- and as you said earlier -- until we see what is
2 happening on the defense side.

3 Senator Grassley. Wouldn't the Senator be willing to
4 vote it out if we had a precondition that it would be
5 triggered out based upon certain other committees meeting
6 a dollar amount of savings?

7 Senator Bradley. No, because I want to know what
8 baseline they are working from and what the actual savings
9 are.

10 The Chairman. I would be willing to do this. I am
11 not going to try to dictate what other committees do.
12 We have enough problems with our own.

13 Just go ahead and approve it and then at the appropriate
14 time we can see whether it is reported out or not.

15 But at least take some final action, as far as the
16 committee is concerned. Reporting it out is a technicality.
17 We just wouldn't report it out until --

18 Senator Moynihan. Mr. Chairman, I think what Senator
19 Bradley is saying is that he would like there to be a
20 committed decision to take the bill to the floor, in the
21 context of what actually happened here.

22 The Chairman. But I don't think one senator should
23 veto the whole thing.

24 Is there anything else in the list?

25 Mr. Brockway. I think on the foreign tax credits, Mr.

1 Chairman, that it is not likely that we will come up with
2 a proposal to make that revenue neutral.

3 (Pause)

4 The Chairman. As I understand, you have been trying
5 to come up with some offsetting revenues, and we are talking
6 about -- it is not the window -- that is, what, \$100 million,
7 but it is after, what, the fourth year it gets up to \$500
8 million or \$1 billion a year?

9 Mr. Pearlman. Beginning in 1988 and over the next
10 three years, it is approximately \$1 billion.

11 The Chairman. You know, this isn't going to be the
12 last tax bill that is ever put together in this committee.
13 I would hope again that we are getting into it deeper and
14 deeper -- further and further away from our objective of
15 \$50 billion if we go ahead, even though it has got a small
16 three-year cost, it jumps up how much in the fourth year?

17 Mr. Brockway. It would have been running about \$500
18 or \$600 million even up front. They just loaded that into
19 a later year.

20 Perhaps on a later bill we could come back with more
21 worked-out proposals that could make it revenue neutral,
22 that could raise that full amount of revenue.

23 The Chairman. I would hope that the committee might
24 not press. I know Senator Danforth is not here, and I don't
25 want to take final action in his absence.

1 But again, this is a matter that is very expensive.
2 It is maybe good tax policy, but if we start doing everything
3 just to follow good tax policy, it would be a switch but --

4 (Laughter)

5 The Chairman. It also would be very expensive.
6 So, I just don't think we can accommodate him. We have
7 tried to find offsetting revenues, and as far as I know,
8 you haven't found those.

9 Mr. Weiss. Not sufficient to make up that much revenue,
10 Senator.

11 The Chairman. So, I would hope that Senator Danforth
12 would help us on that and not press further. If he wants
13 to, we will just have to vote on it.

14 Senator Heinz. Mr. Chairman, can I just bring up
15 something we did this morning? It is my understanding that
16 we took action on the related parties reduced tax on coal
17 operations this morning. Is that correct?

18 Mr. Brockway. That is correct.

19 Senator Heinz. I want to have my vote cast in the
20 negative on that, and I just want to record in 30 seconds
21 my reasons why.

22 We have about 100,000 coal miners who are out of work.
23 We have a lot of companies that are going bankrupt, and
24 I think it is a bad time to increase taxes on that industry.

25 Secondly, it is my understanding that there are a

1 number of other economic sectors that have similar tax
2 treatment that we haven't dealt with.

3 Is it not true that the timber industry has a similar
4 favorable tax treatment, if that is what you want to call it?

5 Mr. Pearlman. Senator, this proposal as we understand
6 it is much more limited than the benefit that is given to
7 timber. The only thing this proposal does is preclude
8 capital gains treatment when one corporation that is owned
9 by another corporation sells its property to the other
10 corporation.

11 The timber proposal is different from this.

12 Senator Heinz. Is it true or not that you can do that
13 in other industries, such as timber?

14 Mr. Pearlman. Timber has a much broader provision
15 that simply says the sale of timber is eligible for capital
16 gain.

17 Senator Heinz. So, it has an even more generous tax
18 treatment. But we are not touching timber, are we?

19 Mr. Brockway. You can still get capital gain on coal
20 royalties under this also. It is just that you can't
21 get it on the sale between related parties.

22 Senator Heinz. I understand that. I understand that,
23 but what I want to establish on the record is that this is
24 unequal treatment for one industry, namely coal.

25 Mr. Brockway. Timber does have this advantage.

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1 Senator Heinz. As I understand the Treasury description
2 -- maybe I understand it wrong -- they have said that first
3 there is a broader benefit available in the timber industry
4 and, secondly, also in the timber industry, related party
5 transactions are permitted now, will be permitted under
6 this or current law.

7 Therefore, it seems to me -- if what I have said is
8 correct -- and I see Treasury nodding their heads up and
9 down in agreement -- we are taking action here that is
10 discriminatory in my judgment.

11 I don't expect to win the argument, Mr. Chairman. I
12 just wanted to make the point. Thank you.

13 The Chairman. Thank you. All right, then, what about
14 the classification of general repayment rule? Has there
15 been any movement in that area?

16 Rod, can I get you to say just yes or no?

17 Mr. DeArment. No. There is no movement. No.

18 The Chairman. The answer is no?

19 Mr. DeArment. No movement.

20 The Chairman. Luxury cars we have to discuss in the
21 board meeting. Employee awards -- is that getting closer?
22 No? I think we are finished with just the first page and
23 a half of the agenda.

24 Senator Moynihan. Mr. Chairman?

25 The Chairman. Senator Moynihan?

1 Senator Moynihan. One small matter.

2 Senator Long. Mr. Chairman, and members, we had
3 reported out of the Commerce Committee, without objection,
4 a proposal which had previously passed the Senate.

5 It is a simple proposition in saying that the capital
6 construction funds which are for the maritime program, but
7 which has surfaced because mainly the economics are such
8 that even with the benefit fund, you can't build the ships.

9 The problem that Billy Johnson raised in the last
10 days of the previous Congress showed that the money is
11 sitting there in the fund, and it can't be used for the
12 purpose for which it was set aside.

13 So, the Commerce Committee recommended that some of
14 that money should be available to use to build fishery
15 facilities on shore rather than to build ships.

16 Now, that matter passed the Senate in the previous
17 Congress. It was not agreed to in the House, merely
18 because of a jurisdictional dispute between the Commerce
19 Committee and the Ways and Means Committee over there.

20 We reported out again, and I really think that to
21 get this agreed to and to try to bypass the jurisdictional
22 fight between the two committees over there, we ought to
23 put it on a revenue bill, and this would be a logical
24 revenue bill to add it to.

25 Senator Packwood. Let me add. We have sent it out

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1 -- speaking as the Commerce Committee chairman -- we have
2 sent it out again on the calendar, and Senator Long is
3 right. There is a problem in the House. There is a dispute
4 between their merchant marine and their Ways and Means
5 Committee, and the Ways and Means Committee will not allow
6 it to be considered and will fight it over there strictly
7 on a jurisdictional basis.

8 If we do adopt it, however, I would want it adopted
9 -- although it is not on this bill -- but not as part of
10 the Tax Code. I don't want the committee to lose
11 jurisdiction of it subsequently, but I have no objection
12 to trying to get it to the House in this way.

13 Senator Long. I was the subcommittee chairman when
14 this capital construction fund first went into effect, and
15 at that particular time, I was also chairman of the Finance
16 Committee.

17 So, we had no problem over here. I had all responsibility
18 both the Finance Committee and on the Commerce Committee,
19 helping to pass the bill, and we passed it by an overwhelming
20 vote, and we thought we had achieved something until the
21 economics worked against it.

22 So, all we want to do is to be able to use the funds
23 on a broader basis. Now, I am told that this does have a
24 Treasury cost to it. How much?

25 Mr. Brockway. About \$100 million, I believe.

1 Senator Long. Is that over a three-year period?

2 Mr. Brockway. That is over the three-year period.

3 Senator Long. Okay. About \$100 million. And I would
4 like to suggest that we also add it to the bill with the
5 understanding that this would be on the same basis as the
6 other amendments that are not funded at the moment.

7 But if we can find the money to fund it, we will fund
8 it along with the others. If we can't find the money, of
9 course, we will just have to take our chances.

10 Mr. Chapoton. It would allow the capital construction
11 fund to be used for what? I didn't understand.

12 Senator Long. For fishery processing facilities on
13 shore. We can't use it for building the ships because of
14 the economics of the situation.

15 At least, we could use it to build fishery facilities
16 on shore to process the fish. And that would help the
17 industry a lot.

18 Mr. Chapoton. I am sure it would. Of course, the
19 capital construction fund was sold as a maritime to increase
20 our merchant marine capital goods.

21 We have opposed this in the past, Senator. It would
22 just broaden the capital construction fund to other segments
23 of the industry. So, we have had concerns about it in the
24 past.

25 Senator Long. The same people who are not able to build

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1 the ships would like to use the money -- it is their tax
2 money. And they would like to be able to use that to
3 build the shore --

4 Mr. Chapoton. It is their money that has been set
5 aside free of tax. And the purpose for setting this up
6 free of tax is to make us have more ships. So, if they
7 can take it out without building more ships, the purpose
8 is no longer there.

9 Senator Long. But it is still money that they
10 generated.

11 Mr. Chapoton. Oh, sure, That is right. It is money
12 that they generated, and it was tax deductible when it
13 was put into the fund.

14 Senator Long. They would simply like to use it.

15 The Chairman. All right. Is there any objection?

16 Mr. Chapoton. We have objected to it in the past.

17 Yes, sir.

18 The Chairman. Right. We will note that.

19 Senator Moynihan. Can I raise one small matter?

20 The Chairman. I guess if it is a small matter.

21 Otherwise, I would like to adjourn to the back room.

22 Senator Long: Senator Packwood is not here at the
23 moment. He favors this. The Commerce Committee -- I believe
24 we unanimously reported it out of Commerce -- and we passed
25 it through the Senate before, and I would like to urge

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1 that it be favorably considered by the committee.

2 The Chairman. Then, without objection up here.

3 Mr. DeArment. Then, if we adopt it, we would follow
4 Senator Packwood's suggestion that it be made a separate
5 title of the bill?

6 The Chairman. True. Yes. I wonder if we might, if
7 this time is satisfactory members, if we could sort of
8 just go back in the back room for a minute to discuss what
9 remaining items we have and see how far we want to go.

10 Obviously, a lot of members have a lot of amendments,
11 and I know there are a lot of people with amendments in
12 their pockets out in front of us.

13 I think we are going to have to stop here or at least
14 figure out how we are going to pay for things.

15 So, let's have about a 20 minute recess, and we can
16 just step in the back room.

17 (Whereupon, at 3:40 p.m., the hearing was recessed.)

18 (Continued on next page.)

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1 EVENING SESSION

2 (7:29 p.m.)

3 The Chairman. Mr. Chapoton, I would like to raise with
4 Treasury a matter that has recently been brought to my
5 attention concerning thrift institutions.

6 As I understand it, when a thrift institution has a
7 net operating loss that is carried back to a previous year,
8 the net operating loss reduces the taxable income of the
9 thrift and therefore also reduces the bad-debt deduction.

10 I have been told that the IRS has tentatively concluded
11 that this creates a constructed deficiency because the loss-
12 carryback rules eliminate the bad-debt reserve deduction for
13 that year.

14 In these circumstances, although there is no actual
15 deficiency and no tax owed for the carryback year, the IRS
16 intends to impose interest charges on the hypothetical tax
17 deficiency created by the recomputation of the bad-debt
18 reserve.

19 You know, that doesn't seem right, and I have got some
20 information that I would like you to look into for us.

21 Mr. Chapoton. I will be happy to, Mr. Chairman. I heard
22 about this earlier, but I have not checked with the IRS on it.
23 It does seem an unusual result. I think nobody is concerned
24 about the recomputation of the deduction, but the interest
25 charge seems surprising.

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1 All right, Rod. Let's go.

2 Item Number 1, increase distilled spirits excise tax by
3 \$2 per proof gallon. Is there a request for a vote on that?
4 If not, we will agree to it.

5 Senator Chafee. Well, Mr. Chairman, I am not going
6 to request a vote, but I would just like to note that it
7 doesn't apply to beer and wines. The distilled spirits
8 industry is already heavily taxed. So I think this increase
9 is going to be self-defeating.

10 What is the rationale in not applying it to beer and
11 wine? Why not spread it around? The distilled spirits
12 carry a far heavier tax than the others do now, plus, all the
13 States taxing them. So the distilled spirits industry is
14 the one of those three industries that isn't growing.

15 I don't get the rationale for adding a billion dollar
16 tax onto the distilled spirits.

17 The Chairman. Right. Well, we did as little as we
18 could.

19 A voice vote? All in favor say Aye.

20 (Chorus of Ayes)

21 The Chairman. Opposed, No.

22 (Chorus of Nays)

23 The Chairman. The Ayes have it.

24 (Laughter)

25 Senator Chafee. Well, let's have a recorded vote.

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1 (Laughter)

2 Mr. DeArment. Mr. Packwood?

3 Senator Packwood. No.

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. No.

10 Mr. DeArment. Mr. Heinz?

11 (No response)

12 Mr. DeArment. Mr. Wallop?

13 Senator Wallop. Aye.

14 Mr. DeArment. Mr. Durenberger?

15 Senator Durenberger. No.

16 Mr. DeArment. Mr. Armstrong?

17 Senator Armstrong. No.

18 Mr. DeArment. Mr. Symms?

19 Senator Symms. No.

20 Mr. DeArment. Mr. Grassley?

21 Senator Grassley. No.

22 Mr. DeArment. Mr. Long?

23 Senator Long. Aye.

24 Mr. DeArment. Mr. Bentsen?

25 Senator Bentsen. Aye.

1 Mr. DeArment. Mr. Matsunaga?

2 Senator Matsunaga. Aye.

3 Mr. DeArment. Mr. Moynihan?

4 Senator Moynihan. Mr. Baucus?

5 Senator Baucus. No.

6 Mr. DeArment. Mr. Boren?

7 Senator Boren. Aye.

8 Mr. DeArment. Mr. Bradley?

9 Senator Bradley. Aye.

10 Mr. DeArment. Mr. Mitchell?

11 Senator Mitchell. No.

12 Mr. DeArment. Mr. Pryor?

13 Senator Pryor. No.

14 Mr. DeArment. Mr. Chairman?

15 The Chairman. Aye.

16 Senator Heinz. Mr. Chairman, I was not recorded. Aye.

17 The Chairman. Right.

18 Mr. DeArment. that will make it 11.

19 The Chairman. The Ayes are 11, the Nays are 8. The
20 amendment is agreed to.

21 All right, Number 2, Senator Bradley, deny ITC and
22 depreciation on automobiles in excess of \$15,000 of value or
23 \$21,000. You have an amendment?

24 Senator Bradley. Mr. Chairman, I have an amendment that
25 would precede any vote on these, and that is to raise the

1 amount of business use required before any deduction would
2 be allowed, and raise it to 90 percent. And anything below
3 that, you would only get mileage for your deduction.

4 We would also require on the form that you have to have
5 a log, and that any accountant who would prepare your return
6 would have to sign that indeed there was a log and that he
7 saw that log. That is the tightening of the compliance.

8 The Chairman. All right. The Clerk will call the roll.

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 (No response)

19 Mr. DeArment. Mr. Wallop?

20 Senator Wallop. No.

21 Mr. DeArment. Mr. Durenberger?

22 Senator Durenberger. Aye.

23 Mr. DeArment. Mr. Armstrong?

24 (No response)

25 Mr. DeArment. Mr. Symms?

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1 Senator Symms. No.
2 Mr. DeArment. Mr. Grassley?
3 Senator Grassley. Aye.
4 Mr. DeArment. Mr. Long?
5 Senator Long. No.
6 Mr. DeArment. Mr. Bentsen?
7 Senator Bentsen. Aye.
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. Aye.
14 Mr. DeArment. Mr. Boren?
15 Senator Boren. No.
16 Mr. DeArment. Mr. Bradley?
17 Senator Bradley. Aye.
18 Mr. DeArment. Mr. Mitchell?
19 Senator Mitchell. Aye.
20 Mr. DeArment. Mr. Pryor?
21 Senator Pryor. No.
22 Mr. DeArment. Mr. Chairman?
23 The Chairman. Aye.
24 Senator Danforth. This is in lieu of the 15?
25 Senator Baucus. No. It's not in lieu.

1 The Chairman. No, he wants to vote on his. His is tied.
2 Do you want to reconsider?

3 Senator Baucus. Yes.

4 The Chairman. On this vote the Ayes are 13, the Nays
5 are 5. The amendment is agreed to.

6 Now I understand Senator Baucus would like to reconsider
7 the vote on --

8 Senator Baucus. Yes. Mr. Chairman, I just suggested.
9 that we not take the \$15,000 figure but increase it to say
10 \$17,500. That gives some room to negotiate, if you want to,
11 in conference.

12 Again, let me say that the whole point of the \$17,500
13 figure is to put a cap on a subsidy on a loophole that we
14 shouldn't allow to continue.

15 As you know, there are a lot of newspaper ads touting
16 tax loopholes in this area. I have one ad here from the
17 Washington Post: "The car that shelters you from boredom as
18 well as from taxes." It just seems to me that that's the
19 kind of thing that we should stop. There are lots of auto
20 companies trying to sell cars, taking advantage of these
21 loopholes.

22 For the record, let me just read what one auto company
23 that sells very extravagant cars, what this auto company has
24 mailed to one of its clients, a tax lawyer. It basically
25 says:

1 "We offer the image that your clients desire, plus a
2 solid investment, with the tax credits they need. Using a
3 new Rolls Royce as an example, the purchase price is
4 \$109,000. The cumulative tax benefits for the first three
5 years is as follows: First year, \$21,000 tax benefit;
6 second year, \$44,000; third year, \$65,000.

7 "With these kinds of figures, a luxury car isn't a
8 luxury, it's a wise investment, something your clients will
9 enjoy daily."

10 It frankly seems to me that we should not allow this
11 to continue. And I also think we shouldn't be subsidizing
12 Mercedes Benz. Seventy percent of Mercedes Benz cars go to
13 businessmen, and they sell them to businessmen because of
14 tax loopholes and excessive tax subsidies.

15 So it just seems to me that a \$17,500 cap is high enough,
16 and that the first \$17,000 worth of a car can be used as a
17 business deduction, but beyond that we shouldn't be
18 subsidizing autos.

19 So I suggest we have a recorded vote on \$17,500.

20 The Chairman. All right.

21 Senator Chafee. Mr. Chairman?

22 The Chairman. Could I just ask one question? On that
23 last measure, I understand there is a difference of opinion
24 between the Joint Committee and Treasury on the revenue to
25 be raised. Is that correct?

1 Mr. Brockway. That is correct, Mr. Chairman.

2 The Chairman. The Treasury says how much?

3 Mr. Pearlman. Well, we have not estimated the 90 percent
4 instance.

5 The Chairman. Well, what was it at 80 percent?

6 Mr. Pearlman. Two and a half billion at 80 percent.

7 The Chairman. And what do you get?

8 Mr. Brockway. Well, we were getting a gross amount of
9 about \$450 million, but you have already in there a 50
10 percent limit, which we were saying was about \$150 million.

11 Senator Bradley. You said \$500 million.

12 Mr. Brockway. But he was asking at the 80 percent.

13 At 90 percent I was saying that it is going to be some
14 significant amount more, because you get harder and harder
15 for people to say they are above the line.

16 The Chairman. All right. Let's furnish that for the
17 record when it is available.

18 Senator Baucus. Mr. Chairman?

19 The Chairman. Yes?

20 Senator Baucus. I am open to another figure, if you
21 want another figure.

22 The Chairman. No, I didn't want to do it, but I meant
23 to do it earlier, because everyone asked what the revenue
24 raised was.

25 Senator Chafee?

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1 Senator Chafee. Mr. Chairman, I think Senator Baucus
2 has a very good proposal here, an amendment. Some people
3 have looked on this as anti-foreign car. I never looked on
4 it as that. It affects plenty of American cars.

5 I think Senator Baucus gave us figures before that twice
6 as many American cars will be affected as imported cars. So
7 it has nothing to do with GATT or imported cars. What it has
8 to do with is the idea that the American taxpayers shouldn't
9 be paying for executives riding around in high priced cars --
10 Cadillacs, or whatever they are -- when they can get other
11 transportation. And if they want to have that transportation,
12 that's fine, but don't have us paying for it.

13 So I hope the measure passes.

14 The Chairman. Well, I think we have probably debated it
15 pretty thoroughly.

16 Senator Heinz. Mr. Chairman, this is not to debate the
17 point, but I would just like to be recorded Aye on the last
18 vote.

19 The Chairman. Yes. We did.

20 Senator Heinz. Thank you.

21 Senator Symms. Mr. Chairman, I just want to say very
22 briefly that my whole problem with this is that this is kind
23 of an anti-incentive proposition. Some people have to have
24 a good car to carry out their business. You may have some
25 guy who is running a logging camp and has to have a

1 four-wheel drive rig, and it won't come in under the \$15,000.
2 There are all kinds of things about it. But in a general
3 sense, if we just want to get at the guy with the Rolls Royce,
4 why don't we raise the cap?

5 Senator Baucus. If the Senator will yield on that
6 point, we have written it in a way to exempt the problems
7 you are talking about. The vans, the logging trucks, they
8 are all out. They are not covered by this.

9 Senator Symms. Wagoneers??

10 Senator Baucus. Wagoneers, the same.-- not covered.

11 Senator Symms.. All right., I will retract that and go
12 back and make the other point.

13 (Laughter)

14 Senator Symms. What you are saying here with this
15 thing is that there is no reason for any American to go out
16 and work real hard to get where he can afford a better car,
17 because you will give him a tax break if he can drive a
18 \$9,000 car, but not if he has a car that costs more.

19 Senator Baucus. Well, Senator, anybody can buy any car
20 one wants to if one works hard and wants to pay say \$20,000
21 to \$30,000. One can do it.

22 Senator Symms. I understand that.

23 Senator Baucus. All I am saying is that above a certain
24 figure, it is just not right for the American taxpayers to
25 be paying for say half of that car, even if it is used in

1 business.

2 Senator Danforth. Mr. Chairman, I don't have any
3 philosophical quarrel with this. The basic problem is the
4 practical effect of it, and that is that the higher the
5 figure is, the greater the percentage of European cars that
6 are trapped.

7 We have serious trade problems with Europe, very well
8 publicized. The number one group within the country which
9 will be retaliated against will be the farmers. We have
10 problems with respect to corn cluten and soybeans, which
11 the Europeans have been holding over our head for some time
12 now.

13 I am just concerned that this would be the thing that
14 triggers the problem.

15 I had a concern expressed to me by Europeans at the
16 \$15,000 figure, and I am confident that if it gets over
17 \$15,000 there will be either a GATT problem or, short of a
18 GATT problem, it will lead to trade action by the Europeans.

19 The Chairman. Well, the Clerk will call the roll.

20 Are you waiting for an answer?

21 Senator Danforth. Well, what are we calling the roll
22 on? On whether to go from 15 to 17?

23 Mr. DeArment. Fifteen is tied over.

24 Senator Baucus. It was a tie vote, this will be \$17,000.

25 Senator Danforth. We have agreed to 15?

1 The Chairman. No, we haven't agreed to anything.

2 Mr. DeArment. We have not.

3 Senator Danforth. We haven't agreed to anything?

4 The Chairman. No.

5 Mr. DeArment. Is your proposal \$17,000 even, or
6 \$17,500?

7 Senator Baucus. Well, whatever makes most sense. I
8 will just pick a round number, \$17,500. And it is indexed,
9 by the way, too.

10 (Laughter)

11 Mr. DeArment. Mr. Packwood?

12 Senator Packwood. Aye.

13 Mr. DeArment. Mr. Roth?

14 Senator Roth. No.

15 Mr. DeArment. Mr. Danforth?

16 Senator Danforth. No.

17 Mr. DeArment. Mr. Chafee?

18 Senator Chafee. Aye.

19 Mr. DeArment. Mr. Heinz?

20 Senator Heinz. No.

21 Mr. DeArment. Mr. Wallop?

22 Senator Wallop. No.

23 Mr. DeArment. Mr. Durenberger?

24 Senator Durenberger. No.

25 Mr. DeArment. Mr. Armstrong?

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

1 The Chairman. The Ayes are 8, and the Nays are 10. The
2 amendment is not agreed to.

3 Let me suggest that the Baucus Amendment is in the House
4 bill, and we now have another amendment in our bill, a
5 different approach, and I think we can go to conference and
6 try to work this out. I am certain we all want to get at
7 what Senator Baucus wants to reach.

8 Senator Symms. Mr. Chairman, should we try to take care
9 of that Armstrong Amendment now?

10 The Chairman. We already have.

11 Senator Symms. You got that in it?

12 The Chairman. Yes.

13 Senator Matsunaga. So we are back at 15 now?

14 The Chairman. No. It's next. We move on to -- they
15 are doing some computing on Number 3; let's move on to
16 Number 4, Senator Long, ESOP proposal, which picks up
17 \$400 million.

18 Are there any requests for a vote?

19 (No response)

20 The Chairman. Without objection, we will agree to that.

21 Number 5, we'll skip. Number 6?

22 Mr. Brockway. This would require the computation of
23 the foreign tax credit allocation and deduction rules on a
24 consolidated group basis.

25 Senator Danforth. Mr. Chairman, this is the item that

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1 it was proposed as the method of paying for the domestic
2 loss recapture concept, and it more than pays for it during
3 the three-year period of time.

4 Now, the question with the domestic loss recapture is,
5 what would be the outyear cost? And I am advised by Dave
6 Brockway that the projections originally given were
7 over-estimated.

8 Mr. Brockway. When we were saying about a billion
9 dollars a year, I think it is much closer to \$5-600 million.

10 This item, Senator, when we were originally trying to
11 come up with proposals, we weren't then able to get it
12 revenue neutral. But this one item which is about \$200
13 million a year is one of the items we were thinking of.

14 We were also thinking of an item of how you compute
15 the team paid foreign tax credit, and also the depreciation
16 claimed for computing the team paid credit, we were putting
17 that on a straight line basis.

18 Those, in the aggregate, still would raise less than
19 the proposal that you were talking about where they were
20 closer. It was not just this one item.

21 The Chairman. Right. I understand Number 5 was
22 directly involved, and Number 10.

23 Mr. Brockway. Number 5 and Number 10 were connected
24 with the R&D credit. Number 6 is connected with the other
25 proposal that Senator Danforth had.

1 The Chairman. I understand that. So Number 5 and 10,
2 we are not going to consider them at this time. I think
3 we can consider Number 6. There wasn't any reservation on
4 this proposal, was there?

5 Mr. Brockway. That is correct. There was not.

6 Senator Danforth. No, I think the question is whether
7 or not Number 6 is a way of paying for the domestic loss
8 recapture.

9 Mr. Brockway. Well, Senator, it was an item at the
10 staff level and with Treasury. I think there was an
11 agreement that it was a good change to be made. So when we
12 were going back to try to figure out how to raise the
13 revenues to pay for the \$8 billion you have already
14 tentatively adopted, that this was put on the list.

15 The Chairman. Well, can we vote on it and see what
16 happens?

17 Senator Danforth. Just a solo, or as part of that -- ?

18 The Chairman. No, I am going to keep the other two out.
19 I told Buck to work with your staff on something. Just keep
20 the other two out and see if we can figure out something by
21 Tuesday. On the other, we are a big loser. That's the
22 problem.

23 Let's vote on it now, solo. But I have instructed
24 Mr. Chapoton to see if they can still reach some accord.

25 Senator Danforth. Well, could I ask Buck what his

1 view is? The question is Number 6, the foreign tax credit,
2 and the packaging of this with domestic loss recapture. It
3 is my understanding that the earlier projections of out-year
4 loss of domestic loss recapture were overstated. In other
5 words, if we did this, if we were to package this, this
6 would pick up \$600 million, and the modified domestic loss
7 recapture would lose just a little over \$100 million; so
8 there would be about a half a billion pick-up during the
9 three year period of time. In the out-years the difference
10 would be between a \$200 million pickup and about a
11 \$500 million loss. So it would be about a \$300 million
12 net loss per year in the out-years.

13 Mr. Chapoton. Senator, as I think we have said several
14 times before, we agreed with the recapture as the correct
15 policy. So it is strictly a question of revenue.

16 I understand, and there is discussion going on here now,
17 that there is some concern about the point-6, whether if you
18 apply it to interest only, which is what we thought Number 6
19 applied to, that it wouldn't be point-6. It is point-6 if
20 it applies to other expenses as well.

21 The Chairman. All right. Let's pass over 6 and see
22 what we can do.

23 Number 7? Does anybody demand a rollcall on Number 7?
24 If not, we can agree to that \$100 million.

25 (No response)

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1 Senator Baucus. Voice vote.

2 The Chairman. A voice vote? All in favor say Aye.

3 (Chorus of Ayes)

4 The Chairman. Opposed, No.

5 (No response)

6 The Chairman. Number 8? That is another \$100 million
7 item.

8 Senator Chafee. Are these principally casualty
9 companies?

10 Senator Danforth. Yes.

11 Senator Chafee. Well, it is one of these cases where
12 I'm not sure what we are doing.

13 The Chairman. Do you want to go over it again, Dave, or
14 Rich?

15 Mr. Brockway. Item 8 deals with the excise tax on
16 premiums paid to foreign insurers, that under present law you
17 have a 1-cent tax where the casualty risk is a re-insurance
18 premium and a 4-cent tax where it is a direct premium. So
19 what taxpayers do that want to have the insurance carried by
20 a foreign insurer, they first have it covered by a U.S.
21 insurer who immediately turns around and re-insures it with
22 a foreign insurer, and that cuts the tax from 4 cents to
23 1 cent.

24 The other item that he would do is that under the UK
25 Treaty there is an exemption for insurance held by UK insurers.

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1 The UK insurer writes the insurance on the U.S. risk, and then
2 turns around and lays that off on re-insurance to let's
3 say a Bermuda insurance company. So the ultimate risk is
4 held by a non-UK company, but they qualify for the total
5 exemption on all the premium.

6 This would say that the exemption under the Treaty is
7 only to the extent that the risk is actually borne by the
8 UK companies, or let's say the French companies -- we also
9 have a treaty with France, and there might be some others --
10 but it would not be to the extent it was laid off and held
11 by let's say the Bermuda company.

12 Senator Chafee. Neither of these measures are in the
13 House bill, are they?

14 Mr. Brockway. They are not in the House bill. In fact
15 most of the items on this list are not in the House bill.

16 Senator Chafee. Well, we haven't heard the last of
17 these two, I'm sure.

18 The Chairman. Well, if we can't settle \$100 million,
19 we haven't heard the last of anything.

20 Does anybody demand a rollcall on this?

21 (No response)

22 The Chairman. If not, we can agree to Number 7 and 8.
23 Number 9?

24 Mr. Brockway. That would increase the preference
25 cutback from 15 to 20 percent. In TEFRA you adopted a

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1 15-percent preference cutback; this would increase it to
2 20 percent.

3 Senator Wallop. Mr. Chairman, I want to be recorded as
4 in opposition to this provision. I think it is unwise and
5 untimely.

6 The Chairman. Do you want a rollcall?

7 Senator Wallop. No. I just wanted to be recorded as
8 in opposition to it.

9 Senator Symms. Is this the one on the mining thing?

10 Senator Symms. No.

11 Mr. Brockway. No. Hard mineral mining is basically
12 not affected.

13 Senator Wallop. It does affect mining. When you said
14 alter the mining thing, I thought you were talking about
15 the one that we talked of earlier this morning. But of
16 course it affects mining.-- Number 9, increasing the
17 corporate preference disallowance to 20 percent.

18 The Chairman. Do you want a rollcall, Steve?

19 Senator Symms. All right.

20 Senator Pryor. Did we dispose of Senator Danforth's?

21 The Chairman. No.

22 Senator Pryor. We are going to come back?

23 Mr. Chairman. Well --

24 Senator Symms. Mr. Chairman, let's have a rollcall on
25 Number 9.

1 The Chairman. All right.
2 Number 9 -- the Clerk will call the roll.
3 Mr. DeArment. Mr. Packwood?
4 Senator Packwood. Aye.
5 Mr. DeArment. Mr. Roth?
6 (No response)
7 Mr. DeArment. Mr. Danforth?
8 Senator Danforth. Aye.
9 Mr. DeArment. Mr. Chafee?
10 Senator Chafee. Aye.
11 Mr. DeArment. Mr. Heinz?
12 Senator Heinz. Aye.
13 Mr. DeArment. Mr. Wallop?
14 Senator Wallop. No.
15 Mr. DeArment. Mr. Durenberger?
16 Senator Durenberger. Aye.
17 Mr. DeArment. Mr. Armstrong?
18 (No response)
19 Mr. DeArment. Mr. Symms?
20 Senator Symms. No.
21 Mr. DeArment. Mr. Grassley?
22 Senator Grassley. Aye.
23 Mr. DeArment. Mr. Long?
24 Senator Long. Aye.
25 Mr. DeArment. Mr. Bentsen?

1 Senator Bentsen. Aye.

2 Mr. DeArment. Mr. Matsunaga?

3 Senator Matsunaga. Aye.

4 Mr. DeArment. Mr. Moynihan?

5 Senator Moynihan. Aye.

6 Mr. DeArment. Mr. Baucus?

7 Senator Baucus. Aye.

8 Mr. DeArment. Mr. Boren?

9 Senator Boren. No.

10 Mr. DeArment. Mr. Bradley?

11 (No response)

12 Mr. DeArment. Mr. Mitchell?

13 Senator Mitchell. Aye.

14 Mr. DeArment. Mr. Pryor?

15 Senator Pryor. Aye.

16 Mr. DeArment. Mr. Chairman?

17 The Chairman. Aye.

18 Mr. Roth?

19 Senator Roth.

20 All right, then. We will skip 10 and go to 11. On
21 this vote the Ayes are 15, the Nays are 3. The amendment
22 is agreed to. Aye.

23 Mr. Brockway. Item 11 would extend the requirement
24 that construction period interest and taxes be capitalized
25 to corporate-held residential real estate. Right now,

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1 individuals are required to capitalize both for residential
2 and non-residential, and corporations are required to
3 capitalize non-residential construction period interest and
4 taxes.

5 This would conform it also for residential construction
6 period interest and taxes held by corporations.

7 The Chairman. Does anybody want a rollcall on this?

8 (No response)

9 The Chairman. If not, we can agree to Number 11.

10 Now, what have we agreed to there, Rod, right quick?

11 Mr. DeArment. We have agreed to Number 1; Senator
12 Bradley's proposal as a modification, Number 2; Number 4;
13 Number 7; Number 8; Number 9; Number 11.

14 Senator Heinz. Mr. Chairman, how much do we pick up
15 on that 90 percent rule change?

16 Mr. DeArment. There is a dispute between the Treasury
17 and the Joint Committee estimates, and the range is roughly
18 somewhere between .5 and 2.5.

19 Senator Heinz. The range is between .5 and 2.5 --
20 billion dollars?

21 Mr. DeArment. That is correct.

22 The Chairman. We have a dispute there, John.

23 Senator Heinz. That's quite a range.

24 The Chairman. Between the Joint Committee and Treasury.

25 Mr. DeArment. The question is solely one of timing.

1 The Chairman. Can't we legislate that it is the
2 higher figure?

3 (Laughter)

4 Mr. DeArment. The question really is an estimate of
5 judging human behavior.

6 The Chairman. Well, who is it that is giving us the
7 problem?

8 (Laughter)

9 The Chairman. Senator Armstrong is here. I want to
10 make certain his provision is included in the Bradley
11 Amendment.

12 Mr. DeArment. That is the phase-up from 12 cents to
13 20.

14 Senator Armstrong. Following the 12 cents, it phases it
15 up to the same level as other taxpayers.

16 Mr. DeArment. As business over 5 years.

17 Senator Armstrong. Thank you.

18 Thank you, Mr. Chairman.

19 Senator Chafee. Well, has that just been decided?
20 I'm against it. We are worrying about spending money.

21 There is a little extra money, Mr. Chairman, that going out.

22 Let's have a vote on it.

23 The Chairman. Do you want to vote?

24 Senator Mitchell. What would that be on?

25 Mr. DeArment. The vote would be on the question of

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1 whether we should phase up the volunteer mileage percentage
2 from 12 cents to 20.5 cents.

3 The Chairman. Over that period, how much would it cost?
4 It would cost \$400 million eventually.

5 Senator Heinz. Mr. Chairman? I would like to suggest
6 maybe a way of paying for it -- it may not be acceptable,
7 I don't know.

8 The committee increased the tax on distilled spirits.
9 When we brought this issue up before, I indicated that it
10 might be a good idea to have at least some modest treatment,
11 not just of distilled spirits but of wine and/or beer as
12 well, so that you don't create any competitive disadvantages.

13 I am not looking for a big beer tax or a big wine tax,
14 ~~because I don't think that would be politically popular, but~~
15 I think we ought to do something nominal in those areas, and
16 maybe it is a way of helping either raise some money or
17 helping Bill Armstrong or somebody else. I raise that as
18 a possibility.

19 The Chairman. Dave, if the annual cost of this over
20 five years is minimal, as I understand it -- Senator
21 Armstrong's amendment?

22 Mr. Brockway. Well, Senator Armstrong's amendment
23 depends upon when it is effective. I think that taking it
24 up to 20 cents, I believe, is something in the neighborhood
25 of \$150 million a year, once you get there.

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1 The Chairman. What is it until you are getting there?

2 Mr. Brockway. But if you are doing 2 cents, I don't
3 have the --

4 The Chairman. We agreed to go to 12 cents until what?
5 1987?

6 Senator Chafee. I think it is important to note that
7 we have already done something, Mr. Chairman. We have gone
8 from the 9 to the 12, and now we are trying to wring a little
9 more out of it.

10 The Chairman. Well, I assume that by 1987, 12 will be
11 inadequate.

12 Senator Chafee. Well, if the Government keeps spending
13 the money the way it is, it will.

14 Mr. Chapoton. The 12 will be adjusted, Mr. Chairman.
15 The 12 is not a hard number; it is an adjustable number.

16 The Chairman. That is the basic number.

17 Well, do you have any figures?

18 Mr. Brockway. I am not very good at doing these
19 things, but if you are talking about \$150 million a year and
20 a 10-cent increase, that is \$15 million a cent a year. So
21 you are \$30 million a year for the first two, and then once
22 you get two more cents it is \$60 million a year.

23 The Chairman. All right. That gives us some idea of
24 what we are doing.

25 Rod, call the roll.

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

1 Senator Matsunaga. Aye.

2 Mr. DeArment. Mr. Moynihan?

3 Senator Moynihan. No.

4 Mr. DeArment. Mr. Baucus?

5 Senator Baucus. No.

6 Mr. DeArment. Mr. Boren?

7 Senator Boren. No.

8 Mr. DeArment. Mr. Bradley?

9 (No response)

10 Mr. DeArment. Mr. Mitchell?

11 Senator Mitchell. No.

12 Mr. DeArment. Mr. Pryor?

13 Senator Pryor. No.

14 Mr. DeArment. Mr. Chairman?

15 The Chairman. Aye.

16 Wait a minute -- what's the score there?

17 (Laughter)

18 Mr. DeArment. The score is 8 to 10.

19 The Chairman. What, 10 nays?

20 Mr. DeArment. That is correct.

21 The Chairman. All right. The amendment is not agreed

22 to.

23 Senator Symms. Mr. Chairman, I would like to be

24 recorded No on Number 11, but I don't want to belabor the

25 point.

1 The Chairman. All right.

2 Now, what does that leave that we have not yet disposed
3 of? Number 3, Number 5, Number -- ?

4 Mr. DeArment. And Number 6.

5 The Chairman. And Number 10.

6 Mr. Brockway. And Number 10.

7 The Chairman. And Senator Chafee has a Number 12.

8 All right, what is the revenue tab right now for these
9 additions? If you take a middle figure on the car?

10 (Continued on next page)

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BERRY

1 Mr. Brockway. It is about \$4 billion.

2 The Chairman. Before going to number three, I wonder
3 if I might suggest just about a 10 minute break. We will
4 just have a meeting of members only in the back room. Let's
5 just have committee staff and Treasury, if we can, because
6 it gets so crowded.

7 (Whereupon, at 8:03 p.m., the mark-up session was
8 recessed.)

9 AFTER RECESS

10 (8:25 p.m.)

11 The Chairman. Now we would like to take up the real
12 estate provisions with the IDBs and the mortgage revenue
13 bonds.

14 Mr. Brockway. Mr. Chairman, under the real estate
15 option, it is now constituted it would extend the depreciable
16 life for real estate other than low income housing from 15
17 years to 20 years. In addition, would deny installment sale
18 deferral of ordinary income recapture.

19 And it would also eliminate the real estate portion,
20 the at risk portion, of the alternative minimum tax suggested
21 by Senator Moynihan.

22 The Chairman. And then the mortgage revenue bond
23 provision will be a part of that.

24 Mr. Brockway. The mortgage revenue bond and the IDB
25 provisions discussed earlier would be a part of it.

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1 The Chairman. All right.

2 Senator Durenberger. Mr. Chairman?

3 The Chairman. Senator Durenberger.

4 Senator Durenberger. You did include the IDBs?

5 The Chairman. Right.

6 Senator Durenberger. Including the indication that
7 I might come to the floor with a modifying proposal?

8 The Chairman. That's right. We adopt the basic
9 package and then we -- do we want to vote on the basic
10 package? Clerk, call the roll.

11 Senator Mitchell. Mr. Chairman, may I inquire as to
12 what we are voting on?

13 The Chairman. We are voting on the real estate package
14 which Mr. Brockway --

15 Mr. Brockway. It's comprised of changes in the
16 depreciation from 15 to 20 years, for housing other than
17 low income housing, the denial of installment sale deferral
18 on ordinary income recapture, the mortgage bond extension
19 for a four year period, plus the changes to IDBs.

20 The Chairman. And the elimination of the minimum tax.

21 Mr. Brockway. And also the elimination of the real
22 estate portion of the minimum tax.

23 Senator Bentsen. It's commercial buildings too.

24 Mr. Brockway. It would include the mortgage credit
25 certificates. The entire package as outlined previously.

1 Senator Durenberger. Mr. Chairman?

2 Senator Mitchell. We had considered these separately,
3 Mr. Chairman. I was unaware that we were going to vote on
4 all of these matters as a package.

5 The Chairman. I would like to dispose of them that way,
6 but we can do it separately.

7 Is there any objection to the mortgage revenue bond
8 and the IDB provision?

9 Senator Durenberger. Mr. Chairman, I just have a
10 clarifying question that maybe Dave or Rod or somebody can
11 help me with.

12 When we went out of business at the end of November
13 leaving the House bill behind with the problems that that
14 presented for bond counsel and IDBs, nobody was approving
15 bonds after December 31st because of the expiration date.

16 If we pass the resolution as part of this that said
17 that whatever we were doing would take effect on the date of
18 enactment of whatever it is we are doing in IDBs, would that
19 permit bond counsels on all these delayed issues that didn't
20 make it by December 1, would that permit counsel to give
21 affirmative opinions on that.

22 Secretary Chapoton. If what? I'm sorry. If we did
23 what?

24 Senator Durenberger. If just on this side, on the
25 Senate side, we adopted a resolution -- we had this problem

1 in 1980, I think, when Al Alman had something going on on
2 MRBs or something over on the House side. And I think it
3 was Senator Long's suggestion at that time that we incorporate
4 a resolution on a different effective date into a bill that
5 we passed out of here.

6 Now I'm not sure what effect that has. If it had the
7 effect that bond counsel today, even before we go to
8 conference on a bill, could start approving IDB issues as
9 of today, I would like to propose that kind of resolution.

10 If I'm off base on --

11 Secretary Chapoton. My judgment would be that they
12 probably could not. I think they would be worried about it
13 even if it had been done in conference, but not had become
14 law. But if only one House of Congress has done it, I
15 would doubt they could. I know they couldn't give an
16 unqualified opinion.

17 Mr. Brockway. Evidently, it did not effect the market
18 in 1978 that much. But here you have no indication from the
19 House that they would be willing to slip on the dates. So
20 it would be very difficult for someone to give a clean
21 opinion, regardless of what this committee did.

22 Senator Durenberger. Thank you.

23 The Chairman. Senator Moynihan.

24 Senator Matsunaga. Mr. Chairman, on the IDB proposal
25 as agreed to, does it impose any new restrictions on the

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1 financing of solid waste disposal facilities?

2 Mr. Suswein. No, Senator. None at all.

3 Senator Matsunaga. The House has some restrictions.
4 The committee's proposal does not?

5 Mr. Suswein. That's correct, Senator.

6 The Chairman. Senator Moynihan.

7 Senator Moynihan. Could I ask if I am correct in my
8 understanding that the IDB proposals will include the
9 provisions of S. 1791, which provide for the non-IDB bonds
10 to be issued by the New York State Power Authority?

11 Mr. Suswein. Yes, Senator. And I also understand that
12 that is part of that item. There would also be an allowance
13 of up to \$500 million of financing each year for three
14 years for the Wolf Creek Nuclear Power Plant. Those two would
15 be added as an item together.

16 Senator Moynihan. Thank you, sir.

17 Senator Pryor. Mr. Chairman?

18 The Chairman. Senator Pryor.

19 Senator Pryor. If I could say this -- I don't want to
20 file a formal objection, but I hope that we could have a
21 separate vote on IDBs and mortgage bonds because I think
22 that's a separate issue in many ways from the real estate
23 compromise. And then have a separate vote on the real estate
24 compromise.

25 The Chairman. All right.

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1 I understand Treasury wanted to raise one question in
2 the mortgage revenue bond area, which I had forgotten about.

3 Secretary Chapoton. Yes, Mr. Chairman. The credit
4 certificate procedure in this bill is refundable, the credit
5 is refundable. It is not on the House side. And we have
6 consistently objected to a refundable credit here.

7 The Chairman. But it's not in the House provision?

8 Secretary Chapoton. It's not refundable in the House
9 bill.

10 The Chairman. What's the pleasure of the committee on
11 refundability in the mortgage credit?

12 (No response)

13 The Chairman. Treasury is opposed to that?

14 Secretary Chapoton. Yes.

15 The Chairman. Is there any objection from removing that
16 from the package?

17 (No response)

18 The Chairman. If not, we will do that. Then you want
19 a separate vote on the two IDBs and mortgage revenue bonds?

20 Senator Pryor. Just one vote on IDBs mortgage bonds
21 and then one vote on the real estate.

22 The Chairman. Let's vote on what we can win first.

23 Mr. DeArment. We are voting on --

24 The Chairman. Mortgage revenue bonds and IDBs combined.

25 Mr. DeArment. Mr. Packwood?

1 Senator Packwood. Aye.

2 The Chairman. Before this, you have taken care of the
3 questions raised earlier this afternoon, Mr. Suswein?

4 Mr. Suswein. There are a couple of modifications to
5 the mark-up document which I could go through.

6 The Chairman. What are the modifications?

7 Mr. Suswein. The modifications are on Page 2, the
8 mortgage --

9 The Chairman. We don't have Page 2. Tell us what they
10 are.

11 Mr. Suswein. I'm sorry. The mortgage bond transition
12 rules under the 1980 Subsidy Bond Act would sunset as of the
13 date of committee action. In addition, there would be a
14 modification to a rule dealing with student loan bonds.
15 That's the prohibition for non-GSL student loan bonds would
16 only be a moratorium until October 1, 1986, and it would
17 also take effect only upon enactment with transition rules.

18 The Chairman. But you have taken care of the request
19 of members as of that time?

20 Mr. Suswein. Yes, sir.

21 The Chairman. All right.

22 Mr. Suswein. I believe also Senator Long had an
23 amendment which would -- dealing with an additional item.

24 Senator Long. I would like to --

25 The Chairman. He wants to reserve on that.

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1 Senator Long. I would like to bring it up later on.

2 Mr. Suswein. And Senator Packwood also. There was an
3 item dealing with advance refunding of certain veterans'
4 mortgage bonds, and that would be included along with the
5 other additional provisions on Page 10. The refunding would
6 be limited to no more than \$300 million.

7 The Chairman. All right. Let's vote on that package.

8 Senator Durenberger. Mr. Chairman, did you take care
9 of my problem on the limited equity co-ops?

10 Mr. Suswein. That is not in the package.

11 Senator Durenberger. Well, let me move to put it in.

12 Mr. Suswein. All right.

13 Senator Durenberger. Is there any objection to including
14 it?

15 The Chairman. What?

16 Mr. Suswein. This is a proposal to allow mortgage
17 subsidy bonds to be used for limited equity co-ops, and
18 limited equity co-ops would not be subject to the first time
19 homebuyer requirement. Instead, however, they would be
20 subject to some low income requirements similar to that for
21 multi-family housing.

22 The volume for this purpose, as I understand the
23 amendment, would be counted against the interim cap that is
24 used for the mortgage credit certificate program. That's my
25 understanding of the amendment.

1 Secretary Chapoton. Mr. Chairman, if I could, we have
2 looked at this a long time. We have objected to it. It
3 does attempt to give these arrangements the best of both
4 worlds -- the treatment of -- they are more like rental
5 housing and they could qualify if they could qualify under
6 the general rules for the multi-family housing.

7 The Chairman. Is Treasury opposed to it?

8 Secretary Chapoton. We are opposed. Yes, sir.

9 The Chairman. Do you want to vote on it, Dave?

10 Senator Durenberger. Yes, please.

11 The Chairman. All right.

12 Mr. DeArment. Mr. Packwood?

13 Senator Packwood. No.

14 Mr. DeArment. Mr. Roth?

15 Senator Roth. No.

16 The Chairman. Restate the proposal.

17 Senator Matsunaga. What are we voting on, Mr. Chairman?

18 Mr. Suswein. The amendment is to allow mortgage
19 subsidy bonds to be used for limited equity co-ops. Under
20 these rules -- these are housing cooperatives -- the
21 tenant shareholders would not be required to satisfy the
22 general requirements of the mortgage subsidy bond program that
23 they have to be first time homebuyers. However, they would
24 have to at least 20 percent be low and moderate income.
25 That's the same standard as applies under the multi-family

1 housing IDB rules.

2 Senator Durenberger. Is it not true that this is
3 already in Section 103(a) of TEFRA? It's just that you
4 haven't come up with any rules on it?

5 Mr. Brockway. No, that is not correct.

6 As Secretary Chapoton indicated --

7 The Chairman. All right. Should we go ahead and vote?

8 Senator Durenberger. I have a letter here from Ron
9 if I can find my glasses. "Thank you for our August 26th
10 letter to Assistant Secretary," et cetera. "We are
11 continuing our efforts to promulgate these regulations as
12 quickly as possible. Much of the delay is attributable to
13 the complexity of the various issues, which must be resolved,
14 due to differences between cooperative housing and other
15 single family housing. While we recognize the importance
16 of these regulations, we do not believe it is prudent to
17 compromise a thorough and equitable treatment of these
18 regulations solely for the sake of expediency."

19 Secretary Chapoton. Our usual letter.

20 (Laughter)

21 The Chairman. All right.

22 Senator Durenberger. The point is that they are already
23 in there for single family bonds. And since you can't come
24 up with regulations, according to your pat language, we are
25 trying to put them in the -- what is it? 103?

1 Mr. Brockway. To treat them as single family housing
2 for purposes of deducting the interest and taxes, but not
3 to treat them as single family housing for purposes of the
4 caps on mortgage subsidy bonds.

5 Senator Durenberger. I will withdraw the amendment and
6 bring it back later on.

7 The Chairman. All right.

8 Senator Mitchell. Are you going to withdraw the
9 amendment?

10 Senator Durenberger. Well --

11 Senator Durenberger. We will play with it for a while.

12 (Laughter)

13 The Chairman. All right. Now let's vote on the
14 package.

15 Senator Matsunaga. I have an amendment, if I may offer.
16 As I understand, the staff proposes to extend depreciation
17 period for IDB financed public utility properties from
18 15 to 20 years. Am I correct on that?

19 Mr. Suswein. That's correct.

20 Senator Matsunaga. The package provides that. Well,
21 Mr. Chairman, public utilities, of course, would have to
22 pass on the additional costs to consumers. And they provide
23 a public service. And I would think that -- well, maybe a
24 compromise there to 18 years instead of 20. And I offer such
25 an amendment at this time.

1 The Chairman. Does Treasury have a view on this?

2 Secretary Chapoton. Yes, sir. We are talking about
3 property -- tax free bonds. We see this tremendous amount
4 of financing going on across the board. And it is the old
5 double-dipping requirements. You have tax exempt financing
6 and faster depreciation.

7 This says that you will lose the faster depreciation
8 if you have taxes in financing. You still get the credit.

9 Senator Matsunaga. Supposing we restrict it to the
10 local furnishing property?

11 The Chairman. Local --

12 Senator Matsunaga. That is, they don't go across two
13 counties.

14 The Chairman. Oh.

15 Senator Matsunaga. Yes. Two contingent counties.

16 Secretary Chapoton. You are saying that if they met
17 the local furnishing requirement they would have a lower than
18 20 years?

19 Senator Matsunaga. Eighteen.

20 Secretary Chapoton. Well, the local furnishing
21 distinction has been a very unsatisfactory distinction,
22 Senator, as Senator Moynihan and others know. I almost think
23 we ought to not start down that track again.

24 Senator Matsunaga. Well --

25 Secretary Chapoton. The question is --

1 Senator Matsunaga. The abuse would be done away with.

2 Secretary Chapoton. The sole question is whether the
3 benefit of both taxes and financing and the ACRS, full ACRS,
4 is too great. And our position has been that it is. That
5 there should be a stretch out of the life where there is
6 tax exempt financing.

7 The Chairman. You are opposed to the amendment?

8 Secretary Chapoton. Yes, sir.

9 The Chairman. Do we want to vote on it, Sparky?

10 Senator Matsunaga. Yes. A vote.

11 The Chairman. All right.

12 The Clerk will call the roll. This is on Sparky's
13 amendment.

14 Senator Matsunaga. This is on public utilities and
15 local. That is, no more than two counties.

16 Mr. DeArment. Mr. Packwood?

17 Senator Packwood. No.

18 Mr. DeArment. Mr. Roth?

19 Senator Roth. No.

20 Mr. DeArment. Mr. Danforth?

21 Senator Danforth. No.

22 Mr. DeArment. Mr. Chafee?

23 Senator Chafee. No.

24 Mr. DeArment. Mr. Heinz?

25 (No response)

1 Mr. DeArment. Mr. Wallop?
2 Senator Wallop. No.
3 Mr. DeArment. Mr. Durenberger?
4 Senator Durenberger. No.
5 Mr. DeArment. Mr. Armstrong?
6 (No response)
7 Mr. DeArment. Mr. Symms?
8 Senator Symms. No.
9 Mr. DeArment. Mr. Grassley?
10 Senator Grassley. No.
11 Mr. DeArment. Mr. Long?
12 Senator Long. Aye.
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.
23 Mr. DeArment. Mr. Bradley?
24 Senator Bradley. No.
25 Mr. DeArment. Mr. Mitchell?

1 Senator Mitchell. No.

2 Mr. DeArment. Mr. Pryor?

3 Senator Pryor. No.

4 Mr. DeArment. Mr. Chairman?

5 The Chairman. No.

6 On this vote the nays are 13 and --

7 Mr. DeArment. And the yeas are 5.

8 The Chairman. The yeas are five. Now can we vote on
9 the package?

10 Senator Durenberger. Mr. Chairman, I'm going to move
11 that we include the limited equity co-op provisions in this
12 bill. In addition to things we have already talked about,
13 this language is already in the House bill with one exception.
14 And that is that I would allow limited equity co-op members
15 a mortgage interest deduction on mortgage interest
16 attributable to their share of the co-op in the same way that
17 we allow single family home owners a mortgage interest
18 deduction, or in multi-family developers.

19 Mr. Brockway. Senator Durenberger, I think that's the
20 basic point. In the House bill they said either you have to
21 treat it as a rental property consistently for both claiming
22 the deduction on the tenant's return, and if you do that then
23 you get the more favorable bond treatment; or if you want to
24 treat it as a single family unit, then you have to treat it
25 the same way for mortgage revenue bond purposes.

1 And they said that while you can treat it as a rental
2 property in that case, you have to do it consistently. I
3 think that what you are suggesting is a mixing and matching.

4 Senator Mitchell. Is Senator Durenberger correct that
5 in TEFRA we allowed housing cooperatives to receive blanket
6 mortgaging financing under the mortgage revenue program?

7 Mr. Brockway. Under the single family rules. This
8 would allow them under the multi-family rules.

9 Senator Mitchell. That's right. And since that was
10 passed in 1982, is it not correct that not a single cooperative
11 has been so financed?

12 Mr. Brockway. I have no knowledge.

13 Senator Mitchell. You have no knowledge of that. Right.
14 And the reason for that is that it has not been possible to
15 write blanket mortgage provision for a housing cooperative
16 under the single family requirement.

17 Secretary Chapoton. That is the problem they have run
18 into.

19 Senator Mitchell. So the practical effect has been,
20 although Congress specifically expressed its intention to
21 make this type of financing available for housing
22 cooperative -- the practical effect has been that it has
23 not been because of the inability to accomplish the objective
24 through the means provided.

25 And Senator Durenberger, what he is now saying is that

1 if we have already said it should be available to housing
2 cooperatives, we ought to make it available in the real
3 world as opposed to putting it in the law which simply
4 cannot be utilized.

5 Secretary Chapoton. I think the argument was then that
6 they like single family homes and should be so treated. And
7 that argument was accepted. And now we are saying they are
8 like single family homes for some purposes, but multi-family
9 housing for purposes of tax exempt financing.

10 Senator Mitchell. Which does, in fact, describe them,
11 does it not? They do have some attributes to both.

12 Secretary Chapoton. Except that we have to keep in
13 mind -- this will say they have the best tax attributes of
14 both -- the pass through of the interest and the deductions,
15 and tax exempt financing as the same as rental housing.

16 The Chairman. Can we vote on it? Treasury is opposed
17 to it, right?

18 Secretary Chapoton. Yes, sir.

19 Mr. DeArment. Mr. Packwood?

20 Senator Packwood. No.

21 Mr. DeArment. Mr. Roth?

22 Senator Roth. No.

23 Mr. DeArment. Mr. Danforth?

24 Senator Danforth. No.

25 Mr. DeArment. Mr. Chafee.

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

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1 Mr. DeArment. Mr. Bradley?

2 Senator Bradley. No.

3 Mr. DeArment. Mr. Mitchell?

4 Senator Mitchell. Aye.

5 Mr. DeArment. Mr. Pryor?

6 Senator Pryor. Aye.

7 Mr. DeArment. Mr. Chairman?

8 The Chairman. No.

9 On this vote this yeahs are --

10 Mr. DeArment. Five.

11 The Chairman. And the nays are --

12 Mr. DeArment. Fourteen.

13 The Chairman. The amendment is not agreed to.

14 Now can we vote on the mortgage revenue bonds and the
15 IDB package?

16 All right. The clerk will call the roll quick.

17 (Laughter)

18 Mr. DeArment. Mr. Packwood?

19 Senator Packwood. Aye.

20 Mr. DeArment. Mr. Roth?

21 Senator Roth. Aye.

22 Mr. DeArment. Mr. Danforth?

23 Senator Danforth. Aye.

24 Mr. DeArment. Mr. Chafee?

25 Senator Chafee. Aye.

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

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1 Senator Bradley. Aye.

2 Mr. DeArment. Mr. Mitchell?

3 Senator Mitchell. Aye.

4 Mr. DeArment. Mr. Pryor?

5 Senator Pryor. Aye.

6 Mr. DeArment. Mr. Chairman?

7 The Chairman. Aye.

8 Senator Grassley? ~~asked for the yeas and nays~~

9 Senator Grassley. Aye.

10 The Chairman. Senator Symms? ~~asked for the yeas and nays~~

11 Senator Symms. Aye.

12 The Chairman. On this vote the yeas are 18 and the
13 nays are two.

14 Mr. DeArment. That's correct.

15 The Chairman. All right. Let's go over it one more
16 time.

17 Mr. Brockway. It would be 20 years on all real estate
18 other than low income housing and there would be denial of
19 deferral on ordinary income recapture under the installment
20 sale rules.

21 The Chairman. And that also takes out --

22 Mr. Brockway. And repeal the -- elimination of the --

23 The Chairman. If it passes.

24 Mr. Brockway. Only if it passes, it would be

25 elimination of the real estate aspects of alternative minimum

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1 tax.

2 The Chairman. The Clerk will call the roll.

3 Mr. DeArment. Mr. Packwood?

4 Senator Packwood. Aye.

5 Mr. DeArment. Mr. Roth?

6 Senator Roth. Aye.

7 Mr. DeArment. Mr. Danforth?

8 Senator Danforth. Aye.

9 Mr. DeArment. Mr. Chafee?

10 Senator Chafee. Aye.

11 Mr. DeArment. Mr. Heinz?

12 Senator Heinz. Aye.

13 Mr. DeArment. Mr. Wallop?

14 Senator Wallop. Aye.

15 Mr. DeArment. Mr. Durenberger?

16 Senator Durenberger. Aye.

17 Mr. DeArment. Mr. Armstrong?

18 Senator Armstrong. No.

19 Mr. DeArment. Mr. Symms?

20 Senator Symms. No.

21 Mr. DeArment. Mr. Grassley?

22 (Nonresponse)

23 Mr. DeArment. Mr. Long?

24 Senator Long. Aye.

25 Mr. DeArment. Mr. Bentsen?

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1 Senator Bentsen. Aye.

2 Mr. DeArment. Mr. Matsunaga?

3 Senator Matsunaga. No.

4 Mr. DeArment. Mr. Moynihan?

5 Senator Moynihan. Aye.

6 Mr. DeArment. Mr. Baucus?

7 Senator Baucus. No.

8 Mr. DeArment. Mr. Boren?

9 Senator Boren. No.

10 Mr. DeArment. Mr. Bradley?

11 Senator Bradley. Aye.

12 Mr. DeArment. Mr. Mitchell?

13 Senator Mitchell. No.

14 Mr. DeArment. Mr. Pryor?

15 Senator Pryor. No.

16 Mr. DeArment. Mr. Chairman?

17 The Chairman. Aye.

18 Senator Matsunaga. Matsunaga votes no.

19 The Chairman. On this vote --

20 Mr. DeArment. The yeas are 11, the nays are 7.

21 The Chairman. The amendment is agreed to.

22 Now if we could have -- that disposes of all the items

23 on that list except number five, six, and 10. And that

24 will be held over.

25 Now what I would like to do now is to get an agreement

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1 from the committee, if I can, that the actions we have taken
2 thus far on the revenue side are final, unless staff or
3 someone calls to our attention that there has been a gross
4 error.

5 Senator Chafee. I have an amendment.

6 The Chairman. I mean so far.

7 Senator Symms. Mr. Chairman, there was one item that
8 passed here earlier today that was that related party
9 transfer. I must have been out of the room. That was
10 with respect to coal and timber. I don't quite know what
11 we did on that. I wish somebody would explain it.

12 Mr. Brockway. The committee adopted a provision that
13 would have denied capital gain treatment to a leaser or
14 coal to a related party so that the one party is taking
15 capital gain treatment while the other is taking ordinary
16 income deductions.

17 Senator Symms. Do we have a roll call on that?

18 The Chairman. No.

19 Senator Symms. Is it possible at this hour to have a
20 roll call on it? I wanted to be reported as no on that.

21 The Chairman. That would be preferable.

22 (Laughter)

23 Senator Symms. All right. Put me down as no. And
24 maybe we might revisit that. I won't try to drag it out
25 tonight. But I think that's a big mistake.

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1 The Chairman. I understand there are still some items
2 on the agenda that have not been addressed. But I am just
3 saying that for the actions we have taken, you know, we
4 would like to have final action. We don't want everybody
5 changing votes between now and Tuesday.

6 Senator Bradley. Mr. Chairman?

7 The Chairman. That is on the revenue side. And now
8 we are going to move to the spending side.

9 Senator Bradley. Well, on the revenue side, relates
10 to the spending side when it comes to the Medicare.

11 The Chairman. Right.

12 Senator Bradley. So you are preserving the right to --

13 The Chairman. Offer revenue offset.

14 Senator Bradley. -- offer a revenue offset on the
15 Medicare, which is the major interest that I had beyond the
16 business expense for the yachts and the cars.

17 The Chairman. There are amendments to be offered, as I
18 understand, on the revenue side. Hopefully, gainers.

19 Senator Heinz. The Chairman would not preclude new
20 revenue gainers, I assume?

21 The Chairman. No, but we hope to preclude nearly
22 everything else except -- can you read off the items on the
23 agenda we haven't gotten to?

24 Mr. DeArment. Mr. Chairman, the ones that I have that
25 we have not resolved on the agenda, quickly looking down,

1 was the increase in the alcohol fuels credit to \$.09.

2 The Chairman. That is going to be considered in the
3 truck tax.

4 Mr. DeArment. That's correct.

5 The employee awards.

6 The Chairman. Can we reach an agreement on employee
7 awards? Does Treasury have a proposal on that?

8 Secretary Chapoton. Mr. Chairman, we have a proposal
9 which would exempt awards.

10 The Chairman. How much does it cost?

11 Secretary Chapoton. And our revenue estimate is that
12 it would cost \$300 million over this three year period.

13 The Chairman. You have reduced that from \$900 million
14 to \$300 million? The original estimate was \$900 million.

15 Secretary Chapoton. The proposal was changed. We met
16 with Senator Garn on it several times and it was adjusted.

17 The Chairman. Does the administration support this
18 proposal?

19 Secretary Chapoton. We support the proposal, yes, sir.
20 And I want to point out that I talked to Senator Garn this
21 afternoon. I think he feels very strongly after talking to
22 the members of the industry that the estimate is simply
23 unreasonably high. We have been back to our staff and to the
24 Joint Committee staff, and as I told him, we do think the
25 estimate is correct. But he thinks very strongly that it is

1 not.

2 Senator Danforth. Mr. Chairman, what are the awards?

3 The Chairman. Employee awards.

4 Mr. Pearlman. Senator, it would include what are
5 referred to as traditional awards. It would be pens,
6 watches, silver bowls and whatever given for retirement,
7 productivity, longevity, or safety incentives. They would
8 be at a dollar amount on the average of \$400.00 per employee.
9 They could go up as much as \$1,600.00 per employee provided
10 that the average is --

11 The Chairman. You only get four awards in a lifetime.
12 Is that right?

13 Mr. Pearlman. There are limits on the number of awards
14 that a particular employee can get.

15 The Chairman. If you have narrowed down the cost,
16 without objection, we will agree to that.

17 Mr. Brockway. Mr. Chairman, the way it was described
18 would not narrow down the cost. You would have to put a
19 \$100.00 limit on it to --

20 The Chairman. Wait a minute. I thought yours was
21 \$300 million.

22 Mr. Pearlman. The \$300 million proposal is not a
23 \$100.00 limit.

24 The Chairman. What is the \$300 million proposal?

25 Mr. Pearlman. It's an average award of \$400.00. The

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1 award cannot exceed \$400.00 on the average.

2 The Chairman. Now what does Joint Committee figure
3 that costs?

4 Mr. Brockway. Rich tells me this is the same proposal
5 as earlier today.

6 The Chairman. All right. We will postpone it.
7 Now what else is on the agenda?

8 Mr. DeArment. We had two outstanding insurance amend-
9 ments.

10 The Chairman. We have worked those out, I think.
11 Senator Pryor has agreed to withdraw.

12 Senator Pryor. I have. Yes, Mr. Chairman. I have
13 agreed to withdraw the amendment.

14 The Chairman. And the other amendment, I think, was --

15 Senator Chafee. And that leaves us, as I understand it,
16 with what we went in with the bill, which was what the
17 three states --

18 Mr. Belas. The three states -- Oklahoma, Alabama and
19 Texas.

20 Senator Chafee. So they are in. And the House has
21 done what?

22 Mr. Belas. They have made it generic to apply to all
23 states, but have limited it to two years.

24 The Chairman. So it will come out all states for one
25 year.

1 Senator Pryor. Mr. Chairman, are we still going to
2 go down the list of items?

3 The Chairman. I wanted to just sort of go through the
4 list we had. And the other insurance amendment was an amend-
5 ment of whom? Is that Senator Grassley's amendment?

6 Mr. Belas. There was one additional amendment that was
7 somewhat similar to the amendment that was just discussed
8 that has a revenue cost of \$10 million for one company.
9 Senator Grassley and Senator Durenberger brought that to our
10 attention.

11 The Chairman. Is that in the House bill?

12 Mr. Belas. No, it is not.

13 The Chairman. So we don't want to disadvantage Senator
14 Pryor, but his is in the House bill. So if there is no
15 objection, we can accept that amendment.

16 Secretary Chapoton. This is the phase three?

17 Mr. Belas. Yes.

18 Secretary Chapoton. We do oppose it. Yes, sir.

19 The Chairman. All right.

20 Secretary Chapoton. It simply is unrelated to the
21 amendment we are talking about. It is a reduction in tax
22 under the old law.

23 The Chairman. All right. Then what is next on the
24 agenda?

25 Mr. DeArment. The highway use tax and diesel tax, which

1 we are going to pass over.

2 The Chairman. That may take some time.

3 Mr. DeArment. Then on the revenue raiser list, we had
4 items 5, 6 and 10 still open.

5 The Chairman. And I think just to put to rest Senator
6 Bradley's concern about Part B Medicare, let's just agree
7 that we will freeze it at 25 percent. Senator Mitthell and
8 I discussed this earlier. Actually we are going to propose
9 25 percent. I assume we would like to keep 25 percent in
10 conference. There is no reason to reopen that issue. And
11 we will agree to the Smith proposal.

12 Senator Bradley. Mr. Chairman, may I say that I think
13 that that's very important judgment. That we had no need in
14 this package to increase the out of pocket cost for senior
15 citizens. And now the package will not.

16 The Chairman. And I would hope that we might agree
17 then that as far as we are concerned that there is still one
18 unresolved item in the spending package. And that's
19 rounding down.

20 Does anybody object to rounding down? We do it
21 for beneficiaries. We are talking about rounding down
22 providers to pick up \$200 million. Is that right, Sheila?

23 Ms. Burke. Yes, Mr. Chairman.

24 The Chairman. I had hoped we might agree to that.
25 Without objection, we will agree to that.

1 Senator Durenberger. Mr. Chairman, there is one other
2 item on the spending package which I would like to get some
3 language in on. That's the Medicare portion giving HHS
4 about 30 days to issue waivers on social HMOs. I think
5 that's of interest to most of the people.

6 The Chairman. All right. We will do that. And we
7 have done Smith. We have reduced the Medicare.

8 Does everybody agree that the actions taken now on the
9 spending package are final?

10 (No response)

11 The Chairman. It may be that we are going to have to
12 come up with some offsetting revenue or something, but they
13 are final.

14 That leaves truck taxes.

15 Senator Packwood. Mr. Chairman, when you are done
16 tonight, I have an amendment that Treasury and Joint
17 Committee have agreed to. I will wait until you have
18 finished.

19 The Chairman. Doesn't cost anything?

20 Senator Packwood. No, doesn't cost anything.

21 The Chairman. Good. What is it?

22 Senator Packwood. It relates to international papers
23 specifically and to foreign tax provisions adopted by this
24 committee are effective March 1st. They entered into a
25 binding contract in February to be consummated in March. And

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1 this amendment should not apply to them. And both Treasury
2 and I think Joint Committee have agreed to it.

3 The Chairman. Is that true?

4 Mr. Gordon. Yes.

5 The Chairman. All right.

6 Senator Packwood. And I have a second one that is of
7 a similar nature. Treasury is opposed, but for philosophical
8 not financial reasons. No money is involved.

9 Gilmore Steel is a steel company in Portland. The
10 Multi-Employer Pension Plan Act was adopted in 1980, and
11 it imposed charges on companies withdrawing from multi-
12 employer pension plans.

13 That Act was retroactive in 1980. In 1984 we adopted
14 the Danforth amendment, which made the effective date
15 September 26, 1980 and eliminated retroactivity. Treasury
16 was opposed to that amendment at that time.

17 The Gilmore Steel Company had already signed a binding
18 contract in August of 1980, prior to the effective date of
19 the Act, and they consummated it in October. But they did
20 not consummate it in time for the retroactive date. And I
21 would like to simply offer this amendment that indicates
22 that if the company has withdrawn prior to September 26,
23 1980 and they have sold their assets and the sale is
24 completed by December 31st, they will be covered.

25 And, Buck, make sure I didn't misstate your position.

1 Your objection is because you never liked the Danforth
2 amendment to begin with.

3 Secretary Chapoton. Actually, I was voicing the
4 position of the PBDC on this. I think originally they did
5 oppose the Danforth amendment. But I think we ended up not
6 opposing the Danforth amendment.

7 Senator Packwood. But Joint Committee has already
8 accepted this. If you have no objection. There is no
9 money involved.

10 Secretary Chapoton. My information, Senator, is that
11 this employer entered into the withdrawl agreement after the
12 MPPA was introduced. Is that right?

13 Senator Packwood. No. They had a binding agreement to
14 sell their assets on August 13, 1980. The closing date was
15 October 31st, 1980. But the contract was August 13.

16 Mr. DeArment. I might point out, Mr. Packwood, that we
17 have readopted the Danforth amendment as part of this
18 package in terms of multi-employer.

19 Senator Packwood. I know it. I have just got an
20 employer that is just very slightly stuck with that date.
21 Jack's date is still September 26, 1980, isn't it? And I
22 have got a consummated contract on October 31st. But it
23 was already signed in August. There is no money involved.
24 This is just a philosophical question of whether they are
25 going to be caught in this cross-fire.

1 Mr. DeArment. Yes, sir. And we can do a transitional
2 rule with respect to the bonding contract as of August 13th.

3 Senator Packwood. And that will take care of it.

4 Mr. DeArment. Yes, sir.

5 Senator Packwood. Thank you.

6 The Chairman. Now I would like to sort of settle the
7 agenda for Tuesday. Can we agree on a \$300 million employee
8 award amendment?

9 Mr. Brockway. Tonight?

10 The Chairman. Yes. I want to agree right now.

11 Mr. Pearlman. Senator, we can explain to the staffs.

12 The amendment is Senator Garn's amendment. It has been
13 presented and it is there for people to review. And our
14 estimate is that it is just slightly less than --

15 The Chairman. If it turns out to be in excess, we
16 raise it. Without objection, we will agree to that.

17 Senator Matsunaga. Mr. Chairman.

18 The Chairman. Senator Sparky -- Matsunaga.

19 (Laughter)

20 Senator Matsunaga. Mr. Chairman, last year relative
21 to the enterprise zone I offered an amendment which was
22 accepted on the floor with technical amendments.

23 The Chairman. Is it a good amendment?

24 Senator Matsunaga. Yes, it's a good amendment.

25 The Chairman. All right, we will take it.

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1 Senator Matsunaga. It doesn't cost anything.

2 The Chairman. This is relevant to the enhancement
3 prospects for designation of enterprise zone by the
4 Secretary of HUD if it is contracted out of local, public
5 service. And I want that language stricken out as we did
6 on the floor last year.

7 Mr. Brockway. Staff has reviewed that.

8 The Chairman. We are aware of that, and that is a good
9 amendment.

10 Senator Matsunaga. So you are going to strike it out?
11 The amendment is accepted?

12 The Chairman. Right.

13 Senator Bradley. Mr. Chairman, if I could, following
14 on the enterprise zone. There is one other criteria. And
15 that is that to qualify for an enterprise zone you have to
16 demonstrate a strong degree of local tax effort. This
17 happens to be depressed areas that we are dealing with.
18 And the problem is that they have no tax base.

19 The Chairman. We can do that in report language.

20 Senator Bradley. Saying that it's not a criteria so
21 it wouldn't be in the --

22 The Chairman. Well, at least try and explain that that's
23 a problem. I know you can do it by statute.

24 Senator Bradley. Well, as it is now, it is a criteria.

25 Mr. Brockway. It's in the statutory language that you

1 have adopted, and so you would have to strike it from the --

2 Senator Bradley. I think we did it.

3 The Chairman. Is there an administration position?

4 Secretary Chapoton. Well, of course, we want a local
5 contribution to the zone. That's part of the whole scheme.

6 The Chairman. Why don't we try to work that out and do
7 it on the floor. I think there is a problem there.

8 Senator Chafee. What is he proposing? There has to be
9 a local tax contribution?

10 Senator Bradley. No, no. Right now part of the criteria
11 for designating the enterprise zone is the amount of local
12 tax effort.

13 Senator Chafee. Well, that's a factor. It's just a
14 factor.

15 Secretary Chapoton. I think that's right. It's a
16 factor.

17 Senator Chafee. All we do is list a series of factors
18 that the Secretary can take into consideration. That's not
19 a dominant factor; it's a factor.

20 Secretary Chapoton. I think that's right. And I
21 think committee report language to the effect that in an
22 area that had a low tax base, that shouldn't be as important
23 a factor. We ought to take care of that.

24 The Chairman. Let's just agree on some language, and
25 we will agree to it.

1 Senator Durenberger. Mr. Chairman, can I give you
2 one philosophical problem that will raise \$39 million before
3 we quit here?

4 The Chairman. That would help. I agreed to recognize
5 Senator Pryor.

6 Senator Durenberger. Oh, I'm sorry.

7 Senator Pryor. I will be glad to hear your philosophical
8 problem. Let me just say, if I could, Mr. Chairman, that on
9 this morning's agenda, item 2, there was a definition of
10 earning and profits discussion. There was no vote. We
11 accepted that definition. I would like for the record to
12 reflect my objection and my opposition to the definition.

13 The Chairman. All right.

14 Senator Pryor. Thank you, Mr. Chairman.

15 The Chairman. Let me go on this side a while here.

16 Senator Durenberger?

17 Senator Durenberger. This amendment would establish
18 the same rules affecting terminal rental adjustment clauses
19 or tracks, as they are called, as we had incorporated into
20 Section 210 of TEFRA.

21 In effect, what it says is that the presence of a
22 terminal rental adjustment clause in the lease contract
23 will not be taken into account by the IRS in determining
24 whether a motor vehicle is a lease for tax purposes.

25 You can take into account business purpose and third

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1 party financing and whether or not the residual value is
2 substantial or whether the leaser has significant ownership
3 responsibilities, whether the lease serves significant
4 financial accounting. You can take into consideration all
5 these other factors. But just the fact that it has a
6 traction, not be considered.

7 It had been law for 30 years. And we put it in in
8 Section 210. And I would like to get it put back to overcome
9 an interpretative regulation that got put out about three
10 months after.

11 Secretary Chapoton. The amendment, the Section 210,
12 said until interpretative regulations are issued to the
13 contrary. And it was mainly to prevent it from being the
14 retroactive effect. We made it clear at that time the
15 regulations would be issued to the contrary.

16 Senator Durenberger. But you said after there was
17 going to be some study and analysis.

18 Secretary Chapoton. Yes.

19 Senator Durenberger. And none of that was ever
20 presented. The regulations came out without the analysis.

21 Secretary Chapoton. Yes, there was a court case
22 supporting the position. Not the regulations, but supporting
23 the position.

24 (CONTINUED ON NEXT PAGE)

25

1 Mr. Chapoton (continuing). And this has been the
2 position of the IRS preceding that date. The IRS did win
3 a case on that.

4 The Chairman. Did you work that out?

5 Senator Durenberger. Why don't you accept it?

6 Mr. Chapoton. Well, we have consistently opposed this
7 amendment, Mr. Chairman. It came up on the House side, and
8 it came up, I believe in the --

9 The Chairman. Well, I haven't been listening, so I
10 don't know.

11 Mr. Chapoton. This is the track clause problem, a
12 question whether the terminal rental adjustment clause,
13 which is the economic crux of these agreements, whether that
14 can be considered in determining whether it is a lease or
15 not. We have taken it into account, and when you take it
16 into account, it pretty clearly is not a lease in an
17 installment sale, and we have so interpreted these arrangements
18 in the red.

19 Senator Durenberger. The problem is, they are using
20 that to disqualify the sale when there are a whole lot of
21 other factors, and we are trying to take the position that
22 that, in an of itself, does not disqualify the lease.

23 Mr. Chapoton. I think that is a factor.

24 The Chairman. I don't want to delay it, but if the
25 Treasury has strong opposition to it --

1 Mr. Chapoton. Yes, we have opposed it, Mr. Chairman.

2 The Chairman. Do you want to vote?

3 Senator Durenberger. I would like to move we accept it
4 by a voice vote.

5 The Chairman. All right, a voice vote.

6 All in favor of the amendment say Aye.

7 (Chorus of Ayes)

8 The Chairman. Opposed, No.

9 (Chorus of Noes)

10 (Laughter)

11 The Chairman. We had better have a show of hands.

12 All in favor, say Aye.

13 (Laughter)

14 (Showing of hands)

15 The Chairman. All opposed, raise their left hand or
16 right hand, either hand.

17 (Showing of hands)

18 The Chairman. What is the count?

19 Mr. DeArment. Eight to 3. It carried.

20 Senator Long. Now, wait a minute. I had my hand up.

21 The Chairman. All in favor of the Durenberger amendment
22 just raise your hands.

23 (Showing of hands)

24 The Chairman. It carried. All right.

25 Senator Symms. Mr. Chairman?

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1 The Chairman. Senator Symms?

2 Senator Symms. Mr. Chairman, I will be very brief, but
3 in the House bill it is designated Section 142. It is a
4 proposal that was put up here, and the Joint Tax Committee
5 I think came up with it in good faith, trying to close this
6 RIX loophole that was these Drefuss Fund things, that the
7 committee wanted to get at.

8 I have been told in the last couple of days that this
9 provision is much broader than we think, and this affects
10 all of the corporations that have bank accounts overseas.

11 So, what I would like to do is either suggest that if
12 it is in the House bill, that we either delete it here and
13 then there would be a little time for Treasury and the
14 Chairman to look at it with respect to a conference; or else
15 at least keep it open, and we may want to drop it before
16 Tuesday.

17 Senator Moynihan. Mr. Chairman, could I speak to that?
18 There are a number of firms that do business internationally
19 that have been in touch to say they really do feel that
20 perfectly legitimate operations would be caught up in an
21 effort to stop something that is not legitimate.

22 Senator Symms. I was told, Senator, by one company --
23 they told me they had four tax experts examine this, and
24 they got four of their own, and they got four different
25 answers.

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1 The Chairman. Does Treasury have an answer?

2 Mr. Brockway. This is a situation where people are
3 converting interest into dividend income so that they can
4 avoid the separate limitation on passive interest income.

5 Senator Symms. But see, what happens is, you have got
6 a corporation that say is in the pharmaceutical business,
7 or whatever, and they have a bank account in some foreign
8 country, and then they draw some interest from that bank
9 account. But in the process, it gets affected by this
10 proposition, with their whole dividend thing. And what
11 the tax experts tell me is, that is much more complicated,
12 and we don't just get the Dreyfus question.

13 Senator Moynihan. Can we get an agreement to work out
14 language with you that deals with the improper problem that
15 you are trying to settle but doesn't entangle people who
16 aren't doing anything that --

17 Mr. Brockway. Well, Senator Moynihan, the improper
18 problem that the bill intends to deal with is where a
19 taxpayer attempts to avoid the separate limitation on
20 interest and convert it into dividends, which is not subject
21 to it. We are aware, for example of one corporation where
22 that \$40 million of interest --

23 The Chairman. Let's try to work on it and maybe make
24 an exception to keep that open until Tuesday. We don't want
25 to pile up a whole pile of them here.

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1 Now I want to recognize Senator Chafee for an amendment.

2 Senator Chafee. Yes.

3 Mr. Chairman, obviously the most serious problem we
4 all believe the country is facing are these deficits. That
5 is why we have been here for two weeks trying to do something
6 about them.

7 Mr. Chairman, I think this committee has done a good
8 job; although I will admit, and I think we all will agree,
9 that these are rather esoteric and to some degree ephemeral
10 proposals. We are not sure how firm they are, how much
11 revenue they are going to yield.

12 So Mr. Chairman, I propose that we take a bold step
13 forward and get a substantial additional amount of revenue.
14 My proposal is not in substitute of anything we have done;
15 it is a major step forward in producing some revenue and
16 really bringing or deferring the loss of revenue.

17 What it does, it deals with the postponing of the
18 indexing, which is scheduled to start next year. And
19 Mr. Chairman, if we postpone it for three years, this will
20 yield \$51 billion.

21 Now, we have been scratching around here all afternoon
22 for \$10 billion, and in doing this, it is a proposal that
23 will, as I say, in three years yield \$51 billion. It is a
24 proposal that was never part of the President's program, as
25 we all recall. It is a measure that the people are not

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1 currently used to. In other words, it is not something they
2 have that we are taking away from them. It is a proposal
3 for the future.

4 So, Mr. Chairman, I propose that we postpone the
5 indexing until 1988.

6 Senator Packwood. Mr. Chairman?

7 The Chairman. Yes?

8 Senator Packwood. If we are going to go the route of
9 a tax increase of that size -- and I am opposed to it, I
10 would rather make us vote on a tax increase that we know
11 we are voting on rather than that -- I would like to
12 substitute the 5-percent across-the-board energy consumption
13 tax we once had in this committee, which over the same
14 three years will raise -- let's see -- \$44 million. It is
15 almost a trade-off for indexing. I am not suggesting I want
16 to do either one, but as between the two I would rather
17 go the energy consumption tax.

18 The Chairman. Could I suggest, you know I think we all
19 understand indexing. We may never benefit from it if he
20 wins, but we all understood it. But I would just say we
21 are about to conclude a very fruitful two or three weeks in
22 here, and this would kill the package. I mean, I went to the
23 White House yesterday. The President announced today that
24 he would go along with a \$40 billion reduction in defense
25 outlays over the next three years. And that was a big pill

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1 to swallow.

2 It would just seem to me, and I know Senator Chafee feels
3 strongly about it, indexing was not even considered in the
4 House Ways and Means markup. They didn't consider indexing,
5 they didn't try to cap the third year; they went in and they
6 raised \$50 billion in 15 hours.

7 I don't quarrel with actually offering the amendment,
8 but if all the other things we have done, including a lot of
9 things that people want us to do, are of any value, then I
10 hope we will reject this amendment.

11 Senator Heinz. Mr. Chairman, may I just say, I am going
12 to vote with Senator Chafee. I opposed indexing when we first
13 considered it in committee, I opposed it on the floor, and
14 I will oppose it again. I am going to oppose it every chance
15 I get, because I think building all of these indices into
16 our tax system into all of the other programs we have are
17 part of our problem.

18 Senator Bradley. Mr. Chairman, a vote against
19 Senator Chafee's amendment is a vote for indexing?

20 The Chairman. Right.

21 Senator Symms. Mr. Chairman, I know it is late, but
22 I just wouldn't want this vote to occur without making at
23 least this point: A vote to defer indexing will impose a
24 burden on that segment of the taxpaying public which is the
25 least able to bear that burden. It will fall massively,

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1 overwhelmingly, on low and middle income taxpayers and only
2 insignificantly on upper income taxpayers.

3 Now, there are a lot of people who believe most of the
4 experts that indexing is a very important reform, and for
5 us to delay it or postpone it or kill it would be a great
6 mistake. But also, aside from the principle involved, the
7 reality of its effect is to really give it in the neck to
8 the low and middle income taxpayers.

9 The Chairman. Also, it is supported by Senator Hart --
10 indexing.

11 (Laughter)

12 Mr. Chapoton. If I could just echo that, it is the
13 same thing as a tax increase for middle and lower income
14 taxpayers. Seventy-eight percent of the tax increase falls
15 on the lower income taxpayer, and just to show you, I have
16 a breakdown. Just looking at a particular income class,
17 look at the 30-percent income class.

18 The Chairman. Just put it in the record, Buck, and we
19 will read it later, okay?

20 (Laughter)

21 Mr. Chapoton. Thank you, Mr. Chairman.

22 Senator Mitchell. Mr. Chairman, could I just ask a
23 question of Mr. Chapoton and Senator Armstrong, if their
24 concern is for the low income taxpayers would they support
25 capping the tax increase of last year for those only making

1 above \$50,000, which is only 5 percent of the taxpayers in
2 the country?

3 The Chairman. I think we are going to get that
4 amendment.

5 Senator Mitchell. Well, no, we weren't; but we may,
6 with some of this rhetoric here.

7 Senator Bradley. Mr. Chairman, what have we done about
8 that earned income credit?

9 Senator Symms. I didn't get an answer to the question.
10 Mr. Chapoton, would you support that, since you have expressed
11 concern here for the low income taxpayers?

12 Mr. Chapoton. No. Senator Mitchell, I think I would
13 not support that amendment. I think I made my point. No.

14 (Laughter)

15 Senator Mitchell. And that would only affect the top
16 5 percent of taxpayers.

17 Senator Symms. Well, let's talk about all the small
18 businessmen who file a --

19 The Chairman. Let's vote and talk about them later.

20 (Laughter)

21 Mr. DeArment. Mr. Packwood?

22 Senator Packwood. No.

23 Mr. DeArment. Mr. Roth?

24 Senator Roth. No.

25 Mr. DeArment. Mr. Danforth?

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

1 Mr. DeArment. Mr. Boren?

2 Senator Boren. No.

3 Mr. DeArment. Mr. Bradley?

4 Senator Bradley. No.

5 Mr. DeArment. Mr. Mitchell?

6 Senator Mitchell. Aye.

7 Mr. DeArment. Mr. Pryor?

8 Senator Pryor. No.

9 Mr. DeArment. Mr. Chairman?

10 The Chairman. No.

11 On this vote the Ayes are -- ?

12 Mr. DeArment. Seven. And the Nays are 13.

13 The Chairman. The amendment is not agreed to.

14 Mr. DeArment. That is correct.

15 The Chairman. Are there any other big amendments?

16 (Laughter)

17 Senator Moynihan. Mr. Chairman?

18 The Chairman. Yes?

19 Senator Moynihan. As I mentioned to you, I have a
20 simple amendment which I don't mean to expound on but simply
21 to state: The present tax on cigarettes, which are the
22 single largest health hazard in this country at this time,
23 I think it is generally agreed, 16 cents a pack, that is
24 scheduled in September 1985, to drop by half to 8 cents.

25 I propose that we just keep the tax where it is. It

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1 does not increase the tax; it simply does not reduce it.

2 I would think if this were a board of medical doctors,
3 we would have no question about the outcome of the vote; but
4 I will see that the outcome is accomplished.

5 The Chairman. All right.

6 Could I just say, with reference to this tax, this tax
7 does not expire until 1985. And I think I had more
8 criticism from "liberals" last year for the cigarette tax
9 excise tax than anybody I have heard. Plus, I had some
10 criticism from conservatives who live in tobacco areas.

11 (Laughter)

12 The Chairman. So everybody criticized me; it was like
13 withholding all over again.

14 So, what is our total revenue right now, Rod?

15 Mr. DeArment. Mr. Chairman, roughly, we think that
16 we have raised, net of the various amendments we have added,
17 about \$7 billion, to a total of about 48.

18 Senator Moynihan. This would add 3.8.

19 The Chairman. We don't want to raise too much.

20 (Laughter)

21 The Chairman. I am just checking -- what is in the
22 President's package? Is it 48?

23 Mr. DeArment. That is correct, Mr. Chairman.

24 The Chairman. I don't want to upset the President,
25 either.

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1 Senator Moynihan. Let's go ahead and vote.

2 The Chairman. Well, I am just trying to figure out
3 here --

4 Well, I would hope we would not adopt the amendment.
5 In the release this afternoon the President suggested that
6 if we could raise \$48 billion in revenues, cut non-defense
7 spending \$43 billion and defense spending \$40 billion, you
8 would get debt service of about \$13-14 billion, which would
9 give you a package of \$149.5 billion.

10 Now, this committee is going to end up doing nearly
11 half of that, and hopefully we can do that today. But I
12 would hope that we would not adopt this amendment.

13 I must say that it was my intention when this happened
14 that we would never have the 8 cent tax. I remember going
15 to conference and learning something in that conference,
16 when the House just said, "Well, that's too bad." They
17 wouldn't even consider it in conference. So I would hope
18 we might not adopt this amendment.

19 Mr. DeArment. Mr. Packwood?

20 Senator Packwood. Pass.

21 Mr. DeArment. Mr. Roth?

22 Senator Roth. Pass.

23 Mr. DeArment. Mr. Danforth?

24 Senator Danforth. No.

25 Mr. DeArment. Mr. Chafee?

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

1 Mr. DeArment. Mr. Bradley?

2 Senator Bradley. Aye.

3 Mr. DeArment. Mr. Mitchell?

4 Senator Mitchell. Aye.

5 Mr. DeArment. Mr. Pryor?

6 Senator Pryor. No.

7 Mr. DeArment. Mr. Chairman?

8 The Chairman. No.

9 On this vote?

10 Mr. DeArment. The Ayes are 5, the Nays are 11.

11 The Chairman. The Nays are 11, and the Ayes are 5. The
12 amendment is not agreed to.

13 Senator Danforth. Mr. Chairman, I have an amendment.

14 The Chairman. All right.

15 Senator Danforth. Senator Wallop and Senator Boren and
16 I have been raising the issue of CPI-minus-3 for the past
17 year or so, and this is a proposal which over a three-year
18 period of time I think would pick up \$67 billion.

19 It has been argued and debated back and forth, but I
20 would like to propose it again as an addition. This is really
21 a major move on the budget deficit, and it is absolutely
22 even between spending and taxes. It is a balanced approach
23 which the President heretofore has asked for, and I propose
24 it.

25 Senator Moynihan. Would that apply to Social Security,

1 Senator?

2 Senator Danforth. Yes. It is 65.4 billion..

3 Senator Packwood. Let me ask you, on the Social
4 Security, you reduce the benefits by the three, but you
5 are going to keep the money in the Social Security Fund. Is
6 that correct?

7 Senator Danforth. Right.

8 Senator Packwood. You reduce the indexing by CPI-less-3
9 but you are not reducing the Social Security taxes?

10 Senator Danforth. No.

11 Senator Packwood. So that you are going to have some
12 build-up of money that you otherwise would have paid out,
13 and that will stay in the fund?

14 Senator Danforth. It will stay in the fund, but
15 obviously it relieves the pressure on borrowing, because that
16 money is available for borrowing.

17 Senator Chafee. It applies to indexing for the taxes,
18 too?

19 The Chairman. It applies to indexing on taxes, too.

20 Senator Danforth. Yes.

21 Senator Wallop. Mr. Chairman, may I ask if this is
22 viewed as a substitute to what we have done, or is it in
23 addition to what we have done.

24 Senator Danforth. No. It is in addition.

25 Senator Wallop. I am a cosponsor of it, and I believe

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1 very strongly in it, but I think there is a limit to the
2 amount of tax that we do, and I am not so sure I would be
3 very much in favor of it.

4 The Chairman. My own view is that this is probably
5 going to happen next year. I think the Boren-Wallop-Danforth
6 proposal is an idea whose time may come right after the
7 election, or next year.

8 But I do believe that, again, and I don't say it
9 critically, it is a killer amendment. We have a package
10 put together that has taken a long time, and I would be
11 willing to support the amendment, but I know what would
12 happen.

13 I know Senator Danforth would like a vote on it, right?

14 Senator Baucus. Mr. Chairman, might I ask what the
15 incidence is on the income side in different income brackets?
16 If it reduces the income 3 percent, what is the relative
17 effect on various income levels?

18 Senator Danforth. The breakdown? Less than \$10,000
19 income, 6 percent; 10 to 20, 16.6; 20 to 30, 20.6; 30 to 40,
20 19.2; 40 to 50, 13.1; 50 to 75, 13.1; 75 to 100, 4.4;
21 100 to 200, 5.4; more than 200, 2.1.

22 Senator Baucus. You raise the same amount of revenue
23 on one side by which you reduce spending on the other?

24 Senator Danforth. Yes. It is just about exactly 50-50.

25 The Chairman. Senator Boren?

1 Senator Boren. Mr. Chairman, I am also, like Senator
2 Wallop, a cosponsor of this proposal, and I am very strongly
3 for it. We have made some modifications in it, however,
4 since our first time for proposing it, and I am just not
5 sure that this late hour tonight is the time to bring it
6 up without the committee members being able to give adequate
7 study to some of the changes we have made in it.

8 So I don't know if it is the appropriate time to press
9 it to a vote in the committee.

10 I hope, and I feel very strongly, that when we do
11 decide to do something dramatic about the deficit that this
12 is the kind of balanced approach that we are going to come
13 to -- whether it is later on this year or immediately after
14 the election. I wish it could be done this year. But I
15 am just not certain that at this particular time in the
16 committee it would be appropriate to try to bring it up
17 without having a chance to go into the non-means tested
18 programs and some of the other changes we have made in the
19 program.

20 Senator Danforth. Mr. Chairman, if Senator Boren and
21 Senator Wallop doubt that this is the appropriate time to
22 bring it up, I doubt it.

23 (Laughter)

24 The Chairman. Well, I appreciate that very much.

25 Now, we need to report to the Budget Committee on what

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1 we intend to do in this committee this year, and we have
2 already done it. So what if we have a letter which would
3 suggest to the committee that we have achieved a total
4 outyear reduction of \$25.8 billion, including \$9.6 billion in
5 debt-service savings, and a revenue increase of \$48 billion,
6 and that the total debt reduction of the package is
7 \$73.8 billion. Is that correct? Did I read that right?

8 Mr. DeArment. That is correct.

9 The Chairman. Is there any objection to letting the
10 committee know what we are doing? This complies with
11 Section 310(c) of the Congressional Budget Act -- the letter
12 that Senator Long and I will send.

13 Senator Bradley. But we will at a later time vote on
14 whether we are going to report it out?

15 The Chairman. Well, let me say this: I would hope
16 that --

17 What is still pending on the list? What are still open
18 issues?

19 Senator Moynihan. Mr. Chairman, can I just say that
20 for three days I have been trying to get an item on the
21 agenda that Senator Danforth and I are interested in. It is
22 a very small revenue loser, but it is important to the
23 aircraft industry. Could we raise it on Tuesday?

24 The Chairman. Oh, that's that one where you fly from
25 Paris to Frankfurt?

1 Senator Moynihan. From Berlin to Frankfort.

2 The Chairman. And they want safe-harbor leasing, or
3 something?

4 Senator Moynihan. They want an investment tax credit
5 for purchasing American planes.

6 The Chairman. Well, I couldn't support it; but if you
7 want to bring it up, we'll see how it goes.

8 Senator Moynihan. I don't want to bring it up now.
9 I want to bring it up Tuesday when everyone can look at it.

10 The Chairman. I don't really want any agenda on
11 Tuesday except for truck taxes, and --

12 Let's go over the open items there.

13 Mr. DeArment. As I score the open items, there was the
14 alcohol fuels tax credit, which goes along with the truck
15 tax issue. And the highway tax. That is the only thing I
16 have.

17 The Chairman. Well, as I have indicated, Senator Long
18 wants to reserve the right to offer an amendment to the IDB
19 section. He has not yet prepared that, is that right, David?

20 Mr. Hardee. That is correct.

21 The Chairman. And we have taken care of the spending
22 side. We have taken care of the offset -- we don't have
23 any. If we come up with some spending offset, then we can --

24 Senator Danforth. Is loss recapture still on the
25 undecided list?

1 The Chairman. That is still open. Mr. Chapoton will
2 review that.

3 Senator Symms. Mr. Chairman, I want to reserve an option
4 on that employee stock ownership, but I thought I would save
5 the trouble of the committee tonight and let the Treasury
6 look at this.

7 The Chairman. The thing we don't want to have happen,
8 very honestly -- I know there are a lot of eager people in
9 the hallway and other places who would just like to add one
10 more thing to this package. And I would hope we might agree
11 that --

12 Senator Symms. This may be a revenue-gainer, though.

13 The Chairman. Right.

14 Senator Moynihan. Mr. Chairman, could I reserve the
15 option to explain this proposal to you, and if I can't
16 persuade you, we will drop it?

17 The Chairman. Sure. But let's sort of agree on what
18 we are going to do.

19 We haven't yet addressed the amendment that was on the
20 agenda of Senator Grassley with reference to vocational
21 schools' R&D. So that's one that is still open.

22 Senator Symms, what do you want to do?

23 Senator Symms. Well, Mr. Chairman, what I wanted to do
24 was expand the employee stock ownership assistance program.
25 We did Senator Long's bill, and we have another bill that is

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1 for unqualified, nonqualified stock options.

2 The Chairman. We would be willing to bring that up on
3 Tuesday.

4 Senator Symms. It doesn't expand ESOPs. But the
5 revenue thing, I would like to let the Treasury look at it
6 over the weekend. I think it is going to raise a little
7 money.

8 The Chairman. All right. Let's have Treasury look at
9 that.

10 As I understand, there are no other amendments. You
11 want to discuss yours, right? Then put it on the agenda.

12 Senator Moynihan. On Tuesday.

13 The Chairman. All right.

14 Senator Bradley. Mr. Chairman, I want to just nail
15 down that, if the other committees and in particular the
16 Armed Services doesn't make their cuts, we are not going to
17 report this out. We will have a vote at that time, is that
18 right?

19 The Chairman. Right.

20 Senator Bradley. So if they don't make the cuts --

21 The Chairman. We have taken final action. We have not
22 yet reported the bill out; we have just agreed that the
23 amendments that we have specifically mentioned, in additio-
24 to Senator Long's amendment, and I have already with
25 Senator Bentsen and he has no amendments, will be those on

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1 the agenda with the truck taxes on Tuesday at 10:00.

2 Senator Heinz. Mr. Chairman?

3 The Chairman. Senator Heinz?

4 Senator Heinz. I would like to reserve the right to
5 bring up the Dickman Amendment that we discussed.

6 The Chairman. Oh, the Supreme Court?

7 Senator Heinz. Yes.

8 The Chairman. All right.

9 Now, can you read what we have agreed to?

10 Mr. DeArment. This is the open items on the agenda.

11 It would be Senator Danforth's domestic loss recapture,
12 Senator Symms' ESOP expansion, the truck tax issue, plus
13 Senator --

14 The Chairman. And there are amendments that relate to
15 the truck tax?

16 Senator Symms. So you don't have the language wrong,
17 it is the Employee Stock Ownership Assistance Act, S. 2162.

18 Mr. DeArment. S. 2162?

19 Senator Symms. We've got it here in the committee.

20 The Chairman. It is supposed to be a restraint on
21 expansion, right?

22 Mr. DeArment. The contributions to vocational schools,
23 Senator Moynihan's amendment involving the airplanes to
24 Berlin, Senator Long's IDB proposal, and Senator Heinz's
25 Dickman Relief.

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1 The Chairman. And I have one amendment on SMSA as it
2 relates to the Code. Is that in the IDB section?

3 Mr. DeArment. That was taken care of in the IDB
4 package.

5 The Chairman. All right.

6 Now, does Treasury or Dave Brockway know of other areas?

7 Mr. Chapoton. I don't know whether there are amendments
8 that haven't been raised. We had earlier had the concern
9 about the phase-in on the withholding tax abroad and the
10 effect of the denial of the tax credit.

11 The Chairman. We had decided not to take that.

12 Mr. Brockway. That was too expensive. That was a
13 \$300 million revenue item.

14 Mr. Chapoton. All right.

15 The Chairman. We are right on the money now, at
16 \$48 billion.

17 Mr. Chapoton. All right.

18 Senator Chafee. Well, Mr. Chairman, could they just
19 take a look at that to see what the consequences are of
20 repealing that?

21 The Chairman. Yes. Ron will be here Tuesday, right?

22 Mr. Chapoton. Yes, sir.

23 The Chairman. You will be gone?

24 Mr. Chapoton. Yes, sir.

25 Senator Packwood. That's why I want to ask a question of

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1 Buck now, because I think there is an agreement, unless I
2 am mistaken.

3 You adopted an amendment of Sparky's relating to debt
4 financing rules for real estate investments by nonprofit
5 organizations, which was the toughest part of the package.
6 I thought at the time that you had accepted it and the other
7 two relatively smaller parts had been accepted, and they had
8 not.

9 Let me ask you if this is true.

10 Mr. Chapoton. Yes.

11 Senator Packwood. You would accept an amendment that
12 would allow nonprofit organizations to pool their resources
13 in real estate investment holding companies, one; and, two,
14 you would permit real estate investors or others to form
15 real estate holding companies for nonprofit organizations
16 if there was an independent board of directors that is not
17 controlled by the real estate investor?

18 Mr. Chapoton. Yes.

19 Senator Packwood. Mr. Chairman, could we add that?

20 Mr. Chapoton. We would not oppose that. Yes. Right.

21 Senator Packwood. They do agree. Could we add that?

22 The Chairman. Yes, that's fine.

23 All right.

24 Senator Chafee. Mr. Chairman, could I ask a question?

25 I would like to ask Mr. Chapoton if he has had any change

1 of heart in the effort that was made to correct the failure
2 to provide a foreign tax credit for taxes paid, leveied by
3 a foreign government and paid on services -- engineering
4 services -- performed here?

5 Mr. Chapoton. No, we have not. As I have explained
6 before, that is very much a --

7 The Chairman. That is all you need to say. Just say
8 "No, we have not."

9 Mr. Chapoton. All right.

10 Senator Chafee. Well, note that I tried.

11 The Chairman. Right.

12 Mr. Chapoton. Senator Packwood, did your amendment --
13 it did not go to any debt financing question?

14 Senator Packwood. No, I didn't go to that. I thought
15 that is what you had accepted with Sparky several days ago.

16 Mr. Chapoton. Correct. Your amendment went to the
17 investment advisor part?

18 Senator Packwood. Yes.

19 The Chairman. All right. Now, quickly read the agenda.

20 Mr. DeArment. The agenda would be Senator Danforth's
21 domestic loss recapture provision, Senator Symm's S. 2162,
22 the truck tax issues, the vocational school contributions,
23 Senator Moynihan's amendment dealing with the ITC for Berlin
24 airplanes, Senator Long's IDB amendment, and Senator Heinz'a
25 Dickman Relief proposal.

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1 The Chairman. All right. Without objection, then,
2 that will be the agenda on Tuesday, plus truck taxes. And
3 we are not going to look at any other amendments. So all
4 those lobbyists can take the week off.

5 (Laughter)

6 Senator Baucus. Mr. Chairman, before we adjourn until
7 Tuesday, last week we adopted the Treasury tax-shelter
8 proposals, and the House language is very broad, particularly
9 with respect to partnership allocation proposals.

10 I am wondering if when we draft the same language, the
11 language will be drafted a bit more narrowly?

12 Mr. Brockway. I am not sure it will be drafted more
13 narrowly. I think there will be independent drafting on the
14 Senate side, but the substance presumably would remain the
15 same.

16 Senator Bradley. Mr. Chairman, one last question.

17 The Chairman. Is that all right? Can we work that out?

18 Senator Baucus. Well, yes, as long as the drafting of
19 the House language, which I understand is quite broad, does
20 not --

21 The Chairman. Let's work with Senator Baucus on that.

22 Mr. Chapoton. All right. The purpose is to prevent
23 a partnership from being used to disguise what is actually a
24 sale, and that is what we are trying to prevent. If the
25 language goes broader than that, it's okay.

1 Senator Baucus. I just want to make sure that we don't
2 automatically accept the broadly-drafted the House language.

3 Mr. Brockway. We will not automatically accept the
4 House language.

5 Senator Baucus. Just so we draft it more narrowly.

6 Mr. Brickway. I am not sure whether it will be more
7 narrowly or not.

8 Senator Baucus. If warranted.

9 Senator Bradley. Mr. Chairman, when do you intend to
10 do child-support enforcement?

11 The Chairman. Well, we had hoped to do that this
12 afternoon.

13 (Laughter)

14 Senator Bradley. That's why I asked.

15 The Chairman. We are not going to do it tonight. It
16 will be some time next week.

17 And I understand there is one additional item to go on
18 the agenda, too. If Treasury will agree to it, Senator
19 Armstrong will, also.

20 Senator Armstrong. I do not think it needs to go on the
21 agenda, because it is my recollection that we settled the
22 issue. It's the question of these medical and dental
23 students, the forgiveness of their loans. And when we had
24 another amendment up, my recollection is that we discussed it,
25 that Treasury supports it, and I think the Senate has

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1 agreed to it. I think we need to act to make it permanent.

2 Mr. Chapoton. The condition was that there was not a
3 compensatory nature to it, that there was not a quid pro quo
4 of services. So I wanted to be sure that we limit it.

5 Now, the Colorado situation, Senator, where they could
6 perform services anywhere in the nation and not just in
7 Colorado was --

8 Senator Armstrong. To that situation, though, not just
9 to the State of Colorado, though. It applies in a lot of
10 places. It could apply any place.

11 Mr. Chapoton. Yes. It could be anywhere, so it was
12 not services for Colorado.

13 Senator Armstrong. Mr. Chairman, that is my
14 recollection, that we did agree to that amendment. But if
15 there is doubt, I will be glad to raise it another time.

16 The Chairman. I think we did agree to that amendment,
17 with that restraint.

18 Mr. Chapoton. I am certain we did that.

19 Senator Armstrong. Thank you.

20 Mr. Chapoton. But I just want to be sure that when
21 this is drafted that it is not too broad. It would cover
22 that situation, but I want to make sure that it doesn't
23 cover compensatory situations.

24 Senator Armstrong. I understand.

25 Senator Symms. Mr. Chairman, I hate to do this at

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1 this hour, but on the subject of disclaimers with the estate
2 tax, last Fall we did agree to another amendment. Are we
3 going to go back and get any of those amendments in this
4 package?

5 The Chairman. No.

6 Mr. DeArment. We have gotten most of them.

7 I think we have most of them now.

8 Mr. Brockway. Whatever is in the reconciliation.

9 Senator Symms. Was the disclaimer thing in the
10 reconciliation?

11 MR. Brockway. No.

12 The Chairman. What do you have in the reconciliation?

13 Mr. Brockway. Well, you have quite a few different
14 items of public property leasing.

15 Mr. DeArment. Almost every one was a revenue-raiser,
16 and the disclaimer is not a revenue-raiser.

17 The Chairman. All right.

18 Now, are we open Tuesday? There is no hearing
19 scheduled?

20 Mr. DeArment. That is correct.

21 The Chairman. So we will meet Tuesday at 10:00, and
22 we will take up truck taxes and any germane amendments to
23 that.

24 Before the audience leaves, I have an announcement to
25 make.

1 Then we will continue with the agenda. It would be my
2 hope that of course if we lose revenue we have to find a
3 way to pick it up.

4 But I want to thank the members of the committee and
5 certainly the staff, and everyone else -- Treasury.

6 Senator Moynihan. Bon voyage.

7 The Chairman. And I want to tell the audience, you
8 must exit First and C Streets, the Dirksen Building, the
9 Northwest door, and you will be escorted. I don't know
10 whether this is part of our new security system or not.

11 Senator Moynihan. Or they can stay lined up out there.

12 (Laughter)

13 The Chairman. Right. It's optional -- you can either
14 stay or leave.

15 (Laughter)

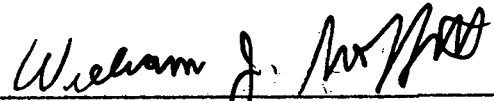
16 Senator Chafee. Let's wish Mr. Chapoton a nice trip.

17 (Applause)

18 (Whereupon, at 9:40 p.m., the executive session was
19 recessed, to be resumed Tuesday, March 20, 1984.)

C E R T I F I C A T E

This is to certify that the foregoing proceedings of an Executive Session of the Senate Finance Committee, held on March 15, 1984, in re: Markup of Budget Deficit Proposals, were held as herein appears and that this is the original transcript thereof.



WILLIAM J. MOFFITT

My Commission expires April 14, 1984.

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