

MINE

1 EXECUTIVE COMMITTEE MARKUP SESSION ON BUDGET DEFICIT
2 PROPOSALS
3 TUESDAY, MARCH 20, 1984
4 U.S. Senate
5 Committee on Finance
6 Washington, D.C.

7 The committee met, pursuant to recess, at 10:04 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, and Pryor.

14 Also present: Ronald Pearlman, Assistant Secretary for
15 Tax Policy, Department of the Treasury.

16 Also present: Roderick DeArment, Esquire; Michael
17 Stern, Esquire; Richard Belas, Esquire; Donald Susswein,
18 Esquire; David Hardee, Esquire; Ann Moran; David Brockway;
19 Harry Graham; and Mr. Gordon.

20 Also present: Messrs. Barnhart and Kane, Department of
21 Transportation.

22
23
24
25

1 The Chairman. While we are waiting for other members
2 to come, we might at least go over the items. As I under-
3 stand it, we have eight items on the agenda. Is that
4 correct?

5 Mr. DeArment. That's correct, Mr. Chairman. Those are
6 the eight items that we reviewed at end of Thursday night's
7 session.

8 The Chairman. And I think the Joint Tax Committee had
9 a couple of technical questions as far as dates are concerned.

10 Mr. Brockway. That's correct, Mr. Chairman. One on
11 enterprise zones. There was discussion, and it wasn't 100
12 percent clear as to how many could be designated a year.
13 Whether there are 25 in 1985 and then 50 the next two years,
14 and the aggregate of 25, 25, 25.

15 We understand the decision, and consistent with the
16 revenue estimates, would be 25 a year -- 25, 25, 25.

17 The Chairman. That's my understanding. Otherwise,
18 you are in trouble on the revenue.

19 Mr. Pearlman. That's our understanding also, Mr.
20 Chairman.

21 The Chairman. If there is some objection -- otherwise,
22 it should be 25, 25, 25.

23 Mr. Brockway. The other item was just that we never
24 specified any effective date on distilled spirits. And a
25 number of other things in the bill you have been doing

1 January 1, 1985 and you could do that consistently.

2 The Chairman. That was the assumption, at least. That
3 it was January 1, 1985.

4 Mr. Brockway. We could do that.

5 The Chairman. As I understand, a lot of Treasury is
6 in China now? Peking? Do you have proxies for Don Reagan?

7 Mr. Pearlman. I have proxies.

8 The Chairman. Do you have a credit card?

9 (Laughter)

10 The Chairman. I checked with Rod. I wonder if we
11 might be able to fix a date for hearing on the merger
12 question, the tax question. Whether some of these mergers
13 are tax motivators or whether there is some other economic
14 interest involved.

15 I would assume that this would affect any merger that
16 has taken place and any that is about to take place. Do
17 we have a hearing date on that?

18 Mr. DeArment. We have been working with Senator
19 Wallop's office. Senator Wallop had an interest as the
20 subcommittee chairman of the Energy and Agricultural
21 Taxation Subcommittee. They were to have a meeting. And the
22 date that was convenient to Senator Wallop was April 12th,
23 which is a Thursday. We could move it up, I suspect, to
24 perhaps a week earlier to April 5th. We will have to check
25 Senator Wallop's schedule and your schedule.

1 The Chairman. Well, I think with all the activity
2 in judiciary committee and bills that are pending, Senator
3 Johnsons and others, we at least ought to know whether or
4 not what the tax consequences may be. And perhaps if we
5 could move the hearing up, it would be helpful.

6 Mr. DeArment. We will check on April 5th.

7 The Chairman. I mean if they are motivated by the
8 tax benefits, perhaps we would want to change the tax code
9 between now and the time we pass this bill on the floor.

10 Secondly, I might just raise another housekeeping matter.
11 There was a recent article in the Wall Street Journal about
12 big banks -- Latin debt figures underscore potential danger
13 from huge write-offs. And, again, I would hope that maybe
14 the staff and the Joint Committee might take a look at the
15 tax consequences of the huge write-offs. How much we are
16 contributing to the banks.

17 Mr. Brockway. Certainly.

18 The Chairman. Are there any other little housekeeping
19 matters we could take up?

20 Mr. Brockway. On the list of minor simplification
21 items, there are a couple that weren't on Treasury's list.

22 One thing I can just clarify for the record that is
23 dealing with the treatment of IDBs, preventing the use by
24 substantial users. We made clear that partners would be
25 treated as substantial users. And we would have intended also

1 that shareholders in subchapter S also be treated as
2 substantial users, subject to the substantial user rule.

3 The Chairman. Does Treasury have any minor details we
4 can take up while we are waiting?

5 Mr. Pearlman. Yes. Mr. Chairman, last week we offered
6 and the committee accepted several technical kinds of things
7 that dealt with the operation of the Treasury Department,
8 all of which are in H.R. 4170.

9 Two of them were inadvertently omitted from the list of
10 items that was presented last week. One removes a current
11 \$1 million limit on the Treasury's working capital fund. The
12 working capital fund is the fund that is utilized to provide
13 normal operating funds for maintenance of equipment, computer
14 equipment, most significantly, and there is a limit on how
15 much can be put into the fund.

16 This is not an appropriations authority. This simply
17 removes the \$1 million limit so that at the next
18 appropriations, during the next appropriations process, if
19 the appropriations committee approved a higher amount in the
20 fund that that would be -- that a larger amount could be put
21 in the fund.

22 The second one is a limitation -- the Secretary
23 currently has authority to dispose of obligations that it
24 acquires in the course of business. For example, in the
25 bankruptcy of a corporation there is a \$1 million limit on

1 that fund. And it's really just grown out of date. And so
2 the request is that that \$1 million limit be eliminated.

3 The Chairman. Well, I would just suggest on those
4 two matters, since we are talking about specific items, that
5 we clear it with Mr. Stern, David Hardee and Senator Long.

6 Mr. Pearlman. Certainly.

7 The Chairman. They are technical, but they are still
8 of some substance. I wouldn't want to take action on anything
9 like that unless Senator Long agreed.

10 Mr. Pearlman. Sure

11 The Chairman. Dave, I wonder if you might reflect for
12 the record our numbers holding as far as revenues?

13 Mr. Brockway. They are, Mr. Chairman. We are still
14 roughly in the area of \$48 billion. As we get more and more
15 information, they are getting finer. But they seem to be
16 in that range.

17 The Chairman. Last week there was some discussion on
18 the provision on automobiles. We decided there ought to be
19 some middle figure.

20 Mr. Brockway. You basically indicated that we should
21 try and draft a proposal to reach a revenue target of
22 approximately \$1.3 billion. The proposal, with some drafting
23 change that we would have suggested, appears to pick up
24 about \$1.9. We are looking at that and trying to refine
25 that and see whether possibly that number might come down

1 somewhat.

2 But as we worked on it, we are much closer to
3 Treasury's analysis of the revenue impact, given the
4 amendment that Senator Bradley made and other discussions
5 that we have had.

6 The Chairman. Are there any other number changes?
7 Everything else is pretty much the way it was projected?

8 Mr. Brockway. A variety of things are changing slightly.
9 But in the aggregate, they sort of move in the -- the biggest
10 swing was the automobile use. But once you go to 90 percent
11 and you have a presumption that if you are taking the car
12 home at night and commuting to and from work, that that's
13 a situation that you have at least 10 percent personal use.
14 And all these cars will be on the standard mileage of
15 \$.20.5. And that will have a significant revenue pick-up.

16 The Chairman. Is that going to protect traveling sales
17 people?

18 Mr. Brockway. It should protect them because in most
19 situations they will be using standard mileage. It may
20 result in some situations that we will have to look at it
21 more closely. Certain people, traveling salesmen who don't
22 drive very much, and conceivably -- I don't know whether
23 that --

24 In most situations I would think even under present law
25 traveling salesmen are using the standard mileage unless they

1 are using a very expensive car. But we will just have to
2 look at that more closely to see whether there are situations
3 where it will affect them.

4 The Chairman. We have been over this before, and I
5 won't take any action on it, of course, until Senator Heinz
6 and others are here. But the retroactive relief from the
7 Dickman case.

8 It would seem to me that since we just had the Supreme
9 Court decision that before we start making judgments based
10 on discussions here with four or five, eight, ten Senators
11 we ought to have some hearings and determine what the
12 appropriate relief should be.

13 I know that Treasury offered some de minimis proposals.
14 I assume you could do that administratively.

15 Mr. Pearlman. We think we could deal with a de minimis
16 relief administratively, and we would be happy to.

17 The Chairman. But I would like to know just how many
18 big, big loans were made out there in the past and who we
19 are dealing with. We don't even know the facts. Is Treasury
20 going to be in a position? In fact, I'm very willing to have
21 hearings on it as quickly as Treasury can be prepared. But
22 I don't really believe it would do much for the image of this
23 committee to just say, well, we are just going to forgive
24 everything that has happened in the past without even knowing
25 what the past was.

1 Mr. Pearlman. We agree with that approach. And we,
2 obviously, can develop the data to give you that information
3 if you do schedule a hearing.

4 The Chairman. How quickly could it be made available?

5 Mr. Pearlman. We will, obviously, ask the Service
6 promptly. I think one of the problems will be that the data
7 is going to be somewhat dated because the more recent gifts
8 will not be the subject of any reporting. We can give you
9 data on controversies, on examinations.

10 Mr. Brockway. Part of the problem, Mr. Chairman, is
11 that it will probably by the lion share of the cases, the
12 taxpayers did not file a gift tax return saying they had a
13 gift. They are taking the position that it was exempt. And
14 so they probably haven't provided the government with any
15 information on it. And now we have been visited by an
16 awful lot of people in the last week or so and discussed
17 with the law firms and the accounting firms and they all say
18 that they think there is an awful lot of it going on.

19 We tried to build up what is a conceivable revenue loss.
20 But none of these people are in the information stream. They
21 haven't filed the returns so you can't identify how large
22 the potential gifts are, and you can't identify how many
23 years outstanding.

24 We can have some rough guess of what the revenue
25 consequences are. But it will be very tentative because for

1 most cases they haven't filed returns identifying the gifts.

2 The Chairman. Again, it may be that we want to provide
3 relief. I don't want to prejudge the case. But at least
4 I would like to have the facts. And all we have is the
5 Supreme Court decision. Treasury suggested some de minimis
6 rule. And that developed into a big discussion.

7 Mr. Brockway. It would be very helpful for us to the
8 extent that we can get information from the outside and the
9 taxpayers concerned with that what they think is involved.
10 From our analysis, we think it's some place between \$100 to
11 \$200 million, if you did provide retroactive relief. But
12 this is very, very tentative. And we just need information
13 from the people who are interested in the issue.

14 Mr. Pearlman. Well, we will be able to provide some
15 information on outstanding examinations. And that may give
16 us some idea. I think revenue side is important here, but
17 as you point out there is more. And there is an impression
18 of whether you are going to relieve some very substantial
19 transactions. We may be able to give you some information on
20 that.

21 The Chairman. Well, I would just think that the
22 committee would not look very good if we just rushed in there,
23 and said, well, we are dealing with a lot of rich people;
24 let's go ahead and forgive any tax they might owe without
25 even looking at the facts while we are cutting foodstamps and

1 Medicaid and a few other things.

2 Okay. If we get two more people, we can go to work
3 here. I hope to finish all this by noon. We are not going
4 to add anything to the agenda, if I can help it. And we
5 are not going to adopt anything on the agenda, if we can
6 help it.

7 I wonder if we might start with item number one.
8 Senator Danforth cannot be here. He is in a snowbank in
9 St. Louis or somewhere. And we have discussed this before.
10 In fact, it was rejected. And then there was an effort to
11 use some of those pieces to put in the revenue side, which,
12 with some justification, did not please Senator Danforth.

13 So we agreed to put it back on the agenda and ask the
14 Treasury if there was some way they could figure out a revenue
15 neutral package on the theory that maybe the concept was
16 all right.

17 But as I understand the outyear revenue loss, in about
18 three years it jumps up to about a billion dollars a year.

19 Mr. Brockway. Mr. Chairman, it's about a billion dollars
20 over a two year period.

21 Senator Bentsen. Mr. Chairman, I share your concern
22 over the lost revenue. I had co-sponsored this bill
23 originally with Senator Danforth. And he had asked me to be
24 sure it is brought up again this morning, which you are doing.
25 And I appreciate it.

1 But one of the things that we were looking at to try
2 to find a way to make it revenue neutral, as I recall, was
3 adjusting the rules permitting interest on the allocation
4 between domestic and foreign sources on a company by company
5 basis, which does often lead to a lot of manipulation, and
6 sometimes gimmickry.

7 And the proposal was made, as I understood it, to
8 attach the basis to the entire related group of companies.
9 Now does that take care of it or not? I don't know and I'm
10 asking.

11 Mr. Pearlman. Senator, we looked at two pieces of the
12 revenue. We looked at the revenue under the current year's,
13 which was about \$105 million, and we looked at the revenue
14 over the next two years. Pick a five year period. Of the
15 rule described under our revenue estimates, that would pick
16 up approximately \$300 million or \$100 million a year. So
17 that would go a good ways toward offseeting that revenue.

18 Senator Bentsen. But would you still have a major
19 net loss? Is that what you are saying?

20 Mr. Pearlman. Depending on how far out you go. For
21 example, in 1990 --

22 Senator Bentsen. Let's go all the way out. I mean we
23 are not looking just at the --

24 Mr. Pearlman. Well, if you go to 1990, in 1990 you have
25 a \$465 million loss from this proposal so the allocation of

1 interest on a consolidated basis would not begin to pick up
2 that revenue loss.

3 We have some concern about that specific proposal. We
4 have spent a good deal of time over the last several weeks
5 trying to put a package together. And, indeed, last fall we
6 had come up with about eight different foreign tax credit
7 proposals that might be appropriate as tightening as a way
8 to offset this revenue.

9 That got narrowed down, and most recently narrowed down
10 to the one, the one you described. We spent a good deal of
11 time, indeed, over the weekend, trying to figure out whether
12 that proposal makes sense, whether it goes too far, whether
13 it affects taxpayers who shouldn't be affected. Clearly,
14 there is a problem there. There is no question about it.
15 As you described, there are taxpayers able to manipulate
16 the interest income in a way that will reduce -- over
17 allocate to the domestic piece of their income pie.

18 On the other hand, there are transactions which are
19 caught by that rule which should not be caught by that rule.
20 And I guess our concern is rushing to affect a group of
21 taxpayers --

22 Senator Bentsen. Educate me for just a minute. Which
23 are the ones that should not be caught?

24 Mr. Pearlman. Well, let me just give you one fact
25 pattern. It is the easiest for me to articulate.

Moffitt Reporting Associates

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

1 Assume a domestic parent corporation, which borrows in
2 the United States and uses all of its borrowings in the
3 United States. None of it is used in its foreign activities.

4 Assume a foreign subsidiary of that parent, which
5 borrows fully overseas. No relationship in terms of the --
6 no guarantees, no indemnities, just straight subsidiary
7 borrowings.

8 Under current law, in a parent subsidiary configuration,
9 the parent interest expense that is attributable to the U.S.
10 borrowings is deductible in the United States and is deemed
11 attributable to U.S. income. The interest expense incurred
12 by the foreign subsidiary is chargeable against its foreign
13 income.

14 If the rule that is being proposed -- now that is not
15 the case in the event of a branch operation. In a branch
16 operation today, under the 861 regulations, in the same
17 facts except the foreign operation were a branch --

18 Senator Bentsen. I can understand where you are coming
19 from.

20 Mr. Pearlman. Now we would say in that situation that
21 it doesn't seem to make sense to reallocate that interest.
22 On the other hand where all of the borrowings are in the
23 United States and we know that some of that borrowing is
24 being used to finance overseas operations, the ability of the
25 domestic parent to allocate all of the interest expense to

1 the U.S. operations in a way that distorts the amount of
2 U.S. versus foreign source income is inappropriate. And so
3 we know that there are some needs for correction here. But
4 we are a bit concerned about how far the proposal goes.

5 If the committee chooses to go forward with the -- and
6 let me say -- we said this a number of times before the
7 committee -- that we are supportive of the concept of the
8 recapture rule. We do believe it makes sense. And that
9 the only concern is the revenue impact.

10 If the committee decides to go forward because it too
11 believes it makes sense and it wishes to seek to offset the
12 revenue, then we think what we have got to do is go back and
13 look at the allocation rule and see if there is a way to
14 deal with what I suggested -- at least in our judgment, at
15 least as a transaction that troubles us a bit. It may not
16 pick up all of the revenue but it will certainly pick up
17 some of it.

18 Senator Bentsen. Well, I must say that I think that
19 the objective of Senator Danforth's bill makes sense.

20 Mr. Pearlman. Yes.

21 Senator Bentsen. Frankly, I share your concern about
22 the revenue loss.

23 The Chairman. What I might suggest on this and maybe
24 some of these others that are still on the agenda,
25 particularly where the Senator is not present -- we don't

1 want to reduce his right, but we do want to finish this.
2 I'm told by the Joint Committee it will take, what, two
3 weeks?

4 Mr. Brockway. We definitely could use that time.

5 The Chairman. Two weeks for drafting. And everyday
6 we wait it delays the Joint Committee. I would hope that
7 maybe Treasury could continue to look at this proposal and
8 see if we can work out something with Senator Danforth between
9 now and the time the bill is on the floor.

10 Obviously, amendments can be offered on the floor;
11 particularly, if they are revenue neutral they might have a
12 chance of passing. But I would hope that we would not get
13 back into this this morning.

14 I think Senator Danforth wanted it on the agenda for
15 the reason Senator Bentsen has urged. I think very honestly
16 he felt like he might have been put upon by rejecting his
17 amendment and then taking out the revenue part and trying to
18 add them to the package. I don't quarrel with that.

19 So we have brought it up again as a package. I think
20 it's clear by the Joint Committee and the Treasury that it is
21 going to be costly.

22 And I assume that if you are going to pick up some
23 money somewhere to pay for his amendment, somebody else is going
24 to be adversely impacted. So until we resolve those questions,
25 I would hope we might agree to pass it. Without objection, we

1 will do that.

2 And we will move to number two. I'm not certain who
3 had that on the agenda.

4 Mr. DeArment. Senator Symms.

5 Senator Symms. I can make a very brief explanation of
6 this. It might be the easiest and most expeditious way to
7 do it.

8 But what I wanted to do, Mr. Chairman, and what I would
9 like to do is introduce an amendment which would incorporate
10 the provisions of a bill I have introduced, S. 2162, the
11 Employee Stock Ownership Assistance Act. And this amendment
12 will permit the deferral of income by employees who exercise
13 non-qualified employee stock options after the date of
14 enactment, until the sale or other disposition of the stock.

15 When the stock is sold, the amount of an ordinary
16 income deferred at the date of exercise will be recognized.
17 Any additional appreciation or depreciation will be treated
18 as a gain or loss from the sale of the capital asset.

19 The company's tax deduction, which now occurs when the
20 employee exercises an option, would in turn be deferred until
21 the stock is disbursed. These changes will not have any
22 negative revenue impact. And, in fact, may have a positive
23 affect since revenue would be generated by the earlier
24 exercise of stock options because of the earlier receipt of
25 individuals which are taxable by the employee shareholders.

Moffitt Reporting Associates

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

1 The reason this change in the law is needed is because
2 millions of stock options are going unexercised by
3 employees who lack the financial means to exercise them
4 and pay the tax up front.

5 When a stock option is exercised, the difference
6 between the value of the stock at the exercise date and
7 the option price constitutes ordinary income to the employee.
8 As a result, the employee is placed in the difficult
9 position of having to pay income tax at a time when there
10 has been no receipt of cash since only securities
11 representing the employee's investment in the company have
12 been received.

13 By making this non-controversial change in the tax
14 code, we could provide a significant incentive to employee
15 stock ownership.

16 Mr. Chairman, I think that the Joint Tax Committee may
17 wish to make a comment. I have agreed to some additions to
18 this -- sequentiality, \$100,000.00 limitation, and non-
19 discrimination rules, which would apply to this which the
20 Joint Tax Committee felt were important.

21 The Chairman. Could we first have Treasury? I'm not
22 certain of Treasury's position on this. I understand they
23 are opposed to it.

24 Mr. Pearlman. Yes, that's correct, Mr. Chairman. We
25 are opposed to it. Senator Symms' bill addresses an issue

1 which has been before the Congress a number of times before.

2 And that is the proper taxation of stock options.

3 And most recently in ERTA the Congress decided what the
4 outside limits on tax breaks for stock options should be.
5 And the reason we are opposed to this proposal is that this
6 really carries the stock option concept well beyond
7 Congress' decision in ERTA. And it puts in the hands of the
8 employee the decision of when compensation is to be taxed
9 because it's the employee that has control once the option
10 is in his hands to decide when to get rid of it. And, there-
11 fore, under this proposal when the tax should come.

12 We just do not believe that that's an appropriate way
13 to tax compensation. I would also point out that there is
14 a serious valuation issue here because under the proposal
15 you would have to value the stock at the time of exercise,
16 but there is no taxable event at that time. The event
17 occurs only when the stock is ultimately disposed of. So
18 it's going to be much after the date of valuation when there
19 is ever an opportunity for the Internal Revenue Service to go
20 in and say what was the value at the time of exercise.

21 And we would expect that the valuation questions, when
22 there is bound to be a fairly significant amount of time
23 between the exercise date and the disposition date, are
24 going to be significant. We are in opposition to this
25 proposal.

Moffitt Reporting Associates

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

1 The Chairman. Does it help any with the changes that
2 Senator Symms agreed to make?

3 Mr. Pearlman. Certainly. I think it does help. I'm
4 not sure what the discrimination rules are that Senator
5 Symms is talking about.

6 The Chairman. Maybe the Joint Committee knows. Have
7 you discussed these?

8 Mr. Brockway. We've suggested that those changes
9 with a couple of others, that if you were to adopt this
10 amendment, which is something similar to incentive stock
11 options, that you ought to try to integrate it with
12 incentive stock options so that the maximum you get is
13 \$100,000.00 regardless of how you mix and match. And that
14 you have to have fair market value options, issued in
15 series, and a variety of changes like that. If you were to
16 do it, you should treat it the same way.

17 The Chairman. Have the changes been made to conform
18 to --

19 Mr. Brockway. I gather that those changes and also
20 to treat it as a preference is acceptable to Senator Symms.

21 Senator Symms. That's fine.

22 Mr. Brockway. And so it's just another variation of
23 that.

24 Senator Symms. I think Senator Boren is also a
25 co-sponsor. I think he would go along with that, but I will

1 let him speak for himself.

2 The Chairman. Then there would be parity there. Is
3 that what you are suggesting?

4 Mr. Brockway. Well, it would be more similar to
5 incentive stock. The way incentive stock options work is
6 that the employer loses a deduction entirely for the amount
7 of the benefit. And the employee gets a capital gain. Under
8 this, that the employee gets ordinary income and the
9 employer gets a full deduction so the employer is better off.
10 But in both cases it's deferred until the latter time when
11 the option is exercised.

12 So it's simply a different way of doing it. But in the
13 aggregate it treats it the same as current compensation but
14 in fact the employer gets a deduction and the employee gets
15 ordinary income. This proposal would defer the time of
16 inclusion and deduction as contrasted with incentive stock
17 options, which eliminate any deductions to the employer, but
18 the employee not only gets to defer his income but he also
19 gets to convert it into capital gain.

20 The Chairman. If those several changes are made, then
21 what would be Treasury's position?

22 Mr. Pearlman. I guess our option goes down a bit
23 because these changes do improve the legislation. But I
24 think we still have to oppose this proposition.

25 The Chairman. What changes are going to be made

1 specifically, Dave?

2 Mr. Brockway. Well, they would pick up the limitations
3 in incentive stock options. Those include that they have
4 to be fair market value and exercise an order that there is
5 an aggregate of \$100,000.00, and we would integrate that
6 with the incentive stock option limitation. The current
7 employees, it would be minimum tax preference. Those
8 will be changed there.

9 In addition, we would suggest that for this provision
10 and also for the incentive stock option that there just be
11 some clarification about how the fair market value rules
12 work so that it would be -- the value of the option would be
13 determined without regard to lapsed restrictions and making
14 the option non-transferrable would be treated as a
15 modification.

16 The Chairman. Anne, have you reviewed the changes?

17 Ms. Moran. Yes, I have.

18 The Chairman. Do I understand that Senator Symms
19 would agree to all the changes just referred to?

20 Mr. Pearlman. Mr. Chairman, let me just suggest that
21 if the committee is going to go forward with this proposal --

22 The Chairman. I'm not certain. I just want to be sure
23 what we are going forward with.

24 Mr. Pearlman. We would suggest that two non-discrimina-
25 tion rules be included, and perhaps Senator Symms is aware of

1 this. I'm not sure.

2 Senator Symms. Yes.

3 Mr. Pearlman. The first would deal with the non-
4 discrimination in the grant of the option so that they
5 couldn't be granted simply to highly compensated employees.

6 The other has to do with -- there is an election provided
7 in the bill whereby the employee really has to buy into
8 this method of taxation. And so we would want to make sure
9 that there is non-discrimination in the election so the
10 employer couldn't make the election with respect to employees
11 within one corporation, for example, one subsidiary, and
12 not the others.

13 So we would hope that you would consider both of those
14 non-discrimination rules.

15 The Chairman. I think those are covered in Joint
16 Committee's recommendation.

17 Senator Symms. I agree with that, Mr. Chairman. In
18 fact, it's usually the -- the main part of this, it's
19 usually the low income workers who are the ones that have
20 the hard time exercising the options because they don't have
21 the cash.

22 The Chairman. What about the ability to borrow?

23 Mr. Brockway. It's not significant.

24 The Chairman. As I understand, if we can make those
25 changes, that Senator Symms and Senator Boren would agree to

1 all the changes recommended, that that would reduce the
2 opposition from Treasury.

3 So without objection, if those changes are made, it
4 will be agreed to.

5 Senator Symms. Thank you, Mr. Chairman.

6 The Chairman. Number three is Senator Grassley's
7 amendment, and he is not here.

8 Number four is Senator Moynihan's.

9 Senator Moynihan. Mr. Chairman, this is a simple
10 situation. Senator Danforth has an interest in it too.

11 Would you like me to describe it? Mr. Brockway, are
12 you familiar enough with it?

13 Mr. Brockway. As I understand the amendment, it would
14 be to make clear that plane flying to Berlin under contract
15 arrangements with the federal government, given our position
16 in Berlin, would qualify for the investment credit. And
17 that there is some taxpayers who believe under present
18 law that they have an argument that they can get a credit.

19 I believe that we are doubtful as to whether they
20 would qualify for an investment credit. But this amendment
21 would allow them to get an investment credit on planes that
22 fly to and from Berlin.

23 Senator Moynihan. Yes. You are very gentlemanly and
24 somewhat indirect. This is Pan American. And by arrangement
25 that goes back to the original occupation of Berlin, Pan

1 American is the American carrier to fly into Berlin and out
2 from Tempehauf to various West German cities. And they
3 need to replace their fleet. They would like to buy 16
4 new planes here in the United States. And they would get
5 investment tax credits if they were touching American soil
6 at some period that is required. Once every three months or
7 so you have to land on national soil.

8 Well, they don't. And this is the aftermath of
9 second world war. They are our only carrier into Berlin.
10 They are the only carrier that will be. And they would like
11 to do this one thing. And I would like to see them do it
12 because I have flown into Berlin on those planes and it's
13 something we still have.

14 The Chairman. We got into this ITC thing in the
15 Caribbean Basin and rejected on the theory that it was not
16 a very good policy.

17 Mr. Belas. This would be a special exception from a
18 general rule that says that the investment tax credit and
19 full ACRS treatment is available only for U.S. used
20 property. The only exceptions from that for foreign use
21 currently in the law are for transportation to and from the
22 United States, if it's on a regular basis. Or if it's
23 under a contract with the United States government.

24 For instance, during VietNam the United States put in
25 a special exception which allowed the investment tax credit

Moffitt Reporting Associates

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

1 for aircraft that was under contract with the United States
2 government to fly to VietNam. That is the only exception.

3 Senator Moynihan. Mr. Chairman, there is one such
4 arrangement on earth. This one in Berlin. And while this
5 carrier is not under contract, it is there by virtue of
6 a quasi-treaty arrangement among the four powers. The
7 amounts involved are minimal, but they are absolutely
8 essential to this carrier, which is all of the other -- all
9 of the other carriers, the three other carriers that serve
10 West Berlin, are national airlines.

11 Senator Symms. Would the Senator yield?

12 Senator Moynihan. Yes.

13 Senator Symms. What you are saying, Senator, is they
14 want to buy some 737s that they won't fly back over here.
15 Is that right?

16 Senator Moynihan. Yes. They will just use them for
17 this mission they have had for 35 years now of flying from
18 Berlin to West Germany.

19 Senator Chafee. It's Douglas aircraft that they are
20 flying?

21 Senator Moynihan. Yes, sir. It's a DC-11, I think.

22 Senator Symms. Sixteen 737s, I thought.

23 Mr. Belas. It's the MD-80. They are going to replace
24 the Boeing 737s with these new ones.

25 Mr. Brockway. Our understanding that it is the McDonald

Moffitt Reporting Associates

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

1 Douglas. And if they do replace them, that this would be
2 a revenue loss in a three year period of approximately
3 \$100 million.

4 The Chairman. That is substantial. What we are saying
5 in effect is that we have been turning down other requests.
6 Eastern Airlines had one where they fly domestically that
7 we rejected. We have rejected others.

8 Senator Moynihan. Mr. Chairman, could I put it this
9 way?

10 The Chairman. I don't know how many others we are
11 going to open up if we start granting ITC and ACRS to
12 airlines that never touch ground in America.

13 Senator Moynihan. Mr. Chairman you would have my
14 bounded word to oppose any such arrangement. There is one
15 such arrangement in the world such as this one.

16 The Chairman. Only one now, but if we open the door,
17 there are bound to be 50.

18 Senator Moynihan. The Berlin arrangements are unique
19 historically. And it's not a question -- they can't buy
20 these planes if they don't have this credit.

21 The Chairman. Well, we have inquired whether or not
22 they are making a profit on that route and they said yes.
23 Mr. Acker would like to have the \$50 million or the \$100
24 million. I mean I can't blame him for that. But wasn't
25 that question asked as to whether they are making a profit?

Moffitt Reporting Associates

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

1 Mr. Belas. That's correct, Mr. Chairman.

2 The Chairman. The answer was?

3 Mr. Belas. The answer was that under the current rate
4 structure they were making a profit. They, of course, would
5 rather fly newer planes, if they could.

6 Senator Moynihan. It's a very shakey airline, and
7 the only thing we have equivalent to a national airline.
8 It's the only plane people flying in there that aren't
9 subsidized by their government.

10 Senator Durenberger. Is this a State Department
11 recommendation?

12 The Chairman. It's Pan American's.

13 Senator Durenberger. It sounds like we are talking
14 about foreign policy here.

15 Senator Chafee. Mr. Chairman, could we have those
16 revenue figures. My sheet, right or wrong, shows a
17 \$30 million revenue loss for three years. In other words,
18 \$10 million a year. You have it \$30 million a year. Is
19 that correct? Which is right?

20 Mr. Belas. Senator Chafee, I believe that that is the
21 investment tax credit only. And, of course, it really
22 depends upon the actual purchase price of the aircraft.
23 Evidently there have been negotiations but no contract has
24 been signed for any of those aircraft yet.

25 Mr. Brockway. It really depends on how much they do.

1 What we understand is approximately 20 planes at \$20
2 million each, which is \$400 million of basis, and then you
3 take your ACRS on that. It would be \$40 million of
4 investment credits. And then depending upon what year it is
5 placed in service, you would have the ACRS deductions.

6 Senator Chafee. Well, the ACRS isn't involved in this
7 discussion, is it?

8 Mr. Brockway. I believe it is.

9 Senator Chafee. I thought we were only talking about
10 the ITC.

11 Mr. Brockway. I wasn't clear enough when I outlined
12 it. I believe that they wanted to be treated the same way
13 as planes flying within the United States.

14 Senator Moynihan. And they also want to buy American
15 planes and remain an American carrier.

16 Senator Chafee. Is it impossible for this prospective
17 aircraft to make the trip to the U.S? I know that they have
18 this arrangement out of Hamburg, for example, to West
19 Berlin. Why don't they just fly them back once in a while
20 just to touch ground and qualify?

21 Mr. Belas. Senator Chafee, we understand that these are
22 short haul aircraft, which could not make the transatlantic
23 flight.

24 Senator Moynihan. That's the whole point.

25 The Chairman. I assume we can vote on it. I think it's

1 a big mistake.

2 Senator Long. Could I ask the Treasury position on
3 this amendment?

4 Mr. Pearlman. Yes. We oppose this provision, Senator.

5 Senator Moynihan. Could I ask the Treasury have they
6 heard from the Department of State on this?

7 Mr. Pearlman. Oh, yes. We have heard from a number of
8 departments. We've heard from State and a couple of other
9 ones, Senator.

10 I think here we have a -- when we testified on the
11 leasing bill --

12 Senator Symms. What was their position?

13 Mr. Pearlman. I don't think any of the communications
14 that we received urged us, Senator Symms, to be supportive.
15 I mean they, obviously -- they are interested in access to
16 Germany, but I don't think I am misrepresenting the positions
17 in saying that.

18 Senator Chafee. May I say, sir, that it's my under-
19 standing -- I don't assert -- it's my understanding that the
20 Defense Department, the Transportation Department do want
21 this.

22 Mr. Pearlman. I spoke with the Defense Department
23 myself. And they are obviously interested, but they also
24 made it very clear to us that they believe that we had to
25 make the tax policy call on this. And we are not seeking to

1 override that.

2 The point I wanted to make was that in our testimony
3 on the leasing bill we urged the committee -- the committee
4 did not accept our recommendation --

5 (CONTINUED ON NEXT PAGE)

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 We urged the committee. The committee did not accept our
2 recommendation that property manufactured in the United
3 States and leased overseas should not be adversely affected
4 by the legislation.

5 We were not successful in persuading the committee to
6 take that approach.

7 We find it somewhat difficult now to have said to
8 U.S. manufacturers generally, if you lease property overseas,
9 you are not going to get the benefit of being able to use
10 financing techniques that will give the investment tax
11 credit and ACRS, but then carve out one very small exception.

12 I mean, our proposal to the committee on foreign-leased
13 property would have meant that this transaction would have
14 been okay, but once the committee adopts a position that
15 foreign-leased property is not okay, then we have problems
16 carving out this kind of exception.

17 Senator Moynihan. Does the chairman want to open the
18 general question? I guess not.

19 The Chairman. Pardon?

20 Senator Moynihan. I said do you want to open the
21 general question? Have we had any reason to rethink that?

22 The Chairman. No. I hope not.

23 Senator Chafee. When you get into that general
24 question, you are really talking some big dollars around
25 here.

1 Mr. Brockway. Yes, very large.

2 Senator Chafee. We discussed that a year ago. I am
3 very sympathetic to this, but I must say when you look at
4 where this might lead us, and I know you can say there is
5 an exception, and Pan Am is going broke. Well, they are
6 no more broke than Eastern is.

7 The Chairman. Eastern has an amendment which we have
8 rejected. I think if we adopt this, then we ought to take
9 all the Boeing amendments and all the Eastern amendments
10 and all the other airline amendments. I think it is a
11 bad precedent, and I hope that it would be rejected, but
12 I think we just ought to vote on it and move on.

13 Mr. DeArment. Mr. Packwood?

14 Senator Packwood. (No response)

15 Mr. DeArment. Mr. Roth?

16 Senator Roth. (No response)

17 Mr. DeArment. Mr. Danforth?

18 Senator Danforth. Aye.

19 Mr. DeArment. Mr. Chafee?

20 Senator Chafee. No.

21 Mr. DeArment. Mr. Heinz?

22 Senator Heinz. (No response)

23 Mr. DeArment. Mr. Wallop?

24 Senator Wallop. Aye.

25 Mr. DeArment. Mr. Durenberger?

Moffitt Reporting Associates

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

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

1 Mr. DeArment. Mr. Chairman?

2 The Chairman. No.

3 The nays are seven, and the ayes are three. The
4 amendment is not agreed to.

5 Number five. That is Senator Long's.

6 Senator Symms. Mr. Chairman, could I ask: Did we skip
7 over one completely or where are we on that one?

8 The Chairman. We skipped over number three because
9 Senator Grassley was not present.

10 Senator Symms. No, number one.

11 The Chairman. Number one -- we decided to postpone
12 that and see if we can work out something between now and
13 the time it gets to the floor.

14 Senator Symms. Okay. Thank you.

15 So, in other words, the questions I have about interest
16 earned by foreign companies -- you are going to work that
17 out in a couple of weeks?

18 The Chairman. We are not certain that we are going
19 to work it out. That is one of the reasons we didn't act
20 on it this morning because of the very questions you and
21 others have raised.

22 Senator Symms. See, it is Section 142 of the House
23 bill.

24 Senator Moynihan. In that regard, Mr. Chairman, could
25 I ask: Are the House provisions in our bill, or are they

Moffitt Reporting Associates

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

1 not? We get two versions.

2 Senator Symms. That is the question I wanted to ask.
3 Did we approve language which would only impact the Dreyfuss
4 fund case or does it impact interest that is earned --
5 foreign-earned interest -- that a company that operates
6 overseas may have?

7 Mr. Brockway. You approved provisions -- general
8 provisions -- not just one dealing with the Dreyfuss fund.
9 However, there are some issues in terms of how the House
10 drafted it that conceivably are different here, dealing
11 with applying some retroactive effect.

12 Senator Symms. What do you think about that, Ron?
13 What did we adopt?

14 Mr. Pearlman. Senator, I think Mr. Brockway describes
15 it. As we understand it, the Finance Committee did adopt
16 an equivalent of Section 142 in the House bill.

17 There are some transitional issues, and they may indeed
18 involve a Dreyfuss fund -- I simply don't know that -- which
19 we have been told we need to deal with, and we hope to be
20 able to deal with them.

21 At least, our objective was not to try and in designing
22 the transitional rule in the House bill, our objective was
23 to try to not trap transactions that were preenacted --

24 Senator Moynihan. Would you speak to both of us?

25 Mr. Pearlman. Sure. I am sorry. Excuse me. A number

Moffitt Reporting Associates

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

1 of people have come to us and said that there are transitional
2 problems with these rules, we are trying to understand what
3 those transitional problems, and we hope that they can be
4 dealt with in the drafting of the provision on the Senate
5 side.

6 Senator Moynihan. And did you say that it was the
7 equivalent of Section 142?

8 Mr. Pearlman. I think that is correct, yes.

9 Mr. Gordon. Senator Moynihan, the problem as we
10 understand it is interest paid up until the effective date.
11 And we will try to deal with that.

12 Senator Moynihan. The problem is?

13 Mr. Gordon. Interest paid or dividends paid out of
14 interest received to the time--up to the effective date
15 of the provision.

16 And we think we can try to work that out at draft time.

17 Senator Symms. Mr. Chairman, I would just like to make
18 one parting shot to you here-- if you are going to take a
19 couple of weeks to work this out.

20 If an American company has actual operations overseas
21 and has accounts which earn interest which they may have
22 on deposit because they have loans there at the bank that
23 helps them get a preferred interest, or whatever, I see no
24 reason why we should get involved in that issue and force
25 them to repatriate this interest earned if it is over 10

1 percent back to the United States.

2 So, I think we shouldn't be putting this committee --
3 and I don't think it was the intention of this committee --
4 to put ourselves in a position where we are going to try
5 and decide how much capital something needs in their
6 foreign operations.

7 And that is what I think you should have. At least at
8 the minimum, we should have a transition rule if it is
9 going to change so that they can adjust to what we are
10 trying to do here, but I thought we were trying to address
11 the Dreyfuss question, and it is much broader than that.

12 Mr. Gordon. Right. Senator Symms, there is an
13 exception, in fact, under present law which we will write
14 into this provision dealing with active business interests.

15 Senator Moynihan. Say that again. You are going to
16 write an exception that deals with active business interests.

17 Mr. Gordon. The proposal as drafted, Senator Moynihan,
18 would not cover active business interest because that is
19 not covered under present law.

20 Senator Moynihan. All right, sir. Mr. Chairman, can
21 I just say that the transition rule is pretty important
22 here. The House, I believe, has March 2, and we only bring
23 this subject up here --

24 Can we hope that there be a fairly generous arrangement
25 to get people -- if we are going to tell people they can't

Moffitt Reporting Associates

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

1 do something that they have been doing -- and they had every
2 reason to think they could do?

3 The Chairman. Okay. Maybe we can work at it. Can
4 we work that out? I don't want to start opening up
5 everything we have passed. We will never finish.

6 I want to finish the truck tax by 12:30, so the staff
7 can start drafting this -- what is it? -- a 1,000 page bill?

8 So, let's see if we can work that out satisfactorily to
9 Senator Symms and Senator Moynihan.

10 Senator Long had a possible IDB amendment -- number five.
11 David, do you have that?

12 Mr. Hardee. Yes. Senator Long's IDB amendment is
13 taking eight projects that staff overlooked that should be
14 transition cases that I think the Joint Committee majority
15 and Treasury agreed should be grandfathered from the IDB
16 changes that the committee enacted last week.

17 Mr. Susswein. Yes, Mr. Chairman. The projects include
18 several projects where preliminary approval was obtained
19 before the action by either the House or the Senate in the
20 IDB area, including the Garpos building in Garden,
21 Massachusetts, the China Trade Center in Boston,
22 Massachusetts, the World Forum project in Philadelphia,
23 Pennsylvania, Downtown UDAD project in Muskogee, Oklahoma
24 certain -- connection with the park central new town in a
25 project in Port Arthur, Texas, and the Doctors Medical Plaza

Moffitt Reporting Associates

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

1 in Oklahoma City, Oklahoma.

2 In addition, two projects -- the Willamet Plywood Plan
3 and the Goudchaux Mason branch downtown store distribution
4 center -- which those transition rules would be limited to
5 \$10 million and \$9 million of bonds respectively.

6 In addition, there would be a clarification of the rules
7 regarding the 1980 mortgage bond transition rules. The
8 effective date for the repeal of those rules would be the
9 end of 1984 with bonds issued between March 20, 1984 and
10 the end of this year counted against State volume -- MSB
11 volume -- limitations for 1984 and future years.

12 In addition, it would be clarified -- and this was a
13 matter brought up by both Senator Bentsen and Senator
14 Durenberger -- that the repeal would not apply at all to
15 the seven specific transition rules contained in the Chart
16 in the mortgage subsidy bond.

17 The Chairman. This is all part of Senator Long's
18 amendment?

19 Mr. Susswein. Yes.

20 Senator Long. The committee -- on Thursday, as I
21 understand it, agreed to a grandfather clause, and a lot
22 of us didn't know what was in it. We knew who was a
23 grandfather and who was not. I don't quarrel with what the
24 committee did, except that there are some other situations
25 equally as meritorious that were not included, and I simply

Moffitt Reporting Associates

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

1 would suggest that they be included.

2 The Chairman. Okay. Without objection, then, we will
3 agree to the amendment.

4 Senator Long. If Treasury has no objection to this.

5 Mr. Pearlman. We do not.

6 The Chairman. All right. Treasury has no objection.

7 Senator Durenberger. Mr. Chairman, I need to just
8 clarify one thing. I wasn't listening to everything you
9 said. I did hear what you indicated about the Ullmann
10 grandfathers -- those seven.

11 How about other bonds that would be affected by the
12 grandfather if it went into effect or if it were repealed
13 -- if the repeal were immediate -- is there a group in
14 there that we are going to protect until the end of the
15 year?

16 Mr. Susswein. Yes. It would not take effect until
17 the end of the year, and they would be counted against
18 the MSB cap.

19 Senator Durenberger. And it would count against the
20 cap -- okay. Thank you very much.

21 The Chairman. Okay, then, without objection, we will
22 agree to that amendment, and staff has worked out the
23 language. Is that correct, David?

24 Mr. Hardee. That is correct, Senator.

25 The Chairman. And Treasury has no objection -- is that

Moffitt Reporting Associates

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

1 correct?

2 Mr. Pearlman. We have no objection.

3 The Chairman. All right. Number six. I wanted to
4 discuss this again now that Senator Heinz is here. What I
5 suggested earlier this morning, while we were waiting for
6 a quorum, was that perhaps we could have some hearings
7 rather quickly on this matter.

8 Treasury agreed that they could be prepared in a rather
9 short time, and if we could work out some responsible
10 approach to it, we could offer a committee amendment on
11 the floor to this bill. I assume it will be on this
12 package in the next -- maybe -- two weeks or maybe three
13 weeks, but I do believe that we should at least have
14 hearings and find out what the facts are before we start
15 trying to legislate that we may be helping "a few rich
16 people in the country."

17 So, if that is satisfactory, Senator Heinz will schedule
18 hearings maybe late next week to give Treasury some time.

19 Senator Heinz. Mr. Chairman, to my mind, I think that
20 is an entirely satisfactory understanding.

21 Senator Long. Mr. Chairman, I would like to bring up
22 one problem in connection with this.

23 This is a very controversial matter. It is a matter on
24 which the Senate should definitely vote. It is a matter on
25 which legislation is clearly indicated, and the Congress

1 should act. Now, that does raise a problem in my mind.

2 It has been suggested to me that this measure might be
3 offered -- this tax bill might be offered -- as an amendment
4 to a reconciliation bill.

5 Now, if that were the case, under the rules, there
6 would only be two hours available to debate the matter,
7 and although some time could be yielded on the bill, if it
8 is offered on that bill, I think a lot of the time has
9 already been used, so there would only be about 14 hours
10 available.

11 Is that correct or not?

12 Mr. Stern. That is right. That is correct.

13 Senator Long. All right. Now, in view of the
14 significance of the things that are involved in this,
15 it just seems to me that this measure should not be handled
16 under the two-hour range, or even under the arrangement of
17 three or four hours.

18 But I just think that this is a good bill -- it is of
19 national interest -- but I feel that it ought to be debated
20 under a situation where everybody can have his opportunity
21 to be heard because we do have some very significant
22 legislation in the package, and this amendment here
23 highlights that fact.

24 I would be the first to agree that this is a matter
25 of significance that Congress should definitely act on.

Moffitt Reporting Associates

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

1 I wouldn't like to see it housed where it is part of
2 some measure that must all be handled within two hours,
3 and I don't think it was ever intended that the reconciliation
4 process be used for that purpose, nor for that matter, some
5 of the other controversial matters in that fashion.

6 I would like to ask the chairman if we can find a way
7 to handle this bill where we could have a more adequate
8 debate on it.

9 The Chairman. I am not certain. I talked to Senator
10 Diminichi. I am not certain what the "strategy" is, so
11 I think we are trying to figure out something that both
12 Democrats and Republicans can agree on.

13 I don't have any suggestion. You know, we are never
14 going to get the bill passed if we open it up for everything,
15 but there are probably some controversial items in the
16 package, and this would highlight it, I think, if we added
17 this.

18 But what is the status? Have you been negotiating
19 with any of Diminichi's staff to indicate what they are
20 going to do on the Budget Committee?

21 Mr. DeArment. No, I have not, but we will have to work
22 out a scenario to get this package melded with the other
23 one. There are a lot of procedural opportunities to expand
24 the time.

25 You could just provide it if it were offered as an

1 amendment.

2 The Chairman. As I understand, first you would have
3 to get a waiver to even do it --

4 Mr. DeArment. That is correct. There are other
5 possible --

6 The Chairman. If there were other H.R. numbered bills
7 -- if there were controversial items like number seven --
8 that -- or number six -- that they could be --

9 Mr. DeArment. Yes.

10 The Chairman. We have H.R. numbered bills?

11 Mr. DeArment. Yes.

12 Senator Long. I would hope, Mr. Chairman, that this
13 bill could be considered on a basis where there could be
14 adequate debate just because to do otherwise almost requires
15 that someone offer an amendment to simply strike out of
16 this bill all the minor amendments and simply leave the
17 big revenue items and nothing more than that.

18 And I think that everything that we have done, as far
19 as I know -- I may have voted against a few things -- but
20 generally speaking, I think -- with very few exceptions --
21 everything that was done deserves the stamp of approval of
22 the Senate, but I would hate to see a lot of it go by the
23 board just because there is not time for adequate
24 consideration.

25 I think there is nothing here that any of us would want

Moffitt Reporting Associates

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

1 to deny the opportunity to get to the floor and debate.

2 And I hope very much that we don't put ourselves in
3 the image of trying to have a legislative bum's rush and
4 try to push something through without giving all other
5 members of the Senate the opportunity to at least have
6 their say.

7 The Chairman. I haven't discussed this with Senator
8 Baker, and at least discussed it with Senator Byrd, but
9 honestly, before we do anything, we need to discuss it
10 with Senator Long.

11 Senator Armstrong. Mr. Chairman, I am not exactly
12 clear on what we have just talked about. Was Senator Long
13 implying that he simply didn't want to see this offered
14 as an amendment to the reconciliation bill?

15 The Chairman. I think that is --

16 Senator Armstrong. He only discussed the question
17 of debate, which, of course, is inherent with the
18 reconciliation nature, but there are other kinds of
19 procedural issues that are raised. In other words, aside
20 from the debate even if there were -- for example -- a
21 unanimous consent request to give more time for debate,
22 there are other restrictions for any measure which is
23 attached to a reconciliation bill.

24 And I would hope, Mr. Chairman, that we would be quite
25 cautious about hooking this onto reconciliation. I am in

Moffitt Reporting Associates

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

1 much the same position that Senator Long is as far as how I
2 voted on different pieces of the bill, but in its present
3 form, I expect to vote for this.

4 I don't know what is going to happen between now and
5 when we get to that stage, but assuming nothing too drastic
6 happens, I do plan to vote for it.

7 But I would be very uncomfortable with the notion of
8 it coming out as a part of reconciliation because that
9 would really be violative of the regular process of the
10 Senate, and I don't want to argue the issue now.

11 I have explained these reservations before, but I would
12 hope we could avoid hooking it onto a reconciliation bill.

13 The Chairman. Obviously, I will be discussing it
14 with Senator Baker, and I am certain we will have Democratic
15 and Republican discussions.

16 I don't know of any -- I guess the important thing is
17 to get it passed. I mean, it seems to me that we can agree
18 on a procedure if we can agree we are going to do it.

19 I have indicated to Senator Baker that this committee
20 has demonstrated 30 or 40 times on the votes that there is
21 strong bipartisan support to do something, and I would hope
22 that other committees would move as quickly -- well, I
23 shouldn't say as quickly as we have -- we have been at it
24 for a while -- but move quickly because if we finish at
25 12:30 today, we will have completed half the package that

Moffitt Reporting Associates

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

1 has been discussed in the last few days.

2 The House pass may be a detail if we can work it out,
3 but I just hope we can do something before the Easter recess.

4 Okay. I will certainly check on that, but would that
5 take care of your question on that matter?

6 Senator Long. I have no objection to what you
7 proposed about the Dickman amendment, Mr. Chairman. I just
8 made the point.

9 The Chairman. All right. What about number three?
10 We passed over that because Senator Grassley was not here.

11 Senator Grassley. Do you want to take that up now?

12 The Chairman. Yes.

13 Senator Grassley. I want to thank the Chairman for
14 having it on the agenda, and I will be glad to go into
15 any detail the members want me to.

16 But first of all, let me suggest that I am willing
17 to modify my bill to some extent to take care of the problem
18 that Treasury sees that it might encourage the giving away
19 of microcomputers and I am willing to modify mine the same
20 way Senator Danforth modified his, which is a little along
21 the line of my bill.

22 And secondly, I am willing to limit it just to two-year
23 post-secondary institutions and to technical institutes
24 that are post-secondary as well.

25 Now, the purpose of my original bill --

Moffitt Reporting Associates

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

1 The Chairman. Would that be a vocational education?

2 Senator Grassley. Yes. Yes.

3 The Chairman. Junior college or no?

4 Senator Grassley. Yes. The purpose of my bill,
5 whether I talk about the modified version or whether I
6 talk about what I originally put in, is a follow-up of
7 changes we made in 1981 that allowed industry to donate
8 for scientific and engineering research equipment to
9 universities for that specific purpose.

10 And I think that that is great, and I would like to
11 have the same principle applied to training people for
12 high tech skilled jobs.

13 And so, I would allow the tax deductibility of the
14 donation of equipment to these institutions I have already
15 referred to.

16 And the purpose of that is to help our community
17 colleges -- post-secondary technical institutions -- that,
18 quite frankly, have not been able to get the funding to
19 modernize their equipment for teaching so that we can better
20 compete in this high tech society and economy that we are
21 moving to.

22 We would also add to that the encouragement to a tax
23 credit of \$100.00 per person the movement of instructors
24 on a part-time or a short-term full-time basis from the
25 institution to industry so that on the job they could keep

1 up with the latest in industry in their field of teaching.
2 And then we would also encourage industry to share their
3 personnel for teaching positions with these institutions
4 I referred to so that the students in those institutions
5 can again have the greatest and most up-to-date information
6 that comes from industry.

7 We want to encourage the interchange of not only
8 equipment but expertise, teaching, etc. so that we have
9 the best equipment and the best personnel for community
10 colleges.

11 The Chairman. Could I just make one comment? One
12 thing that has concerned me and I think others on the
13 committee is that we are not setting some precedent here
14 for Apple computers and gym shoes and everything else that
15 students use in high school and grade school.

16 Senator Grassley. First of all, we are leaving out
17 the high schools. We are talking just about post-secondary.
18 So, that would take care of part of your concern.

19 Senator Bentsen. Mr. Chairman, my real concern is
20 are you going to give them credit for something in excess
21 of their own basis? If you are doing that --

22 Senator Grassley. It would be limited --

23 Senator Bentsen. I don't see any reason to justify
24 that at all. I am all for their making a contribution, but
25 I can't see any deduction that is given to them in excess

Moffitt Reporting Associates

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

1 of their basis. That would-- There is no reason to do that.

2 The Chairman. Does the Joint Committee want to touch
3 on that?

4 Senator Grassley. We now have it to exceed twice the
5 depreciation -- that is what we have in our bill. Or twice
6 basis, I am sorry.

7 Senator Bentsen. Twice basis?

8 Senator Grassley. Yes. Not to exceed that.

9 Senator Bentsen. Why should they get twice basis?
10 I don't understand that. Maybe Treasury can tell me.

11 The Chairman. You have been working with --

12 Senator Grassley. Let me answer that, please, and then
13 you can comment on it. I don't want to circumvent you.

14 But you see, we are taking the same tax application
15 that is applied to the scientific equipment that we are
16 donating under the 1981 law to universities. I am doing
17 exactly the same thing that we previously had made a
18 decision to do.

19 And so, my answer to you would be that if it is
20 justified in the instance for universities and for
21 scientific research, surely isn't it justified to encourage
22 up-to-date teaching and for people who have to go out and
23 actually produce in the high-tech society?

24 Senator Bentsen. As I recall, we got in a big fight
25 on that point.

1 The Chairman. Is that correct? He is doing
2 essentially what they are doing under the Danforth bill?

3 Ms. Moran. Yes. The Danforth allows deduction up
4 to twice the basis. It was agreed to by the industry
5 and the staff in order that it be limited --

6 The Chairman. It wasn't agreed to by the industry.

7 Ms. Moran. No. And it was limited to certain
8 specific research purposes in order to keep the cost down.

9 Mr. Brockway. Last week, Senator Danforth was
10 proposing to expand that provision that was adopted back
11 in the 1981 Act. We want to expand that to cover other
12 property, and the committee rejected that.

13 The Chairman. Yes, we rejected that.

14 Mr. Brockway. He wanted to expand that to let services
15 also get a deduction for 150 percent of the cost -- that
16 is what Senator Danforth wanted to do. We did that last
17 week -- we rejected that.

18 Mr. Pearlman. Let me just add. At least as I
19 understand what the committee has done, at least at the
20 college level, the only equipment that is eligible for
21 the enhanced deduction is equipment used in basic research
22 or experimentation. That was limited by design, so it is
23 not equipment used just in general training.

24 The Chairman. What we want to know is that we are
25 not doing anything that has not been done beyond the basic

1 proposal that was passed, except we are applying it to
2 post-high school -- in other words, two-year technical
3 schools.

4 Mr. Pearlman. I think you are doing something
5 different, Mr. Chairman. What you have done so far is to
6 make donations available to colleges and universities for
7 use in basic research only, not in research training, and
8 Senator Grassley's proposal at the vocational level would
9 make contributions of equipment for training eligible.

10 So, I think there is a difference.

11 Senator Grassley. It is the on-hands type of
12 education that I am referring to, as opposed to research.

13 The Chairman. What is the cost of the amendment as
14 modified?

15 Ms. Moran. It is about \$300 million over the three-year
16 period.

17 The Chairman. How did it get up to that high?

18 Senator Grassley. You know, when you come forth with
19 an estimate like that, I want to know how it can vary so
20 much from the original estimate we had of \$40 million for
21 the equipment. Now, we have modified that down considerably
22 and \$10 million for each of the two aspects of the credit
23 for the exchange of personnel.

24 I wouldn't even be here with an amendment that was
25 going to cost that much, Mr. Chairman.

1 The Chairman. Thank goodness.

2 Senator Grassley. Because I tried to limit this to
3 the areas where I had tried to raise some revenue through
4 closing loopholes as well.

5 The Chairman. It is my understanding that we are
6 talking about a \$40 million amendment. It sounds like
7 somebody humped it up over the weekend.

8 Ms. Moran. Senator, at least as I understand it, one
9 of the reasons that it went up over the 40 was that used
10 equipment is now allowed in limited circumstances under
11 the amendment.

12 And that is one of the reasons. I think that the \$40
13 million was, as I understand it, in last year or the year
14 before's proposal with respect to vocational education,
15 but the revenue estimated was no better.

16 Senator Grassley. That was in my original bill as well.

17 The Chairman. What does the Joint Committee think?
18 Is that where the number came from -- the Joint Committee?

19 Mr. Brockway. Evidently, two things that are going
20 on here. One is that because the committee apparently in
21 the modification Senator Danforth raised last week in
22 committee that, while the services issue was discussed
23 and the committee rejected it, one of the technicals that
24 he added to the provisions in that area would have expanded
25 the research credit to cover used property and certain other

Moffitt Reporting Associates

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

1 aspects. So, because Senator Grassley's amendment would
2 pick up from the provision in there for R&D equipment at
3 universities, that would expand it also, I think, to the
4 earlier number that either we or Treasury had given to
5 Senator Grassley was a couple of years ago before we had
6 any experience with the R&D equipment contribution provision
7 that was added for high-tech equipment on a research basis.

8 Since then, we have had some experience, and it has
9 turned out that the one for research universities is costing
10 more money than we originally predicted. So, apparently,
11 that is also one of the effects here, and I have just got
12 to check on that.

13 Senator Grassley. Our estimate came out last
14 September in our hearing on this bill, so it has been that
15 recent that we have had an estimate from the department.

16 The Chairman. That is a tenfold increase.

17 Senator Grassley. And you know I don't know exactly
18 based on the discussion here how this dovetails in with
19 Danforth's, but what I am offering here for clarification
20 is my original proposal that I introduced, and we have some
21 co-sponsors -- even people on this committee -- modified,
22 as I suggested, that we would limit it just to post-secondary
23 two-year institutions, and we would make the exemption for
24 minicomputers.

25 And I would think that whatever we are talking about now

1 is less than the figure we were talking about in September.

2 Senator Long. Could I ask a question of Treasury?

3 Does Treasury support this amendment?

4 Mr. Pearlman. No. No, Senator Long, we do not. We
5 didn't-- Nor did we support Senator Danforth's proposal.

6 Senator Long. I must not have been here when Senator
7 Danforth's proposal was agreed to.

8 Do we have an amendment in this bill? 200 percent?

9 Mr. Pearlman. In the research and experimentation
10 package, there was included proposals to expand the
11 charitable contribution deduction for donations of
12 scientific equipment to higher education.

13 In the original proposal that Senator Danforth made
14 -- and it is relevant to this because the Senator Grassley
15 bill, in effect, piggybacks onto the higher education
16 proposal. The suggestion was -- Senator Danforth's
17 proposal -- to expand very dramatically the amount of
18 charitable contribution for a variety of kinds of property
19 that could be given to higher education to be used in
20 a variety of ways.

21 We suggested to Senator Danforth that he cut back his
22 proposal and limit it to contributions of scientific --
23 research and scientific -- equipment used in basic
24 research, and we believe that makes sense. There were
25 companies out there that would make contributions of

Moffitt Reporting Associates

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

1 highly sophisticated equipment to higher educational
2 institutions and that if we could give them an incentive
3 to doing that, then that made sense, and we were supportive
4 of that narrower package.

5 Senator Danforth had initially proposed that we
6 extend the so-called enhanced deduction to contributions of
7 equipment to higher educational institutions for use in
8 general education -- the training could be microscopes in
9 a laboratory or word processing equipment, and so forth.

10 And we opposed that. We said that we thought that
11 if the committee were going to go with enhanced deduction,
12 it should be limited only to the kind of equipment that
13 would be beneficial in carrying on basic research at the
14 higher educational level.

15 Senator Grassley's proposal picks up -- if you will --
16 goes beyond because you are talking about vocational
17 schools -- it goes beyond this basic research or very
18 scientific kind of equipment. You are talking about perhaps
19 sophisticated equipment, but equipment given to vocational
20 schools so they can use it to train people to go out and
21 function more effectively in things such as computerized
22 diagnostic equipment for repairing cars and computerized
23 tractors and a variety of things that would be used by a
24 vocational school in training students in these locations.

25 We are not supportive of extending the enhanced

1 deduction to that kind of equipment. We are particularly
2 concerned, I might add, of extending it to used property
3 because we are concerned that vocational schools will really
4 not get the state-of-the-art equipment if used property is
5 contributed, and it might end up as the dumping ground for
6 equipment that is out of date.

7 Senator Long. Then, here is the thing that concerns
8 me about the amendment. You are talking about enhanced
9 basis. Are you talking about a 200 percent basis?

10 With this amendment I am talking about -- is it a 200
11 percent of basis?

12 If I have got something that cost \$100.00, you let them
13 deduct \$200.00. Is that correct?

14 Mr. Pearlman. There is a fair market value limitation
15 on the amount of the deduction up to 200 percent of adjusted
16 tax basis. That is correct.

17 Senator Long. On a fair market value, it doesn't
18 refer that cost at all. That refers to the cost plus a
19 profit on top of that. Is that right?

20 Mr. Pearlman. That is correct. The enhanced piece
21 -- the reason the word "enhanced" is used is that under
22 current law the contributor would be eligible for a deduction
23 equal to its adjusted tax basis -- its cost.

24 And Senator Grassley's proposal, as did Senator
25 Danforth's proposal, --

1 Senator Long. Yes, but it is not unusual at all. In
2 fact, as I see it those are par for the course for people
3 to sell something where their selling price is about
4 two-thirds of what they are offering for sale to the public,
5 and the public pays about a one-third markup. That is not
6 unusual.

7 Mr. Pearlman. Yes, and as we understand Senator
8 Grassley's bill, you would look at fair market value in
9 the marketplace of the donor. So, if the donor was a
10 manufacturer of this equipment and regularly sold this
11 equipment at a wholesale price, then fair market value
12 for that manufacturer would be the wholesale price, not
13 the retail price.

14 We don't think that is a problem with this proposal.
15 And we think we can deal with that problem.

16 Senator Long. Even if you are talking about -- you
17 said -- the fair market value being a wholesale price --

18 Mr. Pearlman. The fair market value to the donor.
19 In other words, in the environment in which a donor deals
20 with --

21 Senator Long. A wholesale price still includes a
22 profit, doesn't it?

23 Mr. Pearlman. That is absolutely correct.

24 Senator Long. Then, it seems to me that you are talking
25 about situations here where someone who is in the 46 percent

1 bracket or an individual in a 50 percent bracket, by the
2 time they include their profit and their fair market value,
3 you are talking about a case where these people could give
4 the stuff away and make a profit by giving it away.

5 Make a profit out of the Treasury.

6 Mr. Pearlman. If it is limited -- if the deduction is
7 limited -- to two times cost, and if you assume --

8 Senator Long. You say two times cost, and you are
9 talking about defining costs, so that includes the profit.

10 Mr. Pearlman. No. No. We are talking about tax
11 cases when we talk costs. We are not talking about any
12 profit element. No. We are talking of the tax concept.

13 Senator Long. So, you are talking about two times the
14 cost. All right, if you have got a Federal tax plus a
15 State tax -- if you have a State Government tax as well
16 as a Federal tax, could that be a situation where the
17 person actually makes a profit by the time he has donated
18 it to wherever he is going to donate it?

19 Mr. Pearlman. I guess, depending on the extent of
20 the State income tax, if the State tax piggybacked on the
21 Federal tax and allowed a similar deduction, there are
22 going to be situations in which the deduction exceeds 50
23 percent. That is correct.

24 I don't want to speak for Senator Grassley, but I don't
25 think the idea --

1 Senator Long. Well, you are going to let him deduct
2 it twice. If it exceeds 50 percent, he has made a profit
3 then giving something away.

4 Now, meanwhile, he has put all his equipment in the
5 hands of people out there to get accustomed to using his
6 equipment. I mean, this sounds very much like the old
7 Apple computer bill to me.

8 Now, as I recall under that one, Apple was going to
9 give all these computers away, but by the time it cost
10 Apple anything, it would all be at the expense of the
11 Treasury, and then the people would get used to -- all
12 these young people would be trained on Apple computers and
13 use Apple computers forever after that.

14 So, if it didn't cost them anything, why would they
15 -- it seems to me as though it would be a matter of the
16 taxpayers paying for it, which is something that I don't
17 think that we would want to do.

18 Mr. Pearlman. We expressed some concern to Senator
19 Grassley about the personal computer, and as he pointed out,
20 I think he is not concerned about the personal computer
21 either, and that has been dropped from the proposal.

22 I think, Senator -- and I don't look at this proposal
23 as one in which Senator Grassley is trying to give a donor
24 a profit. I don't think that is the objective here nor
25 do I think that that is the consequence at least of the

Moffitt Reporting Associates

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

1 Federal proposal.

2 Senator Long. Here is my concern about it. I wasn't
3 familiar with the Danforth amendment. Maybe I wasn't here
4 when it was offered, but here is my concern about it.

5 As long as I have been on this committee, it looks to
6 me as though Treasury has come in here fighting against
7 tax loopholes, and one of the principal definitions of the
8 tax loophole was a double deduction, when you let somebody
9 deduct something twice.

10 Now, if you are going to let them deduct it one time
11 but put it at twice the value, I don't know what is the
12 difference between that and a double deduction.

13 Senator Grassley. Senator Long, could I comment,
14 please?

15 Senator Long. Yes.

16 Senator Grassley. I would like to reemphasize that
17 what we -- and this isn't going to change your point of
18 view -- I mean, the statement you just made -- but I just
19 wanted to say that I was drawing upon the experience that
20 was created in 1981 when we passed the tax bill that had
21 the same sort of benefits in it for scientific equipment
22 just to universities.

23 And I wanted to draw on that. So, I am not asking for
24 us to do something new. I am asking for an expansion of
25 it to include two-year colleges and beyond scientific

1 research.

2 Additionally, let me suggest that for the benefit of
3 the chairman I will modify this a second time now to just
4 limit it to new equipment and then also to reemphasize a
5 further refinement made in the first instance in that we
6 don't intend to include minicomputers.

7 Senator Durenberger. Mr. Chairman?

8 The Chairman. Senator Durenberger?

9 Senator Durenberger. I guess in listening to the
10 discussion I am more than a little concerned by my
11 co-sponsorship of this measure.

12 We are either going to do research with this Danforth
13 proposal, which causes us big headaches and dollars, or we
14 are going to do donations. And I know that there is some
15 donative incorporated into the research, but a love
16 vocational education and it does a whole heck of a lot
17 to prepare people to transist in our society, but that is
18 not where we do basic scientific research, in vocational
19 schools.

20 Senator Grassley. Mine is not for the research. Mine
21 is for the on-hands training for skilled technicians.

22 Senator Durenberger. And I just raised the question
23 is this the time to add to the deficit or to do --

24 Senator Grassley. My response to that is, you know,
25 we are doing a great deal through either the Tax Code or

Moffitt Reporting Associates

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

1 through our educational bills to enhance our going to the
2 high-tech society and economy, and it seems to me there
3 is no better place to do this than at our two-year
4 institutions, and to help them through the interchange
5 of information between industry and teaching.

6 Senator Durenberger. But it is a manpower training?

7 Senator Grassley. Yes.

8 Senator Durenberger. That is the emphasis of what
9 you are proposing now.

10 Senator Grassley. Yes.

11 Senator Bradley. Mr. Chairman?

12 The Chairman. Senator Bradley and then Senator Chafee.

13 Senator Bradley. What is the revenue impact?

14 The Chairman. It has now been reduced to \$40 million.

15 Senator Bradley. \$40 million?

16 Mr. Brockway. Senator Bradley, I think the discussion
17 with Senator Grassley, if one made his proposal limiting it
18 to new property and not including microcomputers or personal
19 computers and limiting it to public technical institutions
20 or public community colleges and perhaps certain other
21 technical changes, it would be at that point reducing the
22 revenue to around \$100 million as long as we had authority
23 in the drafting to make sure that --

24 Senator Bradley. \$100 million.

25 Mr. Brockway. Over the three-year period.

1 The Chairman. So it is not \$40 million a year?

2 Mr. Brockway. No. It is \$35 or \$37 million, something
3 like that.

4 The Chairman. I would like to take a vote on it if we
5 can.

6 Senator Bradley. Well, \$100 million a year is a litte -

7 Mr. Brockway. Not a year. No.

8 Senator Bradley. Well, over three years, it seems a
9 little rich to me. I mean, we are going to put this thing
10 in the Code, and then nobody is going to look at it to see
11 if we are actually getting what we thought we were going
12 to get for it.

13 And meanwhile, when we talk about the vocational
14 educational budget on the appropriations side, people are
15 not going to vote for that, and then they are going to say
16 well we gave it to you through a tax gimmick and then you
17 are not going to oversee whether it is achieving its end.

18 (Continued on the next page.)

19

20

21

22

23

24

25

1 The Chairman. But what was the cost of the Danforth
2 Amendment? That's pretty rich, too. Two billion?

3 Ms. Moran. The whole one was 2.1.

4 The Chairman. We didn't even sniff at that one, we
5 just -- whsst -- let it go; "You're going to a university,
6 so don't worry about the cost."

7 Senator Chafee?

8 Senator Grassley. Senator Bradley, I'm just asking for
9 a few crumbs.

10 (Laughter)

11 Senator Chafee. Mr. Chairman, we originally got into
12 this business because of the competitive urge to do something
13 about the Japanese. We started down this path with the R&D
14 tax credit, as you recall, and that was a 25 percent
15 increment over what they had been spending for R&D. That
16 was for three years, and now we have made it permanent.

17 In making it permanent, then we made this extension,
18 all directed toward breaking out on the frontier of knowledge.
19 It was basic research through our universities. Now, it seems
20 to me we are extending this.

21 I think the original intent and the objective was a good
22 one, but I think to extend it as far as we are now is just
23 going a little too far. So, I have grave reservations about
24 going down this path.

25 Mr. Brockway. Just to clarify the record, it was

Moffitt Reporting Associates

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

1 2.1 billion on the entire Danforth package. It was about
2 400 million in the aggregate for the contributions of
3 property to universities and the --

4 The Chairman. I understand this was sort of the
5 Glenn-Danforth Amendment early on, wasn't it? Offered on
6 the floor?

7 Mr. Brockway. I'm not sure.

8 The Chairman. Well, I heard John Glenn talk about it
9 on his campaign.

10 Senator Bradley. Too bad it wasn't the Hart.

11 The Chairman. Yes, it's a good amendment.

12 Senator Bradley. If you are talking about the future.

13 (Laughter)

14 Senator Boren. Mr. Chairman, under current law it is
15 my understanding they can donate equipment to vocational
16 and technical schools. According to information I have been
17 furnished, it is that the deduction for donation of equipment
18 does apply, the way this is written, applies now to some
19 vocational-technical schools, but only to those who train
20 only post-secondary students. Is that correct?

21 Mr. Brockway. Well, in current law you get a deduction
22 for any contribution, without regard to whether it is a
23 vocational school or not. This would allow you up to twice
24 your costs. But then it is only limited to post-secondary
25 vocational schools, technical schools, and public technical

Moffitt Reporting Associates

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

1 schools and public community colleges.

2 Senator Boren. Do you mean with the present law it
3 is only limited to that?

4 Mr. Brockway. Under present law everybody gets a
5 charitable contribution deduction equal to their basis in
6 the property.

7 Senator Boren. What I am concerned about is the
8 discrimination that exists. For example, in our State --
9 I just have a list of States here. It just happens to include
10 a few States that might be of interest: Louisiana, Kansas,
11 Maine, Montana, Oklahoma, Pennsylvania, Rhode Island,
12 New Jersey, New York --

13 The Chairman. Louisiana?

14 Senator Boren. I said Louisiana, Kansas, Rhode Island,
15 Texas -- let me see. I see everybody around the table.
16 Pennsylvania, New Jersey.

17 These are States where there is an add-mixture. In all
18 of these States you have post-secondary and other students
19 mixed together; they are not merely post-secondary. And
20 therefore, they are disqualified. It seems to me to be
21 unfair, because these States use their vocational schools
22 either solely or in combination with community colleges to
23 train technical and skilled workers. And it seems to me
24 improper to leave out those States that are not strictly
25 limited to post-secondary. We have some students that are

1 post-secondary, and some that are not.

2 Senator Grassley. Over a period of quite a few decades
3 now, since we originally started our vocational education at
4 the Federal level just for the high school kid, and as that
5 has gone into the post-secondary institutions, those programs
6 and that philosophy of help has, we have run into comparable
7 problems in the past.

8 I remember when I was in the legislature, we had to
9 adjust for some of those. But the bottom line of it is that
10 the institution itself nor is the State denied access to the
11 help, it might somehow be limited to the proportion of their
12 students or directly to the students themselves that are
13 post-secondary as opposed to secondary students.

14 But I don't see that as an insurmountable problem,
15 because we had to deal with it so many times.

16 Senator Boren. Is there some way of writing this so
17 that all the States -- the majority of the members of the
18 committee are from States that --

19 Senator Chafee. I just said that's the way it should
20 be administered anyway.

21 Senator Boren. But apparently it is not, according
22 to our vocational school people and the American Association.

23 The Chairman. I wonder if we might either vote or not
24 vote. Can we do that? Does that add to the cost?

25 Senator Grassley. Oh, that's not going to add to the

Moffitt Reporting Associates

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

1 cost, because that's the way it was originally.

2 Senator Boren. Can we clarify, at least, that schools
3 that have secondary as well as post-secondary students can
4 be included?

5 The Chairman. That doesn't seem to be a problem,
6 according to the Treasury.

7 Mr. Brockway. It's going to add somewhat, without
8 one way or another to limit it at least to that part of the
9 school that is only post-secondary, somehow. I haven't
10 really thought through the issue, but we would have to try
11 to be restrictive.

12 Senator Boren. Thirty-five States are disqualified,
13 including most of the States that are --

14 Senator Grassley. In my State -- I don't know whether
15 I am on your list or not, but in my State we have
16 post-secondary kids that sometimes attend on the campus as
17 a high school course, some of these institutions or
18 community colleges.

19 Senator Boren. They don't have you listed as one of
20 them.

21 Senator Boren. I looked to try to find everybody.

22 Senator Grassley. Well, I assure you that if I'm not
23 on that list, I should be on that list. Obviously I can
24 see this working in my State as well as any other State.

25 The Chairman. I would assume when Treasury made its

1 estimates, or whoever made the estimates, you were talking
2 about all of the States. Maybe not.

3 Senator Grassley. And if that's a problem, obviously
4 you know what my intent is, and clarification of that is no
5 problem as far as I am concerned.

6 The Chairman. Let's see if we can get to the nub of
7 it, because we've got to move on here.

8 I assume you are looking at 50 States and not 15 when
9 you made the estimates.

10 Mr. Brockway. We do not know that information. My
11 suspicion is that if it is for vocational training equipment
12 and it's to schools that are a combination of both secondary
13 and post-secondary, that it would have to add some not
14 insignificant amount to the cost, because it would be
15 very difficult, when you think it true, of how to segregate
16 that. It would only be equipment that is used in the
17 post-secondary level. That would be the only equipment
18 qualifying, and if you allow for all training equipment for
19 all vocational schools, that would be quite a bit.

20 I just don't know if when the estimators did it,
21 whether they were familiar with the same breakdown as you are
22 by States, because it may well be in some of these States
23 that they have post-secondary technical colleges.

24 The Chairman. I wonder if we might do this. Maybe
25 Senator Boren and Senator Grassley could visit about it. We

1 have a couple of other items we could take care of.

2 I understand Number 7 is just a clarification.

3 Mr. Brockway. It is just a clarification. What you
4 do on the distilled spirits tax on rum, to the extent that
5 is covered over to Puerto Rico, that the Federal Government
6 doesn't get any of the revenue increase from it; in fact,
7 because of deduction offsets it would end up to be a net
8 loser. So we want some clarification for drafting, whether
9 we should provide that this \$2 increase does not get covered
10 over.

11 The Chairman. Right. But if we make that clarification
12 that's no problem, then.

13 Senator Moynihan. Could I ask, Mr. Chairman, which
14 one we are on?

15 The Chairman. We have set aside Number 3, and the last
16 remaining item is Number 7, clarification of the distilled
17 spirits tax. And as I understand, by increasing the excise
18 tax on distilled spirits I am certain the committee did not
19 intend to increase any spending program, including the cover
20 over to Puerto Rico.

21 If the committee does not clarify the increase, and the
22 distilled spirits tax will not increase the cover-over, the
23 committee will have increased spending for Puerto Rico and
24 the Virgin Islands by \$163 million through '84. Almost all
25 of this increased spending will go to Puerto Rico, and I

1 don't think that was the intent. So we want to try to
2 clarify it. That's what he was addressing.

3 Senator Moynihan. Mr. Chairman, could I speak to
4 the matter?

5 The Chairman. Sure.

6 Senator Moynihan. And I won't speak at length.

7 We've been through this before on this committee. As
8 the Washington Post observed this morning, we are the
9 committee that in its domestic savings cuts welfare programs
10 of one kind of another, and in its tax provisions does other
11 things.

12 We had the issue before us of Puerto Rico, which had
13 worked out under a Treasury arrangement a device for
14 increasing revenues to replace a genuine and serious
15 reduction in the program receipts they had been getting from
16 the Federal Government.

17 Puerto Rico has a 20-percent unemployment rate.
18 Two-thirds of the people who live in Puerto Rico live below
19 the poverty line. These are American citizens. They are
20 treated differently from other American citizens. We define
21 the benefits they get under certain programs as "being a
22 proportion of the lowest level that goes to any State." I
23 mean, we define these people as getting less than anybody
24 else gets in things such as the AFDC program.

25 Now, here, under an arrangement that must be 50 years in

Moffitt Reporting Associates

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

1 place -- Mr. Pearlman, isn't this the case? A half-century
2 arrangement has allowed them to receive back the Federal
3 Excise Tax on alcoholic beverages that they send to this
4 country. They must send them under the Federal statute that
5 requires intercoastal traffic to be in American bottoms. They
6 are subject to all of those laws. And they have had this
7 one arrangement for a half-century. And they have had such
8 an enormous reduction in programs that they depend on. They
9 have such an enormous need. Can we in good conscience say
10 to these American citizens that they are not going to have
11 an arrangement which they have always had?

12 The Chairman. I think we know the issue, but I don't
13 think anybody on the committee -- Senator Heinz suggested
14 we might look at this tax. I don't think we thought, by
15 doing that, we were going to be spending \$163 million on
16 Puerto Rico.

17 Senator Moynihan. Now, Mr. Chairman, can I ask about
18 language? It is not that we are spending anything, but that
19 this will be money we are not getting.

20 Mr. Brockway. Actually, Senator Moynihan, the way it
21 works is that we will collect on the revenue side the gross
22 amount of tax, and then on the spending side of the budget the
23 cover-over will come down. So in effect, the estimates that
24 we gave you were for the gross revenue increase but did not
25 dispose of the issue, I guess. Or at least that is what we

1 are addressing now, whether or not that spending would --
2 Senator Moynihan. But that's a bookkeeping matter.
3 Mr. Brockway. Except that what we had done is the
4 asking for the increase that we had estimated was the
5 gross amount of the increase, not reduced by the amount you
6 would pay over to Puerto Rico for both Puerto Rican rum and
7 also I guess all CBI rum.

8 Senator Bradley. Mr. Chairman, just to give it, again,
9 a little different perspective, \$167 million seems like a
10 lot of money, but we are going to be dealing with a
11 proposal from the Administration on Central America to the
12 tune of \$8-10 billion. It seems to me that we would be
13 shortsighted to essentially tell people who are a part of
14 our country that they are not going to get what we should,
15 by law, provide them, and that we have taken a decision to
16 essentially say No.

17 The Chairman. I don't object to that, and I am a strong
18 supporter of Puerto Rico, but let's do it through the regular
19 program. Here, we adopt an amendment to raise a billion
20 dollars by increasing liquor taxes, and it is a spending
21 proposal, and this will be in conference because the House
22 has a different provision. Is that correct?

23 Mr. Brockway. Well, the House provision after
24 September 30, 1985, would increase the tax by \$3.75 a proof
25 gallon, and then the tax on rum would be covered over to the

1 Virgin Islands into Puerto Rico. In the committee it's a
2 \$2 tax, and we were talking about \$1.85.

3 Senator Moynihan. Please, sir, the word "covered over"?

4 Mr. Brockway. Oh, I'm sorry. The "cover over" means
5 just that the revenues that we receive on rum are paid over,
6 colloquially "covered over", to the Puerto Rican treasuries
7 and the Virgin Island treasuries. That amount under the
8 House bill is paid over, to the extent it is on rum, and
9 the issue here is whether to do it.

10 The Chairman. What is the clarification you suggest?

11 Mr. Brockway. Well, the clarification on this
12 provision, effective 1-1-85, is whether or not to pay over
13 to Puerto Rico and the Virgin Islands the additional \$2 of
14 excise tax on rum.

15 The Chairman. Well, let's just vote on the clarifica-
16 tion. It would seem to me that we didn't intend --

17 Senator Moynihan. Well, it seems to me we did,
18 Mr. Chairman. I don't want to argue with you, but the
19 provision has been statute for 50 years.

20 The Chairman. We had a vote on this very thing last
21 week. We should have had it in the original proposal; but
22 it wasn't there. I just hope we adopt the clarification.
23 Then we will be in conference, and I will work with Senator
24 Moynihan to see if we can figure out something.

25 Mr. DeArment. Mr. Packwood?

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

1 Mr. DeArment. Mr. Moynihan?

2 Senator Moynihan. No. You finally got to a No.

3 Mr. DeArment. Mr. Baucus?

4 (No response)

5 Mr. DeArment. Mr. Boren?

6 (No response)

7 Mr. DeArment. Mr. Bradley?

8 Senator Bradley. No.

9 Mr. DeArment. Mr. Mitchell?

10 (No response)

11 Mr. DeArment. Mr. Pryor?

12 (No response)

13 Mr. DeArment. Mr. Chairman?

14 The Chairman. Aye.

15 Now, can we vote on the Grassley matter, then we can
16 move on to truck taxes.

17 The Ayes are 8 and the Nays are 2. The clarification
18 is agree to.

19 Senator Chafee. Mr. Chairman, could I ask one quick
20 question on the distilled spirits, very quick?

21 Would this increase in tax on the distilled spirits we
22 have done, do we keep up the old method and timing of the
23 payment of the excise tax? Didn't we have a very kind of
24 accelerated provision on that?

25 Mr. Brockway. You agreed to an accelerated provision in

Moffitt Reporting Associates

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

1 the committee earlier.

2 The Chairman. We changed that.

3 Senator Chafee. Well, I think this is going to be
4 awfully tough on the spirits industry.

5 The Chairman. That provision is not in the House bill.

6 Senator Chafee. What do you mean, the payment?

7 The Chairman. The acceleration.

8 Senator Chafee. Oh, I see.

9 Mr. Pearlman. Mr. Chairman, before you vote on the
10 Grassley --

11 The Chairman. Let's go fast.

12 Mr. Pearlman. I promise I will. I just want to point
13 out to the committee that there are two pieces of the
14 Grassley proposal, and the one dealing with the credit for
15 teachers is one we are very much in opposition to.

16 The Chairman. It is not a credit for teachers.

17 Mr. Pearlman. Well, there is a piece of the Grassley
18 proposal that Senator Grassley described to the committee
19 this morning that deals with a credit being given to certain
20 qualified vocational education teachers, and we are very
21 concerned about that piece of the proposal.

22 The Chairman. Is that in your proposal, a credit for
23 teachers?

24 Senator Grassley. Yes. I stated that in my statement.

25 The Chairman. Oh. I missed that.

1 Senator Grassley. That's where I get involved with
2 encouraging the exchange of personnel between industry and
3 the classroom, both directions, so that we get the most
4 up-to-date training for our teachers and so that we get the
5 newest of industrial technology into our classrooms.

6 The Chairman. All right. What is the revenue estimate
7 now?

8 Mr. Brockway. Well, the idea was to modify it so it
9 would reach approximately \$100 million of cost.

10 Senator Grassley. For a three-year period of time.

11 Mr. Brockway. For a three-year period.

12 The Chairman. All right. Treasury is opposed to this.
13 I have suggested to Senator Grassley that if he could reduce
14 the cost, which he has done, the \$300 million, and if it
15 were patterned after the \$2.1 billion proposal that we agreed
16 to last week, that I would support it. So I think we may
17 just call the roll and see what happens.

18 Mr. DeArment. Mr. Packwood?

19 Senator Packwood. Aye.

20 Mr. DeArment. Mr. Roth?

21 (No response)

22 Mr. DeArment. Mr. Danforth?

23 (No response)

24 Mr. DeArment. Mr. Chafee?

25 Senator Chafee. No.

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

1 Senator Bradley. No.

2 Mr. DeArment. Mr. Mitchell?

3 (No response)

4 Mr. DeArment. Mr. Pryor?

5 (No response)

6 Mr. DeArment. Mr. Chairman?

7 The Chairman. Aye.

8 Senator Chafee. I think it's a tie vote.

9 Mr. DeArment. Senator Heinz?

10 (No response)

11 The Chairman. He may have passed.

12 Mr. DeArment. He passed.

13 VOICE: The Senator will vote Aye.

14 The Chairman. The Ayes are 6, the Nays are 5.

15 Senator Heinz?

16 The Ayes are 7, the Nays are 5.

17 Senator Boren. Pryor and Boren vote Aye.

18 The Chairman. The Ayes are 9, the Nays are 5.

19 Senator Bradley. Mr. Chairman, Aye.

20 The Chairman. The Ayes are 10, the Nays are 4.

21 All right. Now, as I understand, that completes the
22 agenda we agreed on. I know there is one dispute over one
23 item that Senator Symms and Senator Boren insist was raised.

24 Senator Bradley. Mr. Chairman, could I just raise one
25 question? I wasn't here when we went over the IDB list, and

Moffitt Reporting Associates

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

1 I just wanted to clarify that the New York/New Jersey
2 Essex County Port Authority Resource Recovery Project is on
3 the list for the purpose of the arbitrage restrictions only.

4 Mr. Susswein. That is correct, Senator.

5 The Chairman. That is correct.

6 Senator Bradley. Thank you.

7 The Chairman. Senator Heinz?

8 Senator Heinz. Just two things: One, I want to be
9 sure that the World Forum of the University City Science
10 Center of the University of Pennsylvania is on that list.

11 The Chairman. That's the IDB?

12 Senator Heinz. Yes, the IDB.

13 The Chairman. It is now.

14 (Laughter)

15 The Chairman. All right. What is the other one?

16 Senator Heinz. And secondly, how did we dispose of
17 the foreign tax credit issue? I apologize; Senator Grassley
18 and I had a hearing.

19 The Chairman. We decided to keep working on it, to see
20 if we could figure out something. Senator Danforth couldn't
21 be here, and Senator Bentsen raised it. We are still trying
22 to find some neutrality in the provision, and that seemed
23 satisfactory to Senator Bentsen. So if we can figure out some
24 way to make it work between now and the time we get to the
25 floor, I assume Senator Danforth will offer it.

Moffitt Reporting Associates

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

1 Senator Heinz. Well, I hope we can find something out
2 on that, Mr. Chairman, because it's a very odd provision, the
3 way it works. It's just a question of the timing of income.
4 It can result in two very different amounts of tax being
5 paid to the government.

6 The Chairman. I think Treasury agrees that there should
7 be a change, so we hope that we can reach an agreement.

8 As I understand, there was one item that I think both
9 Senator Boren and Senator Symms insist should be have been
10 on the agenda, because it was raised. I don't recollect that,
11 but I am not going to -- if in fact they say it was raised,
12 it was raised.

13 Senator Boren. Would that be the unqualified stock
14 options?

15 The Chairman. No, I was thinking about disclaimers.

16 Senator Chafee. That's been adopted.

17 Senator Symms. It's the disclaimer. Mr. Chairman, what
18 it is, in a nutshell, we have had hearings on this, we have
19 discussed it in the Estate and Gift Tax Subcommittee, that
20 there are some estates out there where people have disclaimed
21 any interest and not taken any money from an estate, and
22 yet Treasury is trying to rule --

23 The Chairman. Is that your recollection, Senator Boren,
24 that it was raised?

25 Senator Boren. Yes.

Moffitt Reporting Associates

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

1 Senator Symms. And I would just like to bring it
2 before the committee and ask us to include it. What the
3 amendment would do, it would not allow any individual to
4 disclaim an interest in a trust if that individual had in
5 fact received financial benefit from the trust. But there
6 are some cases where people have had no financial benefits
7 from the trust, they have not accepted anything.

8 The Chairman. This was approved by the committee last
9 Fall. I know the Treasury is opposed to it, but if in fact
10 Senator Symms and Senator Boren indicate it was raised, then
11 I think without objection we will agree to the amendment.

12 Mr. Brockway. I am not sure that it was approved.

13 Senator Symms. I thought that it was.

14 The Chairman. It has been approved just now.

15 All right. As far as I know, that completes that
16 agenda. We will now move to truck taxes.

17 Senator Moynihan. Mr. Chairman, I have one small thing
18 that I would bring up, just a clarification.

19 The Chairman. Yes.

20 Senator Moynihan. This is with respect to the matter
21 we discussed Thursday briefly about the ability of insurance
22 companies writing variable life insurance -- here comes
23 Mr. Belas -- to in the first instance have an underlying
24 fund which is completely vested in Treasury Bills.

25 Now, it was my understanding of the agreement we

Moffitt Reporting Associates

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

1 reached with Mr. Chapoton that the Treasury is willing to
2 make that arrangement.

3 Mr. Belas. That is our understanding, Senator
4 Moynihan.

5 Senator Moynihan. Which I think is sensible.

6 But on the other hand, the Treasury was not willing to
7 allow an insurance company to invest its particular portfolio
8 for such a policy entirely in an existing mutual fund.

9 Mr. Belas. That is correct.

10 Senator Moynihan. But they are willing to have
11 existing mutual funds be the investment advisors for such a
12 policy.

13 Mr. Belas. That is correct, Senator Moynihan.

14 Last week there was some -- it was not clear whether
15 the ability for an insurance company to sell life insurance
16 and variable annuities and have an outside investment
17 advisor was agreed upon.

18 I understand that Treasury now believes that no
19 distinction need be made between variable life insurance and
20 variable annuities, if that is what the committee wants to
21 do.

22 Senator Moynihan. Mr. Pearlman, is that so?

23 Mr. Pearlman. You are referring to the investment
24 advisor, just the roll as advisor?

25 Mr. Belas. Yes.

1 Senator Moynihan. Yes.

2 Mr. Pearlman. That is correct.

3 Senator Moynihan. Can I record that I am disappointed
4 that we couldn't reach agreement on the use of existing
5 funds? Because it denies consumers an opportunity to say,
6 "Well, I like the performance of this fund or that fund,
7 that is what I'm looking for," and it denies smaller insurance
8 companies the opportunity to sell such policies. I think
9 there is a legitimate consumer issue here, and that in fact
10 we will return to it one day.

11 But I thank the Treasury, and I thank the Joint Staff
12 for as much as we did get done. And I thank the Chair for
13 letting me talk.

14 The Chairman. Thank you very much, Senator Moynihan.

15 Now, Dave, I understand you have an effective date
16 question?

17 Mr. Brockway. Yes. There is one final issue I would
18 like to clarify that deals with market discount obligations.
19 You have two provisions dealing with market discount in the
20 bill. One treats it as ordinary income. Market discount
21 only applies to bonds issued after the effective date. You
22 have another for leveraged market discount bonds. We defer
23 the interest incurred to carry. That is for existing bonds
24 as well, anything acquired with debt financing after the
25 effective date.

Moffitt Reporting Associates

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

1 We would recommend that insofar as you have debt
2 financing, not only is the interest deferred but that amount
3 of the gain is treated as ordinary income, so there isn't a
4 possibility of converting that interest deduction into a
5 capital gain.

6 The Chairman. All right. Without objection, we will
7 adopt that recommendation.

8 I wanted to raise one clarification on accumulated
9 earnings tax penalty imposed upon corporations that
10 accumulate their earnings excessively. It's one that was
11 raised by a newspaper, the Kansas City Star and Times. Has
12 that been addressed?

13 Mr. DeArment. We haven't addressed that yet, Mr.
14 Chairman, but if they were clarified and it were limited to
15 just that kind of enterprise with a broad application --

16 The Chairman. That would not do violence to the other
17 decisions made?

18 Mr. Pearlman. I think if we can limit it, it will not.

19 The Chairman. All right, then, if we can do that.
20 Without objection.

21 Senator Bradley. Mr. Chairman, could I ask for another
22 clarification in another part, on the retroactive
23 partnership allocation abuses?

24 As it is now in the law, if you make an investment in a
25 November period, you only get the deduction for the period

1 November to January? And do we know what that was supposed
2 to raise in revenue? I don't mean to delay things,
3 Mr. Chairman, so they can get back to me on that.

4 The Chairman. Can they get back to Senator Bradley
5 on that?

6 All right. Let's get back to truck taxes. Is the
7 DOT representative here?

8 Mr. Pearlman. Yes.

9 The Chairman. Dave, does that take care of all the
10 concerns you have now?

11 Mr. Brockway. I believe so, Mr. Chairman.

12 The Chairman. And I believe there is no question, you
13 will be granted authority to make technical changes. The
14 committee has always done that. So, without objection, that
15 authority will be given to the drafters.

16 All right. Let me first place in the record a letter
17 that I received this morning: "Dear Bob, I understand the
18 committee will be considering several exemptions of the
19 Highway User Fees during the markup this morning. The
20 Department of Transportation opposes these exemptions
21 because of the potential revenue loss to the Highway Trust
22 Fund. Additionally, providing exemptions increases
23 administrative problems and encourages other users to
24 seek similar treatment.

25 "In particular, the Department opposes increasing the

Moffitt Reporting Associates

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

1 present 5 cents per gallon exemption for gasohol. Increasing
2 the exemption for gasohol to 9 cents would result in a
3 revenue loss by 1988 of \$1.862 billion of the Highway
4 Trust Fund, seriously undermining our efforts to repair our
5 roads and bridges.

6 "The committee has also approved an additional 1-cent
7 exemption for gasohol, with a resulting revenue loss of
8 \$380 million through 1988. Each added 1-cent exemption
9 results in increasing revenue losses to the trust fund.
10 These losses are unacceptable.

11 "The Department also opposes exempting piggyback
12 trailers, any further mileage exemptions, or preferential
13 treatment for any other category of users. These additional
14 exemptions only serve to undercut the objectives of the
15 STA and the entire structure of our highway tax system.

16 "I urge you to oppose all such exclusions in the
17 Highway User Fees.

18 "With best wishes, sincerely, Elizabeth."

19 (Laughter)

20 The Chairman. Now that that's a matter of record, I
21 can vote any way I want.

22 (Laughter)

23 The Chairman. Now, as I understand, for purposes of
24 moving on this, I think -- what are there, four amendments?

25 Senator Wallop. Mr. Chairman, I have what I guess is

Moffitt Reporting Associates

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

1 a sort of underlying amendment to what we seek to do.

2 The Chairman. But I think, unless there is some
3 objection, what may finally happen on it, the basic
4 underline may depend on what other amendments are adopted,
5 if we look at the revenue involved. So what we hope we
6 might do is take up gasohol first, which is a rather
7 significant amendment, and see what happens on that
8 amendment, and then move to the piggyback and the farm
9 exemption, and -- what is it? Logging vehicles?

10 Mr. DeArment. Yes, sir.

11 Senator Moynihan. Mr. Chairman, would you repeat again
12 the revenue loss that the Secretary of Transportation
13 anticipates from the Gasohol Amendment?

14 The Chairman: It is \$1.862 billion if you go the full
15 9 cents by 1988.

16 Senator Moynihan. Round numbers, \$2 billion.

17 The Chairman. Yes, round numbers -- \$2 billion.
18 Substantial.

19 Senator Wallop. Mr. Chairman, I would point out, and
20 obviously you can run it any way you want, mine is revenue
21 neutral. It is just a question of structuring the tax on
22 trucks.

23 I would also just say that, as you know, I have the
24 Intelligence budget committee meeting this afternoon.

25 The Chairman. Well, I think we can dispose of the

Moffitt Reporting Associates

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

41
74
1 four amendments rather quickly, because I know you have
2 that problem.

3 Why don't we just move to gasohol.

4 Senator Durenberger? Is he outside?

5 (No response)

6 Senator Grassley. Mr. Chairman, I have a technical
7 amendment. While you are getting him, I could take care of
8 it.

9 Treasury has agreed to this, and it's in the House
10 Ways and Means bill, and it deals with the floor stock for
11 people who had on hand tires at the time we changed the tax
12 on tires in the bill last time. If I'm right, which I think
13 I am, Treasury has already approved of that. I would like
14 to include that same change at this point in the discussion.

15 The Chairman. DOT is represented by Ray Barnhart and
16 Tony Kane.

17 Do you have any objection to that? It is a technical
18 amendment. Without objection, we will agree to that.

19 Now, where is Senator Durenberger?

20 Well, let's go ahead and give the Department's position
21 on increasing the gasohol exemption to 9 cents.

22 Mr. Barnhart. The Department has taken a very strong
23 position in opposition to any additional exemptions, because
24 of the damage it would do to the balance of the trust fund.

25 I would point out that that \$1.86 billion would be in

1 addition to the loss already suffered because of the existing
2 gasohol exemption. So that in total, there is an horrendous
3 subsidy if you were to extend that to the additional 9 cents.
4 We are already subsidizing that industry out of the trust
5 fund in excess of \$200 million a year.

6 Senator Packwood. Dave, do you want to comment?

7 Senator Durenberger. Yes, if I may. I apologize; I
8 was over next door with the Secretary of State.

9 If I can take a couple of minutes, I think this is a
10 terribly important issue, and it is important for me to take
11 a couple of minutes, I guess, because I am not just
12 advocating the extension of credits in the creation of a
13 larger deficit.

14 First, what is the proposal? The proposal is in four
15 parts: It raises the Highway Excise Tax exemption to 8 cents.
16 The bill that a bunch of you cosponsored was 9 cents. It
17 can be done, I think, at 8 cents per gallon for fuel that
18 it at least 10-percent ethanol.

19 It raises the companion blenders' credit to 80 cents
20 per gallon of pure ethanol; it raises the tariff on imported
21 ethanol for highway use to 80 cents per gallon. And -- this
22 is the important part -- it preempts the first four cents
23 of the credits and exemptions made available by the States
24 on the date of enactment.

25 It is really that latter part of the amendment that I

Moffitt Reporting Associates

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

1 think we ought to focus on, because what I am in effect
2 asking for is that we federalize the ethanol fuels'
3 exemption.

4 The current federal exemption is 5 cents, and it
5 averages about 4 to 4.5 cents at the State level.

6 So, in effect, looking at it from the standpoint of
7 the incentives out there to buy ethanol fuel, in practically
8 all States in the country the incentives are going to
9 approximately remain the same, at about 8 cents on a gallon
10 of gasoline.

11 The important thing is that behind each of those State
12 4 cents is some kind of a special qualification. In
13 Minnesota, it was in exchange for the Minnesota exemption.
14 The Minnesota exemption will only apply to ethanol made in
15 Minnesota. And Iowa had that same kind of a problem.

16 So the governors of this country, who really do believe
17 in energy independence and all that sort of thing, have
18 come to us and said, "Federalize the exemption." Note:
19 "Provide a federal exemption of at least 8 cents. We at
20 the State level will get out of the exemption business, and
21 you can have a national ethanol fuels industry."

22 Now, the impact on the Federal Highway Trust Fund can be
23 measured in dollars. There is no way I agree with the
24 dollars that I have heard out here. There is the GAO Report
25 that disagrees in dollars with some of these figures that you

Moffitt Reporting Associates

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

1 have heard here. But to me, that is important to Ray
2 Barnhart, because he's got to have X-billions of dollars
3 to parcel out to the States. It is not important to us who
4 care about building highways, because a lot of that State
5 exemption -- I know for sure in my State, when you undo the
6 State exemption in my State, that gas tax goes right back
7 into highways in my State. So I am not robbing highways in
8 general by this proposal.

9 Secondly, what damage am I doing to the deficit? I am
10 not doing any damage to the deficit if you believe a report
11 that GAO has put together at my request, Chuck Percy's
12 request, and Jim Exon's request, that they can't release
13 because DOT hasn't done their comment on it yet, which in
14 effect said that in 1982 the exemption cost the Trust Fund
15 \$114 million; that is, the Federal 4 cent exemption at that
16 time. It cost the Trust Fund \$114 million.

17 In that same year, it reduced agricultural price
18 supports by \$129 million. So in a budgetary sense, the
19 overall deficit, it's at best a wash -- what we are doing.

20 Maybe I can end up here making another policy
21 recommendation to you. I think some of you who are on the
22 Environment and Public Works Committee know that there is
23 a movement in this country to get rid of leaded gasoline.
24 The EPA administrator would like to do it by regulation;
25 some of us would like to do it by legislation.

1 In any event, by 1988, approximately, we probably will
2 have ridded ourselves of leaded gasoline. But one of the
3 advantages of leaded gasoline is its higher octane and
4 better performance in automobiles. And one of the things
5 that will slow down getting rid of leaded gasoline will be
6 objections from the refining industry that they can't
7 convert quickly enough from leaded to unleaded.

8 Alcohol in gasoline substantially improves the octane
9 performance of gasoline. If we can continue to encourage
10 the development of this ethanol fuels industry in this
11 country, we will have readily in place by 1988 a substantial
12 better octane performing gasoline, and we won't have those
13 objections that we ought to not move on leaded gas.

14 I haven't made the national security arguments and told
15 you about Iran and Iraq -- I think you know all of those
16 things.

17 The Chairman. Could I just suggest, and I am
18 sympathetic with Senator Durenberger, I think 9 cents is a
19 little rich. As I understand, the subsidy now is 50 cents
20 per gallon. We increased it 1 cent in the energy credit
21 package. So that would be 60 cents a gallon. We are
22 suggesting we go to 90 cents a gallon, or about \$40 a barrel
23 subsidy.

24 It is my understanding, too, that the GAO study also
25 showed that the current level of subsidies is probably larger

1 than necessary to enable profitable operation by some
2 existing producers.

3 Are there other benefits to ethanol producers other
4 than this credit?

5 Mr. DeArment. Yes, Mr. Chairman, there is also an
6 additional 10-percent energy investment tax credit on
7 alcohol fuels facilities at the time they are built, and some
8 of them have received loan guarantees on the facilities.
9 Some have, and some haven't.

10 The Chairman. Do we include the import tariff on this,
11 too? Is that part of your proposal?

12 Mr. DeArment. Yes, that's part of the proposal, to
13 increase it to 90 cents.

14 The Chairman. Otherwise, the Brazilians would take
15 over the market, in any event.

16 Mr. DeArment. As I understand how this State preemption
17 works, when we raise this to 9 cents we would tell the
18 States that the first 4 cents of their State exemption for
19 gasohol would be eliminated. So in the case of the highest,
20 say New Mexico, which is 11 cents, thereafter their State
21 exemption would be 7 cents. And if a State had a 4-cent
22 exemption, they would no longer have any.

23 The Chairman. Well, what does that do to the trust
24 fund?

25 Mr. DeArment. It wouldn't affect the Federal Trust

Moffitt Reporting Associates

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

1 Fund at all. It would mean that there would be 4 cents more
2 per gallon of gasohol available to the States in their
3 own -- the State revenue possibility is --

4 The Chairman. It doesn't do anything to the trust fund,
5 does it?

6 Mr. Barnhart. It would dip into the trust fund for
7 about \$900 million additional, over the life of the bill,
8 above what we are already subsidizing the industry for now,
9 which amounts to about a billion dollars.

10 The Chairman. What if they did 7 cents? That wouldn't
11 cause you any problem, would it?

12 Mr. Barnhart. Well, it still brings it into about
13 \$500 million.

14 Senator Symms. Back on that import, I thought we just
15 negotiated a treaty with Brazil on this. How do we handle
16 that?

17 (Continued on the next page.)
18
19
20
21
22
23
24
25

1 Mr. Graham. I think that Secretary Brock has negotiated
2 the current Brazilian treaty based on the \$.50 tariff that
3 we did back in 1982 with the original highway bill. I'm
4 not sure what the impact on that treaty is or whether it
5 would reopen negotiations if we increased it to \$.90.

6 Senator Symms. We are talking about having an impact
7 on our relationship with Brazil then as well as the problems
8 that Director Barnhart points out.

9 Mr. DeArment. In terms of the treaty situation, when
10 we passed the \$.50 per gallon tariff on imported ethanol,
11 Brazil took the position, and we conceded that that position,
12 that that violated GATT. We negotiated compensation for the
13 \$.50 tariff with a concession on corned beef. And the USTR
14 has the --

15 Senator Symms. The concession on what? I couldn't
16 hear you.

17 Mr. DeArment. Corned beef. It was sort of a separate
18 concession.

19 Senator Symms. Then we have to do that again.

20 Mr. DeArment. We would have to reopen it.

21 Senator Symms. How does that affect our domestic corned
22 beef producers then?

23 The Chairman. I don't think we know.

24 Senator Symms. Have to eat the subsidies to gasohol is
25 what it amounts to.

1 Mr. DeArment. The compensation wouldn't necessarily be
2 corned beef. It might be something else. But in this
3 particular case they were seeking concessions on corned beef
4 anyway, and the USTR combined what they wanted and what we
5 wanted and worked out a deal.

6 The Chairman. That have anything to do with Mondale's
7 plan -- where's the beef?

8 (Laughter)

9 Mr. DeArment. I'm not sure that it does.

10 Senator Symms. Mr. Chairman, it's my understanding that
11 the special trade representative, Ambassador Brock, is
12 opposed to this.

13 I might just say one other thing. I appreciate my
14 colleague's articulate presentation of his proposition here
15 but I somehow find it very hard to follow the logic that
16 somehow if we do this at the federal level that all these
17 state legislators in states like Minnesota and Iowa that
18 are farm states are going to have a group of legislators
19 that are going to go and take the exemption away from their
20 people at the state level.

21 So I think what we do here, they are just going to
22 follow suit. Now maybe that's what the committee wants to
23 do. I'm willing to vote on the issue, but I do think that
24 there is a point here where the trust fund can't afford to
25 have a gasohol exemption and then look to states like Texas

1 and Oklahoma, Louisiana -- three that are represented on
2 this committee -- that are donor states to the trust fund,
3 and they produce oil and gas and then the farm states that
4 don't produce oil and gas in many cases want to have an
5 exemption for the energy that they produce. Somehow it
6 just begs fairness to me.

7 I think what we are doing is we are setting ourselves
8 up here. By 1988 nobody is going to want to pass a trust
9 fund extension. That may not be the worst thing in the
10 world but --

11 Senator Bentsen. Mr. Chairman.

12 The Chairman. Senator Bentsen.

13 Senator Bentsen. Mr. Chairman, let me say that I
14 supported the previous incentives that we put into the
15 system to try to help them in the production of this product.
16 But I'm deeply concerned about where the trust fund is going
17 too.

18 And you have got a situation where the interstate now
19 is 25 years old. You have an incredible number of bridges
20 that are dangerous or are insufficient to carry the capacity
21 that is necessary. And we are headed for trouble on the
22 trust fund.

23 And for a further invasion of it, I think is a mistake.

24 Senator Durenberger. Mr. Chairman, just on that point,
25 we all voted last year, December, I think it was, of 1982, to

1 increase the trust fund by \$6 billion over what it had been.

2 And the condition of my vote -- and I don't know how
3 everybody else voted -- was that there was an additional
4 \$.04 ethanol exemption incorporated in there, which takes
5 about 1-1/2 cents of each of those new dollars. We have
6 already voted on this issue when we increased the trust
7 fund by \$6 billion a year. It had in it a \$.09 ethanol
8 exemption.

9 I'm only asking for \$.08 today.

10 Senator Symms. But, David, you are talking about
11 mixing it up with nine gallons of petroleum and giving them
12 an exemption on 10 gallons of fuel.

13 Senator Durenberger. No. I'm just saying we raised
14 the trust fund by \$6 billion a year two years ago and
15 subtracted from that a penny and a half on each of those new
16 dollars for ethanol. We have already visited this issue.
17 We made those decisions in December. This isn't something
18 new that I'm dragging up here.

19 The Chairman. DOT is opposed. I read the letter.
20 Is there anything else you want to say? We might as well vote
21 on it because we have several other amendments.

22 Mr. Barnhart. I would hope the committee would vote
23 it down. There is just a tremendous impact that it will have
24 on this trust fund. And in spite of the additional revenues
25 that we have, I can tell you that we are just barely making

Moffitt Reporting Associates

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

1 ends meet at the present time.

2 If you look at the needs in this highway system, we
3 are going to have to be in addressing this again in two
4 short years. All you have to do is look at testimony that
5 is going on in another chamber today regarding the
6 insufficiency of bridge monies on emergency repairs and
7 you see that we have not over-estimated the tremendous
8 problem we are facing on the highway system today.

9 We are over \$100 million a year short just on meeting
10 our emergency bridge needs. We are in bad shape.

11 The Chairman. All right. Let's vote.

12 Senator Boren. Is it --

13 The Chairman. Eight cents plus --

14 Senator Heinz. Eight cents plus \$.80 on the fuel
15 credit and \$.80 on the tariff.

16 Senator Boren. There won't be any alternatives offered
17 at a lower amount? What does it cost to make the stuff?
18 About \$1.30? And we are giving them an \$.80 subsidy?

19 Mr. DeArment. \$1.30 is about what it costs.

20 Mr. Packwood?

21 Senator Packwood. Aye.

22 Mr. DeArment. Mr. Roth?

23 Senator Roth. No.

24 Mr. DeArment. Mr. Danforth?

25 (No response)

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

Moffitt Reporting Associates

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

1 Senator Boren. No.

2 Mr. DeArment. Mr. Bradley?

3 (No response)

4 Mr. DeArment. Mr. Mitchell?

5 (No response)

6 Mr. DeArment. Mr. Pryor?

7 Senator Boren. No by proxy.

8 Mr. DeArment. Mr. Chairman?

9 The Chairman. What's the vote?

10 Mr. DeArment. Eight-seven.

11 The Chairman. Who has eight?

12 (Laughter)

13 The Chairman. No.

14 On this vote the ayes are 8 and the nays are 8. The
15 amendment is not agreed to.

16 Now let's move onto the farmers' exemption. As I
17 understand, there is a 5,000 mile exemption now for farmers.
18 And in addition, under one of the proposals, 96 percent of
19 all farm trucks are going to be exempt in any event. Is
20 that correct?

21 Mr. Graham. Yes, sir. Under all of the various
22 proposals that are being considered either on the House side
23 or on this side, the exemptions -- the heavy vehicle use
24 tax only starts at 55,000 pounds. That combined with the
25 current 5,000 mile exemption under current law, as I understand

Moffitt Reporting Associates

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

1 it, exempts somewhere in the neighborhood of 98 percent of
2 farm vehicles.

3 The Chairman. I ask Mr. Barnhart if there is any
4 reason to increase it from 5,000 to 10,000?

5 Mr. Barnhart. We do not think so. And if you start
6 with the given of present law, the 1,900 use tax, we are
7 trying to get that reduced down to DOE 4600 or as others
8 would have it, down to five. That is already a substantial
9 reduction. And we believe that the farm vehicles are
10 adequately taken care of through the change in the use tax.

11 And to exempt 98 percent of the vehicles from that use
12 tax, we think, is being more than fair with the agricultural
13 interests.

14 The Chairman. Anybody want to vote on that proposal?

15 Mr. Barnhart. You are still talking about \$30 million.

16 Senator Symms. Mr. Chairman, I would like to speak very
17 briefly on that and say that what we are asking in this
18 amendment is to raise it from 5,000 to 10,000. And I think
19 there is good reason for that.

20 It's not a lot trucks. As near as I can estimate, we
21 are talking about maybe 15,000 trucks that would be affected
22 by this. They will be paying a diesel differential anyway
23 so they are not going to be going completely tax free. But
24 many of these trucks sit in the yard all year except they
25 haul wheat, say, to the rail yard. And because of railroad

Moffitt Reporting Associates

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

1 closures, we found after the 5,000 mile exemption that there
2 are a lot of people that have to drive a little further to
3 get to the place where they dump the wheat or the other
4 commodities that they are talking about hauling. And then
5 the rest of the year these trucks sit idle. It isn't a big
6 thing.

7 The Chairman. But I will just say this: It was
8 2,500 and this committee raised it to 5,000. And I know
9 Senator Tribble is very interested in this and I don't
10 quarrel with that.

11 But I think since that time we have in effect eliminated
12 most of these trucks. And even the witnesses who testified
13 to the 10,000 mile exemption, I think, in fairness didn't
14 think they were going to get it.

15 Mr. Barnhart. Senator, might I ask a question? How
16 do you define agricultural vehicles? I think those are the
17 vehicles that haul the wheat from Kansas down to the Port
18 of Houston or the vegetables from the Texas Valley on up
19 into New York City.

20 The Chairman. No. I think of farmers is somebody going
21 from his farm to the city; not going half way across the
22 country. That's commercial.

23 Mr. Graham. I think under the bill it's a farm
24 vehicle -- it would be defined by how it is registered at the
25 state level.

1 The Chairman. Is it necessary to vote on this or can
2 we just voice vote?

3 All in favor say aye.

4 (Chorus of ayes)

5 The Chairman. Opposed no.

6 (Chorus of nos)

7 The Chairman. The nos have it.

8 Now let's move onto the piggyback.

9 Senator Symms. Mr. Chairman, on that last vote is
10 there any objection to having a roll call on that? It's such
11 a small amount of money. I think this committee would do
12 well to at least think about it.

13 The Chairman. I don't object to having a roll call as
14 long as it doesn't pass.

15 (Laughter)

16 The Chairman. I'm just trying to speed up the
17 process because I know Senator Wallop has an intelligence
18 committee this afternoon.

19 Senator Symms. Let's get onto Wallop's amendment. We
20 can talk about it later.

21 The Chairman. Let's just vote on it. It won't take
22 but a minute.

23 Mr. DeArment. Mr. Packwood?

24 Senator Packwood. No.

25 Mr. DeArment. Mr. Roth?

Moffitt Reporting Associates

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

1 Senator Roth. No.

2 Mr. DeArment. Mr. Danforth?

3 (No response)

4 Mr. DeArment. Mr. Chafee?

5 Senator Chafee. No.

6 Mr. DeArment. Mr. Heinz?

7 Senator Heinz. No.

8 Mr. DeArment. Mr. Wallop?

9 Senator Wallop. No.

10 Mr. DeArment. Mr. Durenberger?

11 Senator Durenberger. Aye.

12 Mr. DeArment. Mr. Armstrong?

13 Senator Armstrong. Aye.

14 Mr. DeArment. Mr. Symms?

15 Senator Symms. Aye.

16 Mr. DeArment. Mr. Grassley?

17 Senator Grassley. Aye.

18 Mr. DeArment. Mr. Long?

19 (No response)

20 Mr. DeArment. Mr. Bentsen?

21 Senator Bentsen. No.

22 Mr. DeArment. Mr. Matsunaga?

23 Senator Matsunaga. No.

24 Mr. DeArment. Mr. Moynihan?

25 Senator Moynihan. No.

1 Mr. DeArment. Mr. Baucus?

2 Senator Baucus. Aye.

3 Mr. DeArment. Mr. Boren?

4 Senator Boren. Aye.

5 Mr. DeArment. Mr. Bradley?

6 Senator Bradley. No.

7 Mr. DeArment. Mr. Mitchell?

8 (No response)

9 Mr. DeArment. Mr. Pryor?

10 Senator Baucus. Aye by proxy.

11 Mr. DeArment. Mr. Chairman?

12 The Chairman. No.

13 Senator Bentsen. Mr. Chairman, I'm going to have to
14 change my vote to present. I'm disqualified on this
15 particular issue.

16 Senator Heinz. Mr. Chairman, vote no.

17 Senator Heinz. Mr. Chairman, how am I recorded, please?

18 Mr. DeArment. You are recorded no.

19 Senator Heinz. I vote yes.

20 Mr. DeArment. You vote yes?

21 Senator Heinz. Yes.

22 The Chairman. The ayes are 10, the nays are 7. The
23 amendment is agreed to.

24 Now let's move to the piggyback.

25 Senator Boren. Mr. Chairman, this amendment is really

1 virtually the same as the provision of Senate bill 1231,
2 which has been co-sponsored by seven members of this
3 committee.

4 And it deals with a situation that was created last
5 year. You will recall that when we passed the truck excise
6 tax we exempted the road-railer from that particular
7 provision under the theory that we were trying to seek
8 equity, and that those who use the roads should be those
9 that should pay the cost under this excise tax proposal.

10 And in doing so, I think we did the right thing as
11 far as the road-railer is concerned because it is not used
12 very much of the time on the highway. I think we created
13 an inequity by not providing the same coverage for the
14 piggyback trailer.

15 And I might just mention that the piggyback trailer is
16 used the vast majority of the time on rail. It is not
17 economical to utilize it really on highways because the kinds
18 of modifications that have to be made to make it suitable
19 for use on rail flatbeds add over 1,300 pounds to the trailer.
20 This means that it is not able to carry the maximum 80,000
21 pound load limit.

22 And I'm told that if you figure the additional weight,
23 the additional cost of modifying the trailers, the
24 additional fuel costs that results if you were to attempt to
25 use these trailers on the road -- that has been a concern,

Moffitt Reporting Associates

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

1 would they be used on the road -- that even after the excise
2 tax exemption it would cost an average of more than \$500.00
3 per unit to operate them on the road. So the idea that
4 anyone would shift their fleet over and call them piggyback
5 in order to avoid the excise tax, I think, is a red herring.

6 Clearly, no sound business person would do that. You
7 would be trading off a savings on the excise tax compared
8 to the cost of a normal trailer with excise tax -- \$184.00
9 difference if this exemption is given. And you would be
10 losing over \$500.00 a year.

11 So I think we are dealing here only with the question
12 of equity and fairness. I might say that the DOT has come
13 up with some rather puzzling estimates on the costs.

14 We have asked the American Association of Railroads to
15 give us from their intermodal equipment register the number
16 of units that we have -- piggyback units. There were
17 140,000 in 1982. There are 138,314 as of March of 1984.
18 Projections in the industry are that there will be 13,000
19 more added potentially through the year 1987 to revitalize
20 the current stock.

21 And if that were the case, if you were losing an excise
22 tax of about \$1,400.00 per unit, you are looking, I think,
23 realistically at a cost on this particular amendment in the
24 neighborhood of \$15 to \$18 million a year.

25 I just think it's a matter of equity and fairness. We

Moffitt Reporting Associates

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

1 have created a competitive imbalance by recognizing that
2 the road-railer doesn't utilize the highway. We are trying
3 to put the cost on those who do. And I think that use of
4 the piggyback is a very effective and efficient intermodal
5 means of transportation, and something that we would be
6 encouraging. So I would urge the committee to consider it.

7 I know that Senator Matsunaga and others, we had a
8 discussion of it. It was simply that it was an oversight
9 at the time and it was too late to bring it up once we got
10 the bill to the floor in that lame duck session because
11 the parliamentary situation prevented it.

12 Mr. Brockway. Senator Boren, on the assumptions of the
13 growth that you were discussing, we would have equivalent
14 estimates of \$84 million over the entire period, somewhere
15 between 15 and 20 a year.--

16 Senator Boren. Fifteen to twenty million a year.

17 Mr. Brockway. -- of the tax if you adopted the
18 amendment. That's not assuming any switch-over, I gather.

19 Senator Boren. No.

20 Mr. Brockway. As you pointed out, DOT has raised the
21 concern. And we don't know how to quantify it. That would
22 be whether the cost of conversion and increased operations
23 are such that people would start switching over to save the
24 roughly \$1,400.00 in sales tax on the truck. We have not
25 factored that into the \$84 million loss out of the trust. DOT

1 might want to speak to that issue.

2 Senator Boren. I'm told that there is a significant
3 cost that adds something like \$1,100.00 to \$1,200.00 to the
4 cost.

5 If you had the \$1,100.00 or \$1,200.00 to avoid \$184.00
6 in tax --

7 Mr. Brockway. I think the tax is roughly about
8 \$1,400.00.

9 Senator Boren. The tax is \$1,400.00. So if you are
10 going to spend \$1,200.00 to avoid \$1,400.00 in tax, and then
11 you figure because of your increased weight your added fuel
12 cost, your added inability to carry that 80,000 pounds, you
13 are going to lose money doing that. I just don't think that
14 that will be a significant factor. So I think we would be
15 in the \$15 to \$20 million a year cost range on this.

16 The Chairman. Could we get views from the DOT?

17 Mr. Barnhart. I'm sorry, sir.

18 The Chairman. I just want to get your views on this
19 amendment.

20 Mr. Barnhart. We are opposed to it. We do not know
21 what kind of diversion would be created by getting a credit
22 and making money through that conversion. We are very much
23 opposed to this type of thing.

24 And I would point out that there is absolutely no
25 comparison between a piggyback and a road-railer. You just

1 can't compare those two items and call them competitive.

2 Senator Boren. They don't look the same, but the
3 point of equity --

4 Mr. Barnhart. They don't cost anywhere near the same.

5 Senator Boren. The point of equity is how much they
6 use the roads. And after all we are imposing vehicles to
7 pay for highway deterioration based upon their use of the
8 roads. I think that's the equitable point.

9 Senator Symms. Mr. Chairman, I think it should be
10 pointed out also -- I know the Department has concerns over
11 it, but one of the things that this might do would be to
12 allow for more rail and piggyback use which would, in effect,
13 keep down the number of big trucks on the highway slightly.
14 I mean that is a side fringe benefit that isn't noted here.
15 That's one thing.

16 And the other thing is that the tractors that pull these
17 trailers around in the points of destination, and the average
18 trailer was only used 2,400 miles, I believe, in some of
19 the information that I saw -- that the tractors that pull these
20 around will be licensed and will be paying their normal
21 highway fee. So it isn't a big issue as I see it. And it
22 isn't going to cost near the money that DOT and Treasury are
23 talking about.

24 Senator Packwood. Further discussion?

25 Senator Matsunaga. As I understand, the DOT

1 recommended an excise tax exemption in the 97th Congress.

2 Are you now changing your position?

3 Mr. Barnhart. No, we did not recommend an exemption,
4 sir.

5 Senator Matsunaga. I thought --

6 Mr. Kang. It was mentioned in the cost allocation
7 report to Congress, and was mentioned in the context that
8 were you to try to establish a distance based tax, it could
9 make sense to eliminate a lot of the excise taxes, like the
10 tax on piggyback trailers, and, in fact, manufacture taxes
11 in total, and to go to something like a weigh-distance tax.
12 The piggyback trailer was used as an example, but it was
13 not recommended to eliminate the fees on piggyback trailers.

14 Senator Matsunaga. Well, I must be under the
15 misimpression that you had, in fact, recommended it.

16 Now the imposition of the full excise tax on piggyback
17 trailers while exempting road-railers appears to be
18 inequitable. What is your view on that?

19 Mr. Barnhart. Our view is that there is limited usage
20 of road-railers. They run six times the price of a regular
21 piggyback. We don't think that that is a comparable
22 situation at all. It is extremely limited use, highway
23 use, on a road-railer. Extremely limited.

24 Senator Matsunaga. The last time we took this matter
25 up we thought it was an oversight in not treating piggyback

1 trailers on an equal term with road-railers.

2 Mr. Barnhart. From the Department of Transportation's
3 viewpoint, it was no oversight. It was deliberate.

4 The Chairman. Where do they use road-railers for?

5 Mr. Barnhart. Up in the northeast in the concentrated
6 areas.

7 Mr. Kang. A few limited places as in the New York
8 corridor where they are in use. A couple are just
9 demonstration areas. They cost about six times as much. The
10 weight on them is excessive for the years that is used on
11 the rails. They are not competitive. I think the question
12 would be whether you think because road-railers get it
13 the others ought to get it. But it's not a case of
14 competition. It's not with the tax removed you would be
15 selling more piggybacks vis-a-vis road-railers. They are
16 not competitive types of vehicles. Not at all.

17 And the tax would have been rather large on the
18 road-railer trailer. You would have been talking about an
19 \$8,000.00 tax. I think that was the major driving point
20 on the road-railer. Also very limited use.

21 Senator Boren. Mr. Chairman, I don't quarrel at all
22 with the road-railer situation. I think that it's proper.
23 And as I understand it, it's due to the fact that in certain
24 areas of the country where they are used that the height of
25 tunnels and so on requires them to do this. In other parts

1 of the country, from the point of view of efficiency they
2 felt that the piggybacks were the way to go. They do spend,
3 as I say, extra money -- \$1,200.00 or so -- converting them.
4 They are not the same of trailers they would build if they
5 were going to build them for fuel efficiency and hauling
6 maximum loads on the highway.

7 Individual studies, selected studies, have indicated
8 that they are only running on the highways something in the
9 neighborhood of 2,000 miles a year out of 80,000 miles of
10 a normal truck trailer. And it simply would not be in their
11 economic benefit, if they are paying the tax -- if you
12 levy the excise tax on them, they are simply no longer going
13 to have the same kind of economic feasibility.

14 So I think you have a built in protection against
15 them switching. It wouldn't pay off for them to do it. And
16 we are trying, I thought, to put the tax on those that are
17 utilizing the highway. It is a user fee. These things are
18 utilizing the railroads.

19 The Chairman. What is the revenue impact of this
20 amendment?

21 Mr. Brockway. Senator, it's \$84 million out of the
22 trust fund, assuming there isn't any conversion. And then --

23 Senator Symms. Over five years.

24 Mr. Brockway. Over the five year period. And then
25 it's a question of how much conversion there would be.

Moffitt Reporting Associates

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

1 Trailers into these piggybacks. And it's a question of how
2 much additional that will cost you. You could compare the
3 tax savings. We are not able to quantify that. Senator
4 Boren believes it will not be significant.

5 Senator Symms. Mr. Chairman, I don't think there is
6 going to be a conversion. It's just economically not
7 feasible to convert.

8 However, the point that needs to be made here is that
9 if they are not used on the highway much then this excise
10 tax is all we are talking about changing. By changing the
11 heavy use tax, which we are about to do, which I do think
12 the committee and the Congress are going to do, the diesel
13 differential makes up for part of this problem. So I would
14 almost question whether it would even cost the \$84 million
15 when you get it all said and done.

16 The numbers of piggybacks has actually gone down in
17 the last two year period.

18 Mr. Brockway. Senator Symms, these people will save
19 the money from going to a diesel differential if they aren't
20 driving that much. And they will certainly save the truck
21 tax if you reduce that. But this is a sales tax on the sale
22 of the truck. So these trucks will save the \$1,400.00
23 regardless of whether you have savings elsewhere because --

24 Senator Symms. When I talked to the automobile people
25 and so forth they say one of the complaints that I get from

1 the other side of this equation is that the trucks are
2 crowding out the cars on the highway. And this is one way
3 to encourage people to put the trucks on the train and haul
4 them across the country. It cuts both ways.

5 I just think that in terms of equity, I just don't see
6 what the big problem is. And I doubt if it will cost the
7 \$84 million.

8 Mr. Brockway. I think even the industry would agree
9 that the \$84 million -- that's the first order of fact on
10 the level of piggybacks that they are using now, if they
11 give up the \$1,400.00 a truck.

12 DOT feels that it would be more on the order of
13 possibly \$500 million because their analysis indicates that
14 it could be if all these trailers were to switch over.

15 Well, I don't know where you get some place in that
16 range, whether it's the \$15 to \$20 million a year on the
17 current levels or up to \$100 million if people started to
18 switch over. But we are just talking about the sales tax.

19 Senator Boren. We understand the arguments. I don't
20 think we are in full agreement on the figures. We might as
21 well just vote.

22 Mr. Pearlman. Mr. Chairman, I wonder if we could
23 simply ask if Senator Boren would consider -- if this
24 amendment is adopted by the committee -- to increase the
25 ability of the Internal Revenue Service to police this

Moffitt Reporting Associates

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

1 thing.

2 Senator Boren. Yes. In fact, I would suggest, Mr.
3 Chairman, that we authorize the Secretary to require
4 certification and the placement of decals on these
5 piggybacks or some such mechanism as that that would allow
6 for more effective auditing of --

7 Mr. Barnhart. Would that apply only to new vehicles
8 or resale? Would that be constrained?

9 Mr. Pearlman. No. I think we would need to do it in
10 both cases.

11 Senator Boren. Do it to both. The existing and the
12 new. That would be perfectly satisfactory to me.

13 The Chairman. Well, is there any way to put a cap on
14 this so all these concerns that have been expressed aren't
15 going to happen?

16 Senator Boren. You mean so many years or a revenue
17 cap?

18 Senator Wallop. Put an odometer or --

19 Senator Boren. I was going to say, Mr. Chairman, what
20 might be possible -- and I think this would be helpful.
21 It costs another \$50.00 or \$60.00 to do it to the company.
22 But I think -- what do they call it -- a hodometer or
23 whatever they put on the trailer itself that shows the
24 actual mileage. And again this would be a way. Actual
25 mileage travel on the highway. This would be a backup method

Moffitt Reporting Associates

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

1 that could be used in terms of auditing to show that this
2 in fact is not being --

3 Mr. Brockway. Senator, that might be very difficult.
4 The sales tax right now on all the trucks and truck parts is
5 not termed on usage. In other words, otherwise even if you
6 just drive it 5,000 miles, you still have to pay the sales
7 tax. That's up front. It would be very difficult
8 administratively.

9 But we could do something like look -- if you are
10 correct that these are less fuel efficient and they cost
11 more, we could have a partial exemption to try and put them
12 into the equivalent situation to where a regular --

13 Senator Boren. Well, I think we are getting into too
14 much complication on that, Mr. Chairman.

15 Senator Symms. Will the Senator yield on a point right
16 here? One thing I think is being missed is that a piggy-
17 back trailer weighs about 1,200 or 1,300 pounds more than
18 regular over the road trailer of the same size. That in
19 itself -- you don't need any kind of enforcement. Who is
20 going to go buy a rig to haul over the road --

21 Mr. Brockway. Senator, the \$84 million that we are
22 assuming assumes that no increased acquisitions of piggy-
23 backs above and beyond right now. DOT has suggested that
24 there could be more.

25 Senator Symms. You are making the suggestion that

Moffitt Reporting Associates

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

1 people are going to take piggybacks and run them over the
2 road. That's just not --

3 Mr. Brockway. Mr. Chairman, the tax doesn't -- you
4 don't need to drive it one mile. This is just a sales tax.
5 So if you could just buy it and leave it in the garage, you
6 would still have the same tax.

7 Senator Symms. Well, if they don't run it on the
8 highway, we believe in users fees and we don't need to tax
9 that.

10 Mr. Brockway. Mr. Chairman, that is the way all the
11 truck taxes work right now.

12 Senator Boren. I wasn't suggesting that we get into
13 some complex mileage problem. We will get into so much
14 complication it will be unworkable. But I think it would
15 be helpful because the committee could always revisit this
16 issue in another year or two if we found that there was
17 abuse of it.

18 I'm thinking of improving the opportunity for the
19 department and the IRS to monitor it. And while it would
20 cost the people a little bit to put on a hodometer, I think
21 that both giving the Secretary the right to require
22 certification and a decal, and then going the extra mile,
23 so to speak, of saying putting on a hodometer, requiring
24 that so that it could be monitored, then the DOT could
25 actually come back to the IRS and monitor it.

(CONTINUED ON NEXT PAGE)

Moffitt Reporting Associates

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

1 And say we find that they are running these things
2 20,000 miles, I just think that might be a good backup
3 protection for us. We could always revisit it later. I
4 think I am right, but if I prove to be wrong, I am in
5 essence suggesting that the department here have the
6 mechanism of being able to prove me wrong, if that is the
7 case, by looking at the actual mileage.

8 The Chairman. As I understand, that last vote on the
9 farm exemption, that is \$125 million out of the trust
10 fund, and nobody even wanted that amendment, but we got it
11 anyway.

12 This is another \$84 million out of the trust fund.
13 There is another amendment coming along that is \$50 or \$60
14 million out of the trust fund.

15 Mr. Brockway. Senator, the farm is only about \$30
16 million.

17 The Chairman. A year?

18 Mr. Brockway. My assumption is that we are just dealing
19 with agricultural vehicles --

20 The Chairman. \$125 in the handout from DOT.

21 Mr. Barnhart. That was all. If you restricted it
22 only to agriculture, then you might-- My assumption is
23 that this is limited to agricultural vehicles used only in
24 agriculture, not the cross-country transportation, or
25 anything like that.

1 The Chairman. What other vehicles have very limited
2 use on the highway? And what are we going to do -- log
3 trucks and what others?

4 What are we getting ready to open up here?

5 Mr. Barnhart. All kinds of construction activities --
6 mining activities, coal activities. You get all kinds of
7 things that are certainly not potentially not a highway
8 vehicle in the usual sense of cross-countries.

9 Senator, also, just to repeat this point. Right now,
10 even if you used a vehicle less than 5,000 miles, you will
11 be exempt from the use tax, but you still have to pay the
12 sales tax, which is what we are talking about here.

13 The sales tax occurs when you buy the vehicle, but is
14 not determined on how much you use the vehicle. And
15 historically and right now, even if you have the exemption
16 from the use tax, you still -- when you buy this vehicle
17 that can be used on the highways -- have to pay the 12
18 percent sales tax.

19 The Chairman. Why not just exempt them from half the
20 tax?

21 Mr. Brockway. That would be possible to administer
22 that. It would be very difficult to administer anything
23 that turned on mileage because the tax does not relate to
24 mileage.

25 Senator Boren. I would like to just go ahead and get

Moffitt Reporting Associates

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

1 a vote on the amendment as I have suggested it. I am willing
2 -- in fact, I do request -- to modify it in terms of giving
3 the Secretary certification authority with a decal plus the
4 requirement of an odometer so that we can revisit this
5 issue if we find that I am wrong.

6 But people are spending money to modify them. I have
7 already gone over the figures in terms of why I don't think
8 there is going to be any change to escape the tax, and so
9 I do modify my amendment to include those two additional
10 things.

11 Just ask for a vote on it, and we can simply decide.
12 I think we all understand the issue.

13 The Chairman. Let's vote. The clerk will call the roll.

14 Mr. DeArment. Mr. Packwood?

15 Senator Packwood. Aye.

16 Mr. DeArment. Mr. Roth?

17 Senator Roth. No.

18 Mr. DeArment. Mr. Danforth?

19 Senator Danforth. No.

20 Mr. DeArment. Mr. Chafee?

21 Senator Chafee. No.

22 Mr. DeArment. Mr. Heinz?

23 Senator Heinz. (No response)

24 Mr. DeArment. Mr. Wallop?

25 Senator Wallop. Aye.

Moffitt Reporting Associates

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

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

Moffitt Reporting Associates

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

1 Senator Pryor. Aye by proxy (Mr. Boren)

2 Mr. DeArment. Mr. Chairman?

3 The Chairman. No.

4 The ayes are 11, the nays are 4. The amendment is
5 agreed to.

6 Now, let's add up the losses so far. We may have to
7 regroup. We may not be able to take up any basic --

8 Mr. Brockway. It is about \$115 short on the two
9 amendments -- the agricultural amendment and the piggyback
10 amendment.

11 The Chairman. Are there other amendments before we
12 get to the basic amendment?

13 Mr. Brockway. The DOT points out also that where
14 you previously decided on gasohol, it reduces the trust
15 fund \$380 million by that one cent that you agreed to
16 before.

17 The Chairman. Right, but that was understood.

18 Senator Symms. Mr. Chairman, I want to raise one more
19 issue that is estimated by me to cost about \$7.5 million
20 total, about \$2 to \$3 million a year, and that is that
21 logging trucks run about 40 to 50,000 miles a year while
22 long-haul truckers run many more miles, as we know, and
23 they run empty back from the mill. And they normally only
24 run about 120 to 160 days a year, and a lot of that is on
25 tributary roads which are not in the Federal aid highway

1 system.

2 Now, what I am suggesting we do is give them -- if a
3 logging truck is under those categories -- that we repeal
4 50 percent of the use tax. So, it would just cut it in
5 half for logging trucks, and that would have to be verified
6 by the State. And I might mention that the amendment we
7 took on the agriculture exemption that they have to be
8 granted that by the State or they pay the full Federal
9 use tax.

10 Senator Packwood. Mr. Chairman?

11 The Chairman. Senator Packwood?

12 Senator Packwood. I would speak in favor of the
13 amendment. I believe you can see that figure you used is
14 total mileage a year, of which a fair portion is on private
15 roads.

16 Senator Symms. That is correct.

17 Senator Packwood. Built by the logging companies.
18 And so, you have got them on public roads, very limited.
19 Too, none of it is long haul. I doubt if anybody here has
20 ever seen a log truck in the east. You don't haul logs
21 across the country by truck. You haul them short haul.
22 You seldom haul them oh, more than -- depending upon the
23 market -- 100 or 110 miles to the mill.

24 Senator Symms. And incidentally, they pay a big rubber
25 tax, and they are not getting exempted from that. We are

Moffitt Reporting Associates

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

1 not suggesting that, but they wear those tires out in about
2 25,000 miles where over-the-road trucks wear them out in
3 100 and 150,00 miles, so there is a big difference in the
4 amount of rubber tax that they pay.

5 Senator Packwood. A vote, Mr. Chairman?

6 Mr. Brockway. Mr. Chairman, we are estimating that
7 it is about \$39 million on this -- more like \$7 million
8 a year.

9 Senator Packwood. Say that again.

10 Mr. Brockway. More like \$7 million a year.

11 Senator Packwood. Where do you get your figures?

12 I had \$5 million.

13 Senator Symms. I have got a figure that is 21,000
14 trucks over 55,000 pounds that are diesel that would
15 possibly qualify if the State approved them, so I don't
16 see how you could come up with that much money.

17 Why don't you run those numbers again?

18 Mr. Brockway. We are looking at something like \$7
19 million a year.

20 Senator Symms. That is if it is \$300.00.

21 Mr. Brockway. Yes.

22 Senator Symms. Okay. So, if this committee adopts a
23 \$500 use tax, as Senator Wallop has suggested, it will be
24 only \$250.00, so it would be a little less.

25 Mr. Brockway. That would be correct.

Moffitt Reporting Associates

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

1 Senator Symms. Okay.

2 Mr. Barnhart. Might I ask what will be done for the
3 coal mining interests or other interests that might be in
4 the same category, beyond logging trucks? I am sure we
5 have got a lot of trucks in Ohio and West Virginia that
6 get into the mining of coal --

7 Senator Symms. We are supposing that --

8 Mr. Barnhart. Oh, I see. There is no one here from
9 West Virginia. I am sorry.

10 (Laughter)

11 The Chairman. Could somebody quickly rerun what the
12 present status of this amendment is?

13 Mr. Brockway. This would provide the logging trucks
14 would pay only half the use tax and be roughly \$39 million.

15 The Chairman. A year?

16 Mr. Brockway. In the aggregate total. That is through
17 1988 if you adopt it, and that is assuming a \$600 use tax.

18 Senator Packwood. Mr. Chairman, that is only fair.
19 The log trucks per force only run half full. This is a
20 truck you cannot -- I mean, they run full, but half the
21 time you cannot load it up with anything else going back.
22 It goes back as an empty truck.

23 The Chairman. This isn't going to apply to all trucks
24 that go back empty is it?

25 Mr. Barnhart. No. Tank trucks and so forth?

Moffitt Reporting Associates

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

1 The Chairman. Well, a lot of trucks -- Why don't
2 we just vote?

3 Mr. DeArment. Mr. Packwood?

4 Senator Packwood. Aye.

5 Mr. DeArment. Mr. Roth?

6 Senator Roth. No.

7 Mr. DeArment. Mr. Danforth?

8 Senator Danforth. No.

9 Mr. DeArment. Mr. Chafee?

10 Senator Chafee. No by proxy (The Chairman)

11 Mr. DeArment. Mr. Heinz?

12 Senator Heinz. (No response)

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. Aye.

19 Mr. DeArment. Mr. Symms?

20 Senator Symms. Aye.

21 Mr. DeArment. Mr. Grassley?

22 Senator Grassley. Aye.

23 Mr. DeArment. Mr. Long?

24 Senator Long. (No response)

25 Mr. DeArment. Mr. Bentsen?

Moffitt Reporting Associates

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

1 Senator Bentsen. (No response)

2 Mr. DeArment. Mr. Matsunaga?

3 Senator Matsunaga. Aye.

4 Mr. DeArment. Mr. Moynihan?

5 Senator Moynihan. (No response)

6 Mr. DeArment. Mr. Baucus?

7 Senator Baucus. Aye by proxy (Mr. Boren)

8 Mr. DeArment. Mr. Boren?

9 Senator Boren. Aye.

10 Mr. DeArment. Mr. Bradley?

11 Senator Bradley. No.

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. No.

18 The ayes are 10, the nays are 6. The amendment is
19 agreed to.

20 Now, Senator Matsunaga, I think, has an amendment.

21 We are going to have a problem here. We are losing
22 a lot of people, but go ahead and take it up.

23 Senator Matsunaga: This would, I think, save time if
24 we just amended the existing law --

25 The Chairman. I think DOT is opposed. This is a

Moffitt Reporting Associates

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

1 taxicab amendment.

2 Mr. Barnhart. We have been opposed to that. Yes, sir.

3 The Chairman. This is the amendment, I think, that

4 Senator Matsunaga and Senator Moynihan offered before.

5 The revenue loss is not that substantial, but --

6 Senator Matsunaga. Presently, as you know, the taxicabs
7 are getting only 4 cents exemption whereas other vehicles
8 used for the same purposes can provide public transportation
9 and get 9 cents.

10 Actually, if you will note in the memo passed out,
11 DOT opposes it on the grounds that taxicabs make extensive
12 use of the Federal aid highway system and should pay their
13 fair share of the cost. Taxicabs are primarily used for
14 intracity transportation and do not use the Federal aid
15 highway system.

16 That is a known fact, but the argument is made that
17 they use the Federal highway system, and if they were to
18 even use the Federal aid highway system, if they should
19 pay their fair share of the cost, it would mean paying
20 much less because even if they do use, it is a very little
21 use that they make of the Federal highway system.

22 It is primarily intracity transportation, and the
23 nonprofit educational institutions get 9 cents per gallon
24 exemption. Farming use 9 cents. Off-highway business use
25 9 cents. And certain aircraft, museums get 9 cents. State

Moffitt Reporting Associates

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

1 and Government -- local governments -- 9 cents. And so on.

2 So, it is a case of equity -- on the basis of equity
3 -- that I introduced the bill, providing for a 9 cents per
4 gallon fuel tax exemption for taxicabs.

5 This would result in only about \$13 million per year,
6 or about \$50 million through 1988. That is including the
7 4 cents they are already exempted from.

8 Mr. Barnhart. Senator, you couldn't get to the airport
9 without going on a Federal aid system in just about any
10 community. We have the urban system. We have the primary
11 system as well as the interstate system, and there is no
12 way taxicabs do not use the Federal aid system.

13 Senator Matsunaga. I grant that. I said the primary
14 use of it is intracity.

15 Mr. Barnhart. And that comes under the heading of our
16 urban program -- of our urban system.

17 Mr. Brockway. Senator Matsunaga, are you suggesting
18 -- I am still confused with the situation -- the extension
19 of the 4 cents or an exemption of the full 9 cents?

20 Senator Matsunaga. The 4 cents exemption expires in
21 September of this year.

22 Mr. Brockway. Yes, sir. That is correct.

23 Senator Matsunaga. And I would be willing to abandon
24 my 9 cents per gallon exemption if we would extend for
25 an additional year the 4 cents exemption because DOT was

Moffitt Reporting Associates

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

1 supposed to have made some study. Has DOT come up with that
2 study yet?

3 Mr. Barnhart. I believe it is a Treasury study, not
4 a DOT study.

5 The Chairman. As I understand, DOT is opposed to the
6 amendment?

7 Mr. Barnhart. Yes, sir.

8 The Chairman. Is there any justification --

9 Senator Matsunaga. That is the 9 cents amendment you
10 are opposed to?

11 Mr. Barnhart. I think we are opposed to any -- even
12 the continuation, as well as an extension.

13 We just don't see how it is justified, sir.

14 Senator Matsunaga. The proposal before you now is the
15 9 cents -- increasing to 9 cents. That is the one you
16 oppose?

17 Mr. Barnhart. That is right.

18 Senator Matsunaga. And the 4 cents is now before us.
19 Right now.

20 The Chairman. Are you proposing 4 cents?

21 Senator Matsunaga. No, I am proposing 9 cents.

22 The Chairman. Oh. That is what the vote is on -- 9
23 cents, which would exempt taxis?

24 Senator Matsunaga. Increase from 4 cents to 9 cents.

25 Mr. Brockway. Is this to go with a 9 cent exemption

1 through the trust fund period?

2 Senator Matsunaga. No. That would be --

3 Mr. Brockway. Or is it extending it for one more year
4 and then increasing the exemption to 9 cents?

5 Senator Matsunaga. That is correct.

6 Mr. Brockway. Okay.

7 The Chairman. Is there a revenue estimate here?

8 Mr. Brockway. At 9 cents for one year, it would be
9 about \$10 million for that one year, roughly.

10 The Chairman. Let's just vote on it. I don't see any
11 reason we need to add this onto the package, but it may be
12 added anyway.

13 Mr. DeArment. Mr. Packwood?

14 Senator Packwood. No.

15 Mr. DeArment. Mr. Roth?

16 Senator Roth. No.

17 Mr. DeArment. Mr. Danforth?

18 Senator Danforth. No.

19 Mr. DeArment. Mr. Chafee?

20 Senator Chafee. No by proxy (Mr. Roth).

21 Mr. DeArment. Mr. Heinz?

22 Senator Heinz. (No response)

23 Mr. DeArment. Mr. Wallop?

24 Senator Wallop. No.

25 Mr. DeArment. Mr. Durenberger?

Moffitt Reporting Associates

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

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

1 Mr. DeArment. Mr. Chairman?

2 The Chairman. No.

3 On this vote the nays are 11, the yeas are 3.

4 Senator Bradley. Mr. Chairman, it is after 1:00. We
5 have two conferences going on now. I wondered is there
6 any way that we could put this over because I would like
7 to get it over, but at the same time, I would like to have
8 a chance to hear what the arguments are --

9 The Chairman. With Senator Wallop, we are trying to
10 accommodate his schedule -- he is the only one on the
11 Intelligence Committee -- but I don't see how we can.
12 There are only two here on the Democratic side and some
13 have indicated concern that we were getting to the basic
14 amendment.

15 Could you make a 4:00 -- is that possible?

16 Senator Wallop. Mr. Chairman, the meeting is scheduled
17 to go from 2:00 to 5:00. It is possible at 4:30, but it
18 is pretty hard to cut a whole hour off of a three-hour
19 meeting.

20 You know I have been here since you have, and I am
21 trying to do it.

22 The Chairman. I know that.

23 Senator Wallop. I would be happy to go through it. It
24 is not going to take me long.

25 The Chairman. I think Senator Bentsen and a couple of

Moffitt Reporting Associates

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

1 others indicated that they wanted to be present when we got
2 into this area.

3 Senator Bradley. Mr. Chairman, what are we doing
4 tomorrow morning?

5 The Chairman. Tomorrow morning? I hope nothing. I
6 would rather wind it up this afternoon. What about 4:30?
7 We are all going to be around this afternoon anyway, I have
8 a feeling, until late evening.

9 Senator Wallop. Mr. Chairman, I have a problem there,
10 too, because I forgot that we have that 3:00 vote which is
11 going to take some time out of the middle of my hearing.

12 The Chairman. 5:00?

13 Senator Wallop. 5:00.

14 The Chairman. All right. Let's come back. I think
15 I would rather complete it today so we could start this
16 drafting process. If not, we are going to be -- tomorrow
17 will be gone. And also, so we can stop any additional
18 amendments from coming in overnight.

19 Now, I understand, before we adjourn, that Senator
20 Danforth has raised a question which we have to get staff
21 together on. Jack?

22 Senator Danforth. Thank you, Mr. Chairman.

23 Mr. Chairman, one of the noncontroversial items that
24 the staff had agreed to related to Section 6166, and the
25 deferral of the State tax payments, and Senator Bentsen

Moffitt Reporting Associates

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

1 offered an amendment to that provision, and the cost of the
2 amendment was \$103 million over the three-year period of
3 time.

4 In order to pay for his liberalization of the provision
5 that the staff agreed to, he proposed two items -- one of
6 which was that only a State tax actually generated by an
7 interest in a closely held business interest could be paid
8 in installments.

9 For example, to the extent that the business interest
10 were passed tax-free to a surviving spouse, no deferral
11 would be available.

12 It turns out that this second way of paying for it
13 that Senator Bentsen proposed would cause great hardship
14 to particularly farmers and owners of closely held
15 businesses that want to pass their businesses onto their
16 families.

17 And I understand that Treasury would be agreeable to
18 deleting this second step from Senator Bentsen's proposal,
19 and I wonder if we could agree to it also.

20 The Chairman. Senator Bentsen isn't here, but do you
21 know whether or not Senator Bentsen has any objection to
22 that?

23 Mr. Brockway. I don't know. That would be a \$30
24 million item.

25 The Chairman. Okay. I have been advised by staff that

Moffitt Reporting Associates

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

1 he has no objection, so let's make that. And Treasury has
2 no objection. Is that correct?

3 Mr. Pearlman. That is correct.

4 The Chairman. All right. I think that was an error,
5 and we regret that.

6 Senator Danforth. Thank you, Mr. Chairman.

7 The Chairman. Can we get a quick-- I would hope that
8 the votes have been taken we can consider as final so we
9 don't spend a lot of time with the lobbyists and staff
10 running around changing votes between now and 5:00.

11 Could we recap the voting? As I understand, the
12 gasohol amendment is tied 9 to 9, so it was defeated.

13 What about the farmers home?

14 Mr. DeArment. Mr. Chairman, that also is losing on
15 a tie vote.

16 The Chairman. All right. Then, the other two were
17 adopted -- the log-rolling amendment and the -- both
18 log-rolling amendments -- the piggyback and log amendments.

19 And the taxicab amendment was defeated.

20 Now, as I understand, all we have left then is the
21 basic amendment.

22 Mr. Brockway. The only thing that would be left would
23 be the heavy vehicle use tax.

24 The Chairman. Okay. Without objection, let's consider
25 the votes final. Let's come back at 5:00 and finish this

Moffitt Reporting Associates

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

1 bill. Treasury?

2 Mr. Pearlman. Mr. Chairman, I just wanted to mention
3 we have a small technical matter that we have brought to
4 the staff's attention in connection with the gasohol one.

5 The Chairman. I think also that Senator Armstrong
6 had a technical matter that I called to your attention.

7 Mr. Pearlman. Yes.

8 The Chairman. Was there any problem with that technical
9 matter?

10 Mr. Pearlman. As far as we are concerned, there is
11 not.

12 The Chairman. As I understand, it doesn't need an
13 amendment.

14 Mr. Graham. I also think that Mr. Mitchell has a
15 technical concerning a study.

16 The Chairman. All right. Let's take care of that.

17 Senator Matsunaga. Mr. Chairman, at 5:00 I would like
18 to bring up one technical matter relative to arbitrate the
19 restrictions which were extended to taxicabs.

20 The Chairman. I think Senator Mitchell wants a study.
21 Is that correct?

22 Mr. Graham. Yes, sir. That is correct.

23 The Chairman. I had indicated to him that we would
24 do that, so unless there is some objection, we don't have
25 a quorum, but we can put that down.

1 What about Senator Armstrong's? Has Treasury looked
2 at Senator Armstrong's --

3 Mr. Pearlman. Yes. We have looked at Senator
4 Armstrong's, and we would have no problem with it.

5 The Chairman. Does it require an amendment?

6 Mr. Pearlman. We think we could deal with it without
7 an amendment.

8 The Chairman. Okay. Then, Senator Mitchell has
9 already spoken to me about the study, and we will include
10 that.

11 Let's come back and 5:00 and deal with the basic
12 amendment.

13 (Whereupon, at 1:12 p.m., the hearing was recessed.)

14
15
16
17
18
19
20
21
22
23
24
25

Moffitt Reporting Associates

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