

BERRY
9-20-85

1 EXECUTIVE SESSION

2 FRIDAY, SEPTEMBER 20, 1985

3 U.S. Senate

4 Committee on Finance

5 Washington, D.C.

6 The committee met, pursuant to notice, at 9:37 a.m. in
7 Room SD-215, Dirksen Senate Office Building, the Honorable
8 Robert Packwood (chairman) presiding.

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

13 Also present: Robert Mentz, Assistant Secretary for
14 Tax Policy, Treasury Department; Mickel Rollyson, Tax
15 Legislative Counsel, Treasury Department; Frank Cavanaugh,
16 Office of Federal Finance, Treasury Department; Jeff Noel,
17 Office of Senator Ford; Bob Franks, General Counsel,
18 Agricultural Committee.

19 Also present: Bill Diefenderfer, Chief of Staff; Ed
20 Mihalski, Deputy Chief of Staff; John Colvin, Chief Counsel;
21 Frank Cantrel, Counsel; Ann Moran, Counsel; Randy Weiss, Tax
22 Counsel, Joint Committee on Taxation; George Yin, Tax Counsel;
23 Sydney Olson, Joseph Humphries, Bob Hoyer, Special
24 Professional Staff Members; Donald Muse, Professional Staff
25 Member; Michael Stern, Minority Staff Member; William

1 Wilkins, Chief Tax Counsel, Minority Staff.

2 (The press release announcing the hearing and the
3 prepared written statements of Senators Boren and Pryor
4 follow:)

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1 The Chairman. The committee will come to order.

2 We will, when the Majority Leader gets here, move to
3 the cigarette issue and the tobacco program issue and
4 whatnot.

5 We have left over from yesterday -- and I asked all
6 of the members and the staff if they had any other amendments
7 to talk with me, and I think this is all we have left:
8 minimum tax for insolvent persons.

9 John, are you going to do the pediatric preventive
10 care or not?

11 Senator Chafee. That's right, Mr. Chairman.

12 The Chairman. All right. John has one.

13 Senator Heinz may or may not have an additional Customs'
14 compliance amendment.

15 Senator Wallop, I think, will have unemployment
16 compensation to allow states to recover over-payment.

17 And Treasury wants an increased limit on long-term
18 Treasury bonds from \$200 to \$250 billion.

19 And I don't know what may happen if we adopt the
20 cigarette tax and there is extra money.

21 Senator Moynihan. Mr. Chairman, may I just make a
22 point?

23 The Chairman. Yes.

24 Senator Moynihan. I believe technically we had a
25 majority vote on the foster care amendment the other day

1 although it was not cast at the time of the vote. Mr.
2 Matsunaga cast a vote later. So I would like perhaps, if
3 the occasion arises, to bring that up.

4 The Chairman. Anything -- and I told this to Senator
5 Bradley also. These are more or less the little items
6 that we hadn't gotten to yesterday.

7 Under our rules, you cannot cast votes later and
8 change the vote. But in the spirit comity, I don't want to
9 shut anybody off. What I asked yesterday, and made it
10 clear to Senator Bradley -- what I simply didn't want is some
11 brand new amendment coming out of the blue that none of us
12 have ever seen on a subject none of us have ever discussed,
13 like a tobacco program or something like that.

14 (Laughter)

15 The Chairman. And, also, Senator Bradley wants to
16 revisit the issue, and I told him it was still open of some
17 other spending options, revenue options, in the area of
18 Social Security or otherwise or state employees -- those were
19 all open and we would get to those.

20 Senator Moynihan. The foster care issue?

21 The Chairman. Is certainly open.

22 Senator Chafee. Mr. Chairman, I wonder if I might
23 proceed with my preventive care measure. Here's my problem,
24 at 10:00 I have a hearing that I'm conducting in
25 Environment and Natural Resources. It has been scheduled for

1 some two and one-half months, and witnesses are all
2 assembled and I never dreamed we would be doing this Friday.
3 So we thought Friday was a nice safe day.

4 So in any event, I've got to go up there at 10:00.

5 The Chairman. You may start, although I might tell
6 you I had a hearing scheduled in Commerce this morning at
7 9:30 on surface transportation that I never thought would
8 have to be changed. And I had to move it to this
9 afternoon. We have witnesses coming from Canada and
10 Mexico and they are all inconvenienced, but that's the way
11 the ball bounces. And you go ahead and do it right now.

12 Senator Chafee. Well, with that little put-down --

13 (Laughter)

14 Senator Chafee. -- I'll proceed.

15 Mr. Chairman, I have an amendment which is as follows:

16 It addresses the problem of those youngsters in our society
17 who are not receiving the preventive services that are
18 necessary to keep them healthy. And I mean inoculations,
19 immunizations, adequate checkups. We had a hearing on this,
20 and the old adage that an ounce of prevention is worth a
21 pound of cure is clearer in the health field, I think, than
22 in any other area.

23 The very poor presumably are protected by Medicaid.
24 And we can debate whether they are adequately protected.
25 Anyway, that in theory exists for them.

1 Where we run into the problem are those youngsters whose
2 parents are working and, thus, they are not eligible for
3 Medicaid. And yet the parents are just too poor to provide
4 the proper preventive health services. And the child is
5 healthy, so why bother to get the immunization and then
6 along comes all kinds of problems.

7 What my plan would do would say that those employers
8 who provide health care services for their employees, that
9 the plan which they provide would also cover the employees'
10 children for preventive services, which are defined, and
11 they are solely preventive services. They are not hospital
12 care. They are not extensive medical care. That would be
13 for the employees' children up to 16.

14 In other words, it would be there so that the child
15 could get the proper immunization.

16 As you know better than anybody, Mr. Chairman, the
17 health program is a very big tax expenditure already. And
18 it seems to me that if we can have this kind of immunization
19 for these young children, the savings to the Federal
20 Government or to society in general, and particularly to
21 the individuals, will be very, very substantial.

22 Now I know Treasury is going to say that we shouldn't do
23 anything with health plans, but that didn't stop us
24 yesterday. We had a provision under the Durenberger proposal
25 that dealt with health plans. And I think this is a very,

1 very good step forward.

2 Some of them already do it, as you know, Mr. Chairman.
3 I have talked to some plans that provide that the children
4 are already eligible for this type of treatment.

5 Twenty-four percent of all pre-school aged children are
6 not immunized. We had some good testimony on this the
7 other day. Not so good from Treasury, but good from --

8 Secretary Mentz. I thought it was pretty good.

9 Senator Chafee. Now the cost per family for this
10 additional coverage has been estimated to be \$2.28 a month.
11 And as I say, many of the plans already have it. So I
12 think it's a good proposal and would urge its passage.

13 The Chairman. Mr. Secretary?

14 Secretary Mentz. Well, as the Senator alluded to
15 Treasury's testimony, Treasury opposed this in the hearing
16 this past Monday.

17 Certainly we are not opposed to pediatric care for
18 children. We think that the principle is really a very
19 noble one, but the problems we have are really two-fold.
20 Number one, we don't think the Federal Government ought to
21 be in the business of designing health care plans. Right
22 now you have kind of a free-market approach where companies
23 and employees and unions get together and design whatever
24 appropriate health-care programs are appropriate for the
25 individual situations.

1 We don't agree that the Federal Government should start
2 legislating it. And, indeed, we would suggest it is a
3 slippery slope. Once you go with this, which sounds like
4 in principle a good idea, before you know it, you will
5 have another one and another one, and a piecemeal approach
6 we would suggest, Mr. Chairman, is just the wrong way to
7 go.

8 The Chairman. John, let me ask you something.

9 Senator Chafee. Well, let me just say this, Mr.
10 Chairman, briefly. We are already a little bit pregnant.
11 Yesterday, nobody had any trouble adopting the Durenberger
12 proposal which provides that health plans will extend to
13 divorced wives, divorcees, unemployed, widows -- and nobody
14 batted an eye over that.

15 Secretary Mentz. Well, I may be a little pregnant,
16 but it was against my wishes.

17 Senator Baucus. Mr. Chairman.

18 The Chairman. Senator Baucus.

19 Senator Baucus. Mr. Chairman, I support proposals
20 similar to -- I've noticed the development of lots of
21 vaccines in our country -- anti-polio, measles, smallpox,
22 et cetera. The illness rate in those diseases has come down
23 a lot, but there is a paradoxical sort of social
24 phenomenon that has developed and that is with the lower
25 incidents of those diseases, fewer children are now being

1 immunized. They aren't taking the vaccine because there is
2 less of the disease around.

3 And I think it makes sense to have a preventive program.
4 There is nothing that is completely pure. You know, on the
5 one hand we have a free market that we don't have a totally
6 free market in most anything around here.

7 And I think that it's good public policy for our
8 government to encourage preventive measures. And I
9 strongly support the measure.

10 The Chairman. Senator Chafee, let me ask you this.
11 I voted for Senator Durenberger's proposition yesterday with
12 ambivalent feelings. But I figure that all we were doing
13 was taking existing health programs -- we didn't tell the
14 employers what they had to have in it and what the unions
15 had to bargain for -- and said we are going to cover
16 divorcees, widows, for a certain period of time, and they
17 have to pay all the cost of the premium.

18 Since I have gotten deeper and deeper into the
19 Federal Government's involvement with health and how we
20 pay Medicare and Medicaid claims, the tax code is a river
21 of simplicity in comparison to what we do with the
22 supervision of health.

23 And I have real misgivings about starting down a road
24 that says to Mr. or Ms. Employer henceforth, you are going
25 to provide pediatric coverage as follows, A, B, C, D, E, F,

1 along with which will come the regs as to what A means and
2 what shots you shall give and how it shall be administered.
3 And if you don't do all these things, you lose your
4 deduction for a group health plan.

5 I like the health care delivery system the way it is
6 worked with the bulk of the employees in this country. And
7 I am very adverse to the Administration trying to limit that
8 with its cap and tax plans.

9 I just hate for us to get into the supervision, and
10 that's what it will have to be -- because there will be
11 regs and supervision -- of the delivery of health care to
12 employees' families and telling them what they must do.

13 Senator Chafee. Well, Mr. Chairman, on the other hand
14 we have got a problem. We have got this mass, as Senator
15 Baucus said, we have got this mass of young children whose
16 parents are covered who are falling through the cracks in
17 our society. And the cost to society -- more importantly,
18 the cost to the children in lost opportunities which would
19 result from good health, I think is tragic.

20 I think the public health services should be doing
21 more as far as polio vaccine, for example, and a series of
22 other things. But just as Senator Baucus pointed out, the
23 young children are not getting these vaccines. And in our
24 testimony it came out that in society you can have a
25 certain percentage of the not immunized and nothing will

1 happen. Let's say it's 20 percent.

2 But you cross over that border and it becomes 30
3 percent. Then 100 percent of those who are not immunized
4 are liable to be exposed.

5 And we have been skating on thin ice, I think, in this
6 country by letting down from the great immunization efforts
7 that were made in the 1960's, I think particularly with
8 polio, but I just wonder how many youngsters now have their
9 polio tablets that they used to have.

10 And here is one way of doing it. I'm not hung up on
11 getting into the health plans. They are all nice, juicy
12 deductibles by the employers, non-taxable to the employees.
13 And here is a way of taking care of some young people who
14 just aren't going to get the care.

15 Not eligibile, can't qualify for Medicaid. Can't
16 qualify for government assistance.

17 The Chairman. A quick question. You indicate the
18 amemdment would not require first dollar coverage and does
19 not prohibit the use of deductibles. You mean an employer
20 could say, well, we will provide these pediatric services,
21 but there will be a thousand dollar deductible?

22 Senator Chafee. Well, it would be whatever his
23 deductibles are that exist presently with his employees.

24 The Chairman. All right. In other words, the
25 deductible would not --

1 Senator Chafee. Wouldn't change the deductible.

2 The Chairman. But you couldn't say deductibles
3 elsewhere, but deductibles here.

4 Senator Chafee. That's right. You can't slap on
5 deductibles, a \$10,000.00 deductible for children.

6 The Chairman. Well, the Secretary mentioned this
7 slippery slope. I always have misgivings about that
8 because that is something people use when they don't want
9 to do something.

10 But I have seen the slippery slope of what we do about
11 health coverage now. I would almost rather just give a
12 hospital \$10,000.00 and say, here, spend it, rather than
13 supervise it the way we supervise it. And I just hate to
14 start down this road.

15 Senator Long. Mr. Chairman, I've heard from employer
16 groups and Chamber of Commerce groups who have expressed the
17 opinion that you just expressed. They say that when they
18 start up -- before we passed this ERISA law, they started
19 out setting up the expensing plans, and by the time Congress
20 got through saying you must do all these different things,
21 some people dissolved their plans and some people never got
22 into it.

23 And while it is very desirable to do what Senator
24 Chafee would have us do, when you start requiring that you
25 do all these different things, a lot of these employers say,

1 well, if I have got to do all of that, let's just forget
2 about it. And the law doesn't require him to set the plan
3 up. If we pass the tax reform bill, that tax advantage is
4 not going to mean as much and simply will not be as great
5 because the tax rate will be less, so the deduction will be
6 of meaning to him.

7 And I'm reluctant to impose more burdens. I would love
8 to see them do everything the Senator would like to do, but
9 those that decide that they would rather not do it, they
10 are just not going to go into it. That's what bothers me.

11 Secretary Mentz. Mr. Chairman, just following up on
12 Senator Long's point, a corporation could because of the
13 additional burden decide maybe not to get rid of the plan
14 completely but to make it more discriminatory. And under
15 current law, there aren't any effective discrimination
16 rules that apply to group health insurance.

17 So it seems to me that that point being made is a very
18 real one. And any kind of a discrimination in coverage
19 would effectively probably cut out the very children that
20 Senator Chafee intends to seek to have covered.

21 So, effectively, I am supporting Senator Long's point.

22 The Chairman. Further discussion?

23 Senator Pryor. Mr. Chairman.

24 The Chairman. Senator Pryor.

25 Senator Pryor. On this whole issue, I have a

1 sense, and I may be wrong, that this issue is going to come
2 back and bite us one of these days. I really don't know, in
3 all due respect to the authors and the proponents of these
4 proposals, I really don't know if we did right yesterday.

5 I'm not going to make a speech about it, but I would
6 like to submit a statement at this point in the record.

7 The Chairman. Without objection.

8 Further discussion?

9 (No response)

10 The Chairman. If not, all of those in favor of
11 Senator Chafee's amendment will say aye.

12 (Chorus of ayes)

13 The Chairman. Those opposed, no.

14 (Chorus of noes)

15 Senator Chafee. Could we have a show of hands?

16 The Chairman. Yes.

17 All those in favor, raise their hands, please.

18 (Showing of hands)

19 The Chairman. All those opposed, no.

20 (Showing of hands)

21 The Chairman. The noes have it.

22 Can we move on to Senator Grassley's proposal for
23 insolvent farmers.

24 Senator Chafee. Mr. Chairman, could I ask one other
25 question?

1 The Chairman. Yes.

2 Senator Chafee. When we get into the -- we are going
3 to have a vote on the tobacco whenever the Majority Leader
4 gets here, and I will come down from the hearing I'm
5 attending. M

6 My question to you is this: I had a proposal to
7 increase the smokeless tobacco tax above what he had
8 suggested. I'm worried about timing. Do I have to get
9 that in now or --

10 The Chairman. I want to get it in this morning. I
11 want to finish this morning. We only have a few items
12 left to go, most of which are relatively -- they may be
13 controversial, but I don't think they will take any longer
14 than yours. I don't mean an inconsequential amendment.

15 But I just don't know when we will get to tobacco.
16 What do you want to do? Do you want to come back and offer
17 it? Would you like me to offer it for you and vote your
18 proxy for it or what?

19 Senator Chafee. It would be inappropriate to offer
20 it now?

21 The Chairman. No. You want to vote on it now?

22 Senator Chafee. Sure. Or offer it, and if you could
23 just maybe repeat it. It's very simple.

24 The Chairman. This is, what, \$.24 a pound? Repeat
25 what it is.

1 Senator Chafee. All right. I'd have to know -- what
2 is his proposal?

3 The Chairman. What is the Majority Leader's proposal?

4 Senator Chafee. Yes.

5 Mr. Colvin. It's identical to yours, Senator Chafee,
6 except the rates are one-fifth.

7 Senator Chafee. All right. His is \$.24 a pound for
8 snuff, and \$.08 a pound for chew. Mine would be \$1.20 a
9 pound for snuff, which is \$.07-1/2 an ounce, which is the
10 way it is sold, and sells for about \$.96 an ounce.

11 So it's about a 7 percent tax. And mine would be on
12 chew, \$.40 and that sells in 3 ounce packets, so again it
13 would be less than -- about 12 percent.

14 What I'm trying to do is make it somehow tied in,
15 even though it is lower, with the cigarette tax, which is
16 at 16 percent, figuring a pack sells for a dollar.

17 The Chairman. Let's have some discussion on this
18 now. I would like to postpone the vote on it until the
19 Majority Leader gets here, in fairness to him. But while
20 you are here, let's discuss it now.

21 Senator Chafee. Well, there it is. The theory of it
22 is is that this isn't a big revenue raiser, but I think in
23 cigarette taxing we are not looking for solely revenue
24 raising. We are also thinking of a deterrent.

25 And as I said yesterday, although the Surgeon General's

1 report isn't out yet on chewing tobacco, the effect of
2 chewing tobacco on the mouth, oral cancer and so forth, has
3 been clearly demonstrated by several studies. And these
4 people end up on our government roles. I'm not directing
5 this directly into Medicare, but I think we ought to raise
6 a little more money from those that we are going to have
7 to be taking care of and also help with the deterrent.

8 And the tax comes in, as I say, at less than the
9 cigarette tax percentagewise.

10 The Chairman. Further discussion?

11 Senator Bradley. Mr. Chairman.

12 The Chairman. Senator Bradley.

13 Senator Bradley. Mr. Chairman, what is your intention
14 on dealing with this amendment. Is this a specific
15 amendment that Senator Chafee is now proposing, or is it
16 an amendment to the Dole package?

17 The Chairman. I'm not going to, in this sense, try to
18 bend the rules one way or the other. I think he is offering
19 it and would like a separate vote on it, and I plan to give
20 him a vote on it, rather than saying is it a substitute to
21 a substitute and out of order or something like that.

22 Senator Moynihan. Mr. Chairman, are we ever going to
23 hear from the committee what this proposal about the farm
24 bill is all about?

25 The Chairman. When the Majority Leader gets here.

1 Senator Moynihan. Is he going to tell us or can
2 anybody on the staff tell us?

3 The Chairman. I think Mr. Franks is going to tell us
4 again.

5 Senator Moynihan. What can he tell us now?

6 The Chairman. Just a second. George.

7 Senator Mitchell. As I understand the situation, Mr.
8 Chairman, we will vote now on a specific proposal to
9 establish a certain level of taxation on smokeless tobacco,
10 but we do know that the Majority Leader's package will
11 include a tax on smokeless tobacco at a lower rate than that
12 offered here. Is that correct?

13 The Chairman. That is correct, although in fairness
14 these are obviously alternative proposals. And if Senator
15 Chafee's is adopted, I would rule that that is part of the
16 package.

17 Senator Mitchell. I understand that, but my point was
18 that there are some of us who may favor taxing smokeless
19 tobacco but at a lower rate than that that is being
20 proposed. And I just wanted to make sure this wouldn't be
21 the only vote on the subject.

22 The Chairman. That's correct.

23 Senator Pryor.

24 Senator Pryor. Mr. Chairman, last night in the
25 Agriculture Committee there was a discussion about this issue



1 as it relates to the savings that would be attributed to
2 either the Agriculture Committee or to the Finance Committee.

3 And I must say that the Agriculture Committee thinks
4 that any savings are going to be attributed to the
5 Agriculture Committee. And before I vote on anything
6 relating to tobacco, I would like to have that point
7 clarified and nailed down and put in granite some way or
8 another so I'll know how to be guided on it.

9 The Chairman. Give me 5 minutes, and let me go over
10 this whole subject so the committee is clear.

11 We get the savings if we do it. And here's the way the
12 system, the Finance Committee --

13 Senator Pryor. The Finance Committee gets it.

14 Senator Moynihan. I'm sorry to be dense, but the
15 word "savings." What are we saving? This is a tax.

16 Senator Pryor. It's not a proper word.

17 The Chairman. Let me go through the whole thing. Pat,
18 it won't take 5 minutes so we understand both the procedure
19 and the substance of how we get to the "savings."

20 Under reconciliation, almost all committees are
21 ordered to produce savings, reductions in spending. This
22 committee is also reconciled to produce some revenue.

23 Senator Moynihan. Is that a euphemism? A saving is
24 spending less than you otherwise plan to spend?

25 The Chairman. That's correct.

1 Senator Moynihan. So it's kind of an official lie.

2 The Chairman. Well, we use the term "savings" -- you
3 know, whenever we say we cut the government budget \$50
4 billion and then you explain to the voters that it's only
5 \$850 billion instead of \$900 billion, but last year you
6 spent \$750 billion, to them somehow it seems like it went
7 up.

8 Senator Moynihan. Yes. That's called --

9 (Laughter)

10 Senator Moynihan. I mean it is called --

11 (Laughter)

12 The Chairman. It is less than we would otherwise
13 spend.

14 Now all committees, most of them at least, are
15 reconciled to produce some reductions from what they would
16 otherwise spend. Our committee has been ordered to do that,
17 and we have done that.

18 In addition, we are reconciled to produce some
19 revenues. Other committees are not reconciled to produce
20 revenues.

21 Any committee would be free in their selection of
22 savings to pick from any subject they wanted. The
23 Agriculture Committee could vote a \$2 billion cut in
24 Medicare and they would get credit for the savings in
25 Medicare.

1 We normally do not -- they cannot vote a revenue
2 increase because they haven't got a reconciliation order
3 to produce revenues. We normally do not trample on each
4 other's jurisdictions. And they don't vote cuts in
5 Medicare, and we don't vote changes or cuts in the tobacco
6 program.

7 It is an unusual but not unprecedented action for this
8 committee to basically involve itself in the jurisdiction
9 of another committee. We did it last year when the
10 Commerce Committee chairman and the ranking member asked
11 this committee on behalf of the Commerce Committee to adopt
12 certain substantive provisions along with the tax in the
13 ADP, the Airport Development Program, and as I recall, we
14 all voted for it because our airport managers wanted it.

15 But we only did it at the request of the committee.
16 Now we have a request from the chairman and the ranking
17 member of the Agriculture Committee to follow the same
18 procedure involving the cigarette tax and this tobacco
19 subsidy program.

20 The savings come as follow, if you want to call them
21 that: If there is no change in the law at all, the program
22 just goes on as it goes on.

23 If we pass the program that the Majority Leader is
24 proposing, we will spend over three years \$235 million less
25 than we will spend under the current program. And that is

1 counted as a savings, and it is attributed to this committee.

2 Senator Moynihan. Mr. Chairman, you can surely
3 understand why a Senator would want to know more than that.
4 Is that \$235 million less than \$235 billion? Or \$400
5 billion or \$236?

6 The Chairman. Is Mr. Franks here? He just went out?

7 Senator Moynihan. The minute we mention numbers, the
8 people, the back-up people disappear.

9 (Laughter)

10 The Chairman. We will get Mr. Franks back and he can
11 answer that.

12 But, David, that is why -- Mr. Franks, come up here,
13 will you? -- that is why the savings are attributed to this
14 committee just as if Medicare savings would be attributed
15 to Agriculture if that's where they voted to make the
16 savings.

17 Senator Pryor. Well, it's my understanding --

18 Senator Chafee. Mr. Chairman, could I interrupt one
19 moment briefly?

20 The Chairman. Yes.

21 Senator Chafee. What happened to my proposal? And
22 what would be your intention?

23 The Chairman. Well, as I indicated, I want to hold it
24 for a vote until the Majority Leader is here.

25 Senator Chafee. All right. I'll be back.

1 The Chairman. Do you want to come back for the vote?

2 Senator Chafee. Yes.

3 The Chairman. All right.

4 Senator Pryor. To further complicate things and muddy
5 the water, Mr. Chairman, it is my impression that after the
6 Finance Committee, or assuming the Finance Committee takes
7 this action and have these so-called savings attributed to
8 this committee in reconciliation, that in addition to this
9 the Agriculture Committee will then act on this particular
10 point so that the Agriculture Committee will also have
11 savings under "reconciliation."

12 Now if that is the case, I'll be honest with you. I'm
13 totally confused and perplexed about the system. And I
14 don't think two committees can have the so-called savings.

15 And I know Senator Moynihan has taken exception to
16 that definition, and it is not a good definition.

17 The Chairman. I have got to clarify myself. Bill
18 Diefenderfer just tells me we just have a ruling from the
19 Budget Committee if both committees act, then the Committee
20 of Substantive Jurisdiction gets the savings, which would
21 be Ag.

22 Senator Moynihan. Just had a ruling. I'm on the
23 Budget Committee. We haven't met in a year and a half.

24 (Laughter)

25 Senator Long. Well, do they get it or do we get it?

1 Senator Moynihan. We balanced the budget in 1983
2 and we left off there.

3 The Chairman. If the Agriculture Committee -- that's
4 what the Chief Counsel just told me -- if the Agriculture
5 Committee adopts the same program that we adopt, they
6 rather than we get credit for the savings.

7 Senator Moynihan. And that was something the counsel
8 told you?

9 The Chairman. Yes.

10 Senator Boren. Mr. Chairman, the Agriculture
11 Committee -- this was discussed, and the CBO did appear at
12 that meeting, and that specific question was asked to him.
13 And what you said is exactly the advice that CBO gave the
14 Agriculture Committee yesterday.

15 That is, if this committee acts, even though it's
16 a functional agricultural area, budget function area, and
17 the Agriculture Committee does not act, this committee is
18 credited with the savings.

19 If the Agriculture Committee also acts and includes it
20 in its reconciliation package, the same provision, then the
21 Agriculture Committee would be credited with that part of
22 it. Of course, not the revenue part, but only the spending.

23 Senator Long. Well, might I just suggest that we try
24 to decide this issue based on whether it is right or wrong.
25 That saves all kinds of problems. If you think it's a good

1 idea, vote for it. If you think it's a lousy idea, vote
2 against it. And that way, you haven't got to worry about
3 who gets the credit for it -- the Agriculture Committee or
4 Finance.

5 In any event, when the Senate passes the thing, we all
6 have to take our share of the credit for it, right or
7 wrong as the case may be.

8 Senator Moynihan. With respect to our leader, I
9 don't think -- it does not strike me as being a useful
10 thing for us to judge the merits of the tobacco program. I
11 don't know anything about it.

12 I do know this: We will not be told straight.

13 (Laughter)

14 Senator Moynihan. It's complex, it's ancient and it's
15 secretive and almost certainly it is bad. And that is not
16 a good thing to bring into this committee.

17 (Laughter)

18 The Chairman. I would like to wait now until the
19 Majority Leader gets here, if I might, and move onto
20 Senator Grassley's minimum tax for insolvent farmers.

21 Senator Grassley. Thank you, Mr. Chairman.

22 The issue I'm going to bring up was introduced in the
23 Senate as S. 418, with Senators Armstrong, Boschwitz,
24 Bumpers, Durenberger, Kassebaum, and Zorinsky as co-sponsors.

25 It's a bill that we should have brought up last August

1 when we had a tax bill. But we really didn't have a clear
2 picture of the problem out there yet.

3 Now hindsight tells me we should have worked harder
4 last summer to get the legislation refined and bring the
5 problem before this committee. The specific approach I'm
6 using in this amendment I'm doing because I'm following the
7 Chairman's advice to take the least controversial approach
8 because of the lower revenue losses.

9 But I would like to give you my view that if there is
10 any talk of revenue loss by this legislation, particularly
11 this lesser approach that I'm taking, I can only say that
12 talk of revenue loss is blue smoke because the farmers
13 that we are talking about in this instance are financially
14 broke and they are never going to pay this tax anyway.

15 Now this amendment that I'm offering today addresses
16 the problem for many farmers who are facing the threat of
17 forfeiture or foreclosure as a result of the continuing
18 decline in many of the rural areas of our country.

19 The individual alternative minimum tax provisions, which
20 were intended to prevent wealthy individuals from zeroing
21 out of any income tax liability by using multiple tax
22 preferences, has resulted in an onerous tax liability for
23 individuals who are insolvent.

24 My amendment would correct that problem for farmers who
25 are insolvent. The problem this amendment would correct has

1 become so acute in my state that the Iowa State Borrowers
2 Association is giving regular seminars on the special tax
3 problems associated with farm bankruptcy.

4 The standard of insolvency used in my amendment comes
5 from Section 108(b)(3) of the Internal Revenue Code. The
6 fair market value of the taxpayer's liability must exceed,
7 must exceed, the fair market value of his assets
8 immediately prior to the sale or exchange of property.

9 I have purposely restricted the availability of
10 my amendment in order to assure that only operating farmers
11 and not tax-shelter syndicators could qualify for the
12 relief.

13 Finally, I believe that the special circumstances -- I
14 referred to the fact that this was becoming a problem last
15 summer and we should have addressed it last summer. Well,
16 we really didn't have a handle on it. But because of the
17 special problems and the special circumstances of this class
18 of taxpayers, I think it justifies the retroactive effective
19 date to the year beginning December 31, 1981.

20 The unanticipated decline in farmland value has
21 resulted in an unforeseen, if not unintended, imposition of
22 the alternative minimum tax. The equity argument for
23 remedying this glitch in the tax laws are no less persuasive
24 for those taxpayers who were first affected by it.

25 Let me say that what we are dealing here with is the

1 fact that in October of 1979 Paul Volcker and the Federal
2 Reserve Board made a political policy decision to deflate
3 the economy. And that is the basis for all the
4 unemployment in Idaho that Senator Symms talked about.
5 That's the basis for the unemployment in the ores, timber,
6 and of course it's the reason for the decline of farmland
7 value and particularly in the upper Midwest, but farmland
8 all over the country except maybe in New England.

9 And we have a situation where people are forced into
10 foreclosure, insolvency, and yet stuck with big alternative
11 minimum tax bills, which they will never be able to pay,
12 and which is forcing people into bankruptcy, a stage they
13 would not have to go into if we pass this legislation.

14 The Chairman. Senator Long wants to speak.

15 Let me tell the order we are going to do some things
16 so that people are prepared. I would like to go when we
17 finish this, Mr. Secretary, to your request to go to the
18 \$250 million bond limit, if that's all right with you. I
19 think that's Treasury's request, isn't it?

20 Secretary Mentz. Okay, fine.

21 The Chairman. And then, Max, do you have that
22 unemployment amendment?

23 Senator Baucus. Yes.

24 The Chairman. All right. We will do that after
25 Treasury.

1 Senator Long. Mr. Chairman, the Senator is right about
2 his amendment. I'm familiar with this problem. But I
3 became familiar with it in a different connection.

4 I became familiar with it because a friend, a good
5 campaign contributor of both Democrats and Republicans, a
6 wealthy man over in Texas, and bless his heart, the way
7 things go in the oil business, he absolutely went broke.
8 Just completely wiped out. And then he owed a great big
9 tax, minimum tax. He lost hundreds of millions of dollars.
10 Then he owed a great big minimum tax. How, I can't figure
11 it out, but this has got to be the same problem.

12 And I'm willing to vote for this, but I would like it
13 understood if we can provide general language that takes
14 care of this where a person loses a ton of money -- he
15 didn't make any money. He lost a fortune -- that he
16 doesn't have the minimum tax.

17 How we get it that way, I can't figure out. I voted
18 for the minimum tax, but I never had anything like that in
19 mind. If some poor soul goes broke, and you put a big tax
20 bill on him for going broke.

21 Senator Bradley. Mr. Chairman, would somebody help
22 us out and explain how that can happen?

23 The Chairman. I think the Secretary would like to
24 comment.

25 Senator Grassley. Before the Secretary comments, if

1 there is more expert views needed than what I gave, I would
2 like to have somebody refine the problem more for Senator
3 Bradley's benefit before we get the negative comment about
4 the legislation.

5 Secretary Mentz. Well, it's not going to be a
6 negative comment.

7 Senator Grassley. I'm sorry?

8 Secretary Mentz. Did that change your mind?

9 The Chairman. I think Senator Grassley would like to
10 hear the Treasury's comments.

11 Secretary Mentz. Well, let me say that the Treasury
12 has a great deal of sympathy for this amendment. I think it
13 is really an unfortunate and unintended result that a
14 taxpayer that is insolvent and because of net operation
15 losses does not have a regular tax liability can nevertheless
16 because of the workings of the alternative minimum tax where
17 60 percent of the capital gains is a preference without
18 benefit of the carry-over provisions winds up stuck with a
19 minimum tax, alternative minimum tax liability.

20 I think that's a result that is clearly unfair,
21 unintended, and we support generally what your amendment
22 does. We agree that the 108 definition of insolvency is
23 correct. That definition is basically if your liabilities
24 exceed your assets, you are insolvent and therefore
25 eligible for the relief.

1 One suggested refinement we would make would be
2 consistent with Section 108. 108 is a discharge of
3 indebtedness provision which basically says that if a
4 taxpayer is discharged from indebtedness, there is no
5 income to the extent of insolvency.

6 We would suggest the same thing here. That if a taxpayer
7 has his property foreclosed, he does not have alternative
8 minimum tax liability to the extent of insolvency so that
9 if a taxpayer is \$100,000.00 insolvent and has a \$200,000.00
10 capital gain, you certainly want to excuse him from
11 minimum tax to the extent of the \$100,000.00. But once you
12 are over the \$100,000.00, he's really no different than
13 anybody else and you would put him in the same alternative
14 minimum tax position.

15 So it seems to me the exact same position in Section 108,
16 that is, the limitation to the extent of insolvency, should
17 apply here.

18 With that wrinkle, I think we are on board. I want to
19 express a mild objection on the retroactivity feature. As
20 you know from yesterday, I am quite concerned about
21 retroactive legislation. I'm not as concerned about this
22 because it's retroactive only to open years. And we do have,
23 really, an unfair situation here.

24 So I am simply registering my mild objection.

25 I would also say that if it's fair for farmers as a tax

1 policy matter, it's hard to see why it isn't fair for oil
2 operators and coal and everybody else.

3 The Chairman. Senator Bentsen.

4 Senator Bentsen. Mr. Chairman, I think he has made the
5 point right there. I'm very sympathetic to what Senator
6 Grassley is saying. I see great equity in his proposal.

7 But why do you stop with farmers? If a fellow is
8 broke, he's broke whether he's farming or he is in any
9 other line of work, and you ought to let him get up off his
10 knees at some point. I don't see why the alternative
11 minimum should be used for, say, a man who has lost it all
12 continues to bring about this kind of tax liability.

13 And I know you are talking about more revenue, but once
14 again, if it's an inequity, we ought to correct it.

15 Senator Grassley. The Senator raises a good point.
16 One, you have just mentioned. Difficult to guess revenue
17 loss of broadening. Two, I think we have not had as
18 dramatic drop in values for most businesses the way we have
19 for agriculture. And I suppose certainly in my particular
20 case, you know, it is a major industry in my state and I
21 hear the most about it.

22 I have not had non-farmers bring any problems in their
23 area to my attention. So it's all been agriculture. And
24 that's also the judgment of the Iowa State Bar Associations,
25 the lawyers that have been working on this.

1 Senator Bentsen. Senator, I will take you down the
2 Gulf Coast of Texas, and take you to Port Arthur and Orange
3 and Beaumont and I will cite you case after case. And it's
4 not just farmers.

5 The Chairman. Further discussion.

6 Senator Bradley, Senator Baucus. And Senator
7 Baucus, we are going to go with your amendment next.

8 Senator Bradley. Now under this amendment, does
9 foreclosure procedure have to have taken place prior to
10 this amendment being effective?

11 Mr. Colvin. Not as Senator Grassley has proposed it.
12 But there would have to be an excess of liabilities over
13 assets.

14 Senator Bradley. As determined by whom?

15 Mr. Colvin. Well, under normal tax procedure as
16 established by the taxpayer.

17 Secretary Mentz. It's under threat of foreclosure,
18 right?

19 Senator Bradley. Well, what does that mean? Under
20 threat of foreclosure.

21 Senator Grassley. Threat of foreclosure is a simple
22 case of the banker saying, you know, we are going to move in
23 on you.

24 Senator Bradley. Yes, but what is it that the IRS
25 has that validates the claim that the taxpayer makes that

1 the banker is going to move in on them?

2 Senator Grassley. Okay. I think at this point if
3 we could have Senator Bradley's question responded to.
4 How could you get in this case in the first place? What
5 I think would answer his question is the basic understanding
6 of a problem that you could never think could happen.
7 Could somebody do that for me?

8 Secretary Mentz. Well, I think, Senator, it's an
9 evidentiary matter, but if a taxpayer is insolvent and the
10 bank is writing the last notice and saying if you don't pay
11 within 10 days we are going to institute proceedings to take
12 your property, I think that would qualify under this threat
13 of foreclosure.

14 Is that not your intention, Senator Grassley?

15 Senator Grassley. Yes.

16 Secretary Mentz. And I think that's administrable.

17 Senator Bradley. Is the amendment as now drafted
18 interpreted the way the Secretary interpreted it?

19 Secretary Mentz. Yes.

20 Senator Bradley. So that if you have \$200,000.00 and
21 you have \$100,000.00, you end up paying the alternative
22 minimum on the difference?

23 Secretary Mentz. Well, that's not the way it's
24 proposed. I don't know whether you want to amend it.

25 Senator Bradley. That's what I asked. Does Senator

1 Grassley agree to amend it that way?

2 Senator Grassley. Oh, I thought I understood the
3 Secretary to say what I was saying. Now there is
4 some question. Could we go through this again?

5 Secretary Mentz. Yes. Let me go through the example
6 again, Senator, which I believe is Senator Bradley's
7 question.

8 If a taxpayer is insolvent to the extent of
9 \$100,000.00, in other words, his liabilities exceed his
10 assets to the extent of \$100,000.00 and he has a gain on
11 the disposition of property pursuant to a threat of
12 foreclosure or actual foreclosure and the gain is \$200,000.00,
13 what I am suggesting is consistent with the concept in
14 Section 108. You would limit the exclusion from alternative
15 minimum tax to the extent of the insolvency. In other
16 words, \$100,000.00.

17 Senator Grassley. No, that is not our intent. And if
18 you do do that, you are still going to have the person have
19 to go into bankruptcy.

20 Secretary Mentz. Well, if the gain is \$5 million, and
21 he's insolvent by \$2.00, it doesn't seem to me to make much
22 sense to provide an exclusion; to take a more extreme fat
23 situation.

24 Senator Grassley. You are going to be making the
25 person sell off everything that he would have.

1 Secretary Mentz. No.

2 Senator Grassley. That would be in the final
3 analysis.

4 The Chairman. Senator Bentsen.

5 Senator Bentsen. Well, I think if a man is bankrupt,
6 it is supposed to be all the way. I am somewhat
7 sympathetic to what the Secretary is saying. I don't want
8 this just limited to farmers, as much as I understand their
9 plight.

10 And I would like to offer an amendment that expands it
11 to cover all people who are in this category.

12 The Chairman. How much would that cost?

13 Mr. Weiss. We are not sure. We are trying to get the
14 information right now. But the only estimate we have right
15 now is for Senator Grassley's amendment, as limited to
16 farmers.

17 Senator Moynihan. Mr. Chairman, we leave again this
18 mark up. I offered an amendment concerning children who had
19 aged out of foster care and being penniless and without
20 families and specifically without jobs, alone and typically
21 in large cities. It's a matter in which the Subcommittee on
22 Social Security and Income Maintenance had held hearings.
23 And if it can have the attention -- we had hearings,
24 we had heard responsible witnesses about the plight of
25 children and a very serious situation. We learned in one

1 particular case that a third of the children so abandoned
2 in the city were back on welfare within 18 months.

3 We learned from one state that apparently two-thirds
4 of the inmates in the California State Prison are foster
5 children. And we had a very modest proposal to spend
6 \$50 million a year across the country to help them.

7 And I was told we couldn't afford this. We can't
8 afford this. But we are now going to see that every
9 millionaire who goes bankrupt walks away with at least
10 half a million. We are going to give God knows how many
11 millions of dollars to the cigarette companies.

12 Senator Bentsen. No, I'm not doing that at all. I'm
13 going along with the Secretary. And I'm saying if he is
14 broke --

15 Senator Moynihan. I'm not addressing my friend from
16 Texas. I'm addressing this general proposition.

17 If we have got money for bankrupt millionaires, perhaps
18 we could have some money for foster children.

19 The Chairman. The Senator from Texas has offered as
20 an amendment to include everybody. Do we have --

21 Senator Moynihan. Have we had any hearings on this?

22 The Chairman. No. Not on everybody.

23 Do we have a revenue estimate?

24 Mr. Weiss. It will be a little while until we can get
25 that.

1 Senator Long. Well, I don't see how it's going to
2 break this government to say that if a guy is insolvent --
3 you are talking about a fellow that is broke, isn't that
4 right? How much money -- how much blood do you expect to
5 squeeze out of a turnip? The guy is broke. Now he hopes
6 to go to work and start all over again and make something
7 out of himself.

8 Senator Grassley. Well, in my state they are going
9 to be janitors and service people at \$4.00.

10 Senator Long. What was that?

11 Senator Grassley. In my state, these people are going
12 to be janitors and service people at \$4.00 or \$5.00 or
13 \$6.00 an hour. They are never going to get in a position of
14 paying this back.

15 Senator Long. Well, we like to think -- why do we
16 have bankruptcy laws except to give a person a chance to
17 start all over again?

18 I helped to initiate the idea of this minimum tax.
19 And what I had in mind for minimum tax all the time was for
20 some fellow who, in fact, made a lot of money. But by the
21 way he was able to take advantage of the various incentives
22 in the tax code, he wound up paying us no taxes.

23 He would go down to the banker to borrow some dough,
24 and the banker said how much money did you make last year.
25 And they would say your income takes -- let me explain this

1 to you.

2 For example, I drilled a well. And it is a good well.
3 I'm going to make a lot of money on it, but there is no
4 income out of it this year, but you just wait until I get
5 this pipeline connected up to where I can put that thing in
6 the pipeline and I'm going to make a lot of money out of
7 this.

8 In the real sense, I lost no money at all. I'm in
9 good shape. I'll make lots of money. So the banker makes
10 the loan. Well, I'm just saying, well, if you -- and I
11 thought about the minimum tax. We ought to tax him
12 according to what he tells the banker rather than taxing
13 him according to what he tells the tax collector, the
14 minimum tax.

15 But where you have got a situation where somebody is
16 broke, you are going to get a precious few bucks out of
17 that guy because he doesn't have anything to pay with. And
18 you will make a lot more money to give him a chance to go
19 out and try to make some money again, and then he will be a
20 taxpayer.

21 Senator Grassley. I was just saying, though, that for
22 most of the people that I know that fall in this category,
23 you know, they won't be making a lot of money.

24 Senator Long. But pray to God somebody will. I mean
25 you would like to think somebody might get lucky.

1 The Chairman. Senator Wallop and then if we don't have
2 an estimate, I would like to shift to the tobacco issue
3 while the Majority Leader is here.

4 Senator Wallop.

5 Senator Wallop. Mr. Chairman, mine is a question to
6 the phraseology of it, which I don't think has an intended
7 defect, but unless we do something about it, it clearly is.

8 And this is transfer of real properties for business
9 farmers who accredit or cancellation of debt in property
10 for arising from the sale or exchange or such property
11 under the threat of foreclosures shall not be taken into
12 account.

13 Now you can be threatened for foreclosure simply
14 because you don't pay your bills, and be quite well off.
15 I don't think you want to take care of those people.

16 Senator Grassley. And I had that in an alternative to
17 do that, but we aren't going that route. We are not going
18 that route.

19 Secretary Mentz. I think the answer there, Senator
20 Wallop, is you have to be insolvent in the sense that your
21 liabilities exceed your assets. Broke, as the Senator from
22 Louisiana would say.

23 Senator Wallop. Now I could make a case for going that
24 direction because six months from now the same number of
25 people that we are trying to deal with in this are going to

1 be in that boat.

2 The Chairman. But your estimate on that was \$250
3 to \$300 million just for farmers.

4 Senator Grassley. Yes. So we aren't going that route.
5 But I think you are going to be dealing with those people
6 some day because all they can do because of the high tax
7 liability is go on till the point they get insolvent.

8 Senator Wallop. Well, but I must say that is not the
9 obligation of the government to take care of people's --
10 under any sense. I mean what we are trying to do here is
11 perhaps something -- it's the real reason why we should have
12 never had an alternative minimum tax in the first place.
13 It's the dumbest tax I've ever heard of. And if we can't
14 find a better way to write tax law, then we ought not do it.

15 The Chairman. I would like to move to the issue of the
16 tobacco tax, if we can, until they have an estimate on what
17 it would cost for everyone.

18 Senator Dole.

19 Senator Dole. Well, Mr. Chairman, if I could review the
20 bidding here. I offered a proposal which would extend the
21 \$.16 tobacco tax and also add a \$.24 per pound on snuff and
22 \$.08 per pound on chewing tobacco. That was amended by -- at
23 least an amendment was offered on part of that by Senator
24 Chafee, which would be \$1.20 per pound on snuff and \$.40 per
25 pound on chewing tobacco.

1 What I would like to do is -- that would be five times
2 higher than the proposal I had on those two issues.

3 The Excise Tax Reduction Act of 1965 reduced tobacco
4 excise taxes because they were highly regressive. As I
5 pointed out yesterday, about 60 percent of the people who
6 use these two products are wage-earners of less than
7 \$25,000.00. So it would seem to me that this is -- the tax
8 is repealed and now we are coming back in and not paying any
9 tax on snuff or chewing tobacco. I think we ought to start
10 out at some reasonable rate. And if we determine it should
11 be increased, I assume we could do that.

12 I would also indicate that the Council has embarked on
13 a major public relations effort to discourage the use of
14 smokeless products by kids. They have got a lot of PSA's
15 and they have adopted a code of ethics. They are doing a
16 lot of things to overcome, I think, a very bad image,
17 particularly as highlighted by 60 Minutes. I think I saw
18 a program six or eight months ago.

19 So I think we at least ought to get the Surgeon
20 General's report, which is going to be due in the spring of
21 1986. If we decide we want to increase the tax on these two
22 items more, that's fine. I mean that would be up to the
23 Congress.

24 But what I would like to do is vote on Chafee's
25 proposal, defeat that, and then adopt the proposal I made.

1 The Chairman. Discussion for the moment on the
2 smokeless tobacco and snuff and the two alternative proposals
3 before us.

4 Senator Moynihan. Mr. Chairman, could I just ask some
5 member of our staff -- we hear that 60 percent of people who
6 use chewing tobacco have incomes under \$25,000.00 a year.
7 What proportion of workers of this country have incomes
8 under \$25,000.00 a year?

9 Mr. Weiss. Median family income, which is the figure
10 that pops into mind, is about \$25,000.00.

11 Senator Moynihan. So about 60 percent of the
12 population? Yes.

13 Mr. Weiss. Fifty percent.

14 Senator Dole. Really \$20,000.00 or less. You get
15 about half. It's sort of like the argument we made for
16 beer. You couldn't raise taxes because that was a working
17 man's drink. And I don't know about snuff or chewing
18 tobacco but --

19 Whatever, we don't want to --

20 (Laughter)

21 Senator Dole. They are Democrats. And if they drink
22 and chew the right stuff, they are becoming Republicans.

23 (Laughter)

24 The Chairman. Senator Chafee.

25 Senator Chafee. Mr. Chairman, I think the averages are

1 always dangerous. You take one baseball player at
2 \$700,000.00 that is chewing a little Mail Pouch and a whole
3 group of high school youth that are chewing it in emulation
4 of their heroes, and so I suppose you can get the averages
5 down to somewhere around 20,000.

6 But I think that there are documentation already
7 about the effect of this on health. And I made my speech
8 earlier. I will just briefly repeat it.

9 That this is not solely a money-raiser. It's also to
10 seek to discourage the use of it. And we have found that
11 young people are price sensitive. In other words, they don't
12 use these substances if the price is high or higher.

13 So I think -- we are not taxing it too heavily as
14 regards comparatively -- as regards cigarettes, for example.
15 And I also know that -- I have been informed that only about
16 half the states impose a tax. So this is the only tax on
17 these products -- snuff and chewing tobacco -- whereas
18 cigarettes are heavily taxed by states as well.

19 The Chairman. Senator Chafee, would you yield for a
20 question?

21 Senator Chafee. Sure.

22 The Chairman. Could you tell us what the tax was
23 before it was repealed? I'm not aware of that.

24 Senator Chafee. Well, Senator Dole had some figures
25 on that. And what they have done is --

1 Senator Bradley. Ten cents a pound.

2 Senator Armstrong. It was previously \$.10?

3 Senator Dole. What we have done is we have gone
4 back -- the proposal has gone back to 1965 and indexed
5 that to bring it up to present value. And that's how I
6 reached the figures I am proposing.

7 And I would say in response to Senator Chafee,
8 obviously, we are concerned about that, but I mentioned
9 the Smokeless Tobacco Council has these adults only ads.
10 They are making a real effort. And I would guess that when
11 the Surgeon General's report is adults only -- there is a
12 lot of this going on. If the Surgeon General decides
13 that -- whatever they decide, we may want to come back and
14 revisit this.

15 But I have a list of the states who do now have
16 taxes. And I'm certain as soon as those other states hear
17 about the other states, they will all be taxing.

18 The Chairman. I think we've had enough discussion on
19 this particular issue, and I would like to vote on Senator
20 Chafee's amendment.

21 Senator Armstrong. Mr. Chairman, I would like to
22 answer a question. I don't know if anybody else is in the
23 same boat I am. I am sympathetic to what Senator Chafee is
24 trying to do. In fact, as far as I am concerned, you could
25 make it about \$50.00 a pound, and it would suit me just fine.

1 On the other hand, it's my desire to support the
2 package that the leader has put together, because as I
3 understand it, the non-tax part of that package more or
4 less gets the government out of the tobacco business, which
5 I think is also a very strong priority.

6 And I guess my question is this: Is this a crucial
7 part of this package that has been put together? Is there
8 something about raising the tax on this particular product
9 that would be injurious to the total package?

10 Senator Dole. Well, not in the sense that there is a
11 direct linkage. But it would seem to me that some are
12 looking for additional revenue, and since this is an area
13 that hadn't been taxed since 1965, this was a reasonable
14 proposal.

15 But I would also say that, you know, we could probably
16 tax everything -- beer, spirits, whatever. If we get the
17 tax high enough, we could prohibit the use.

18 But what I am suggesting is that this is reasonable.
19 We have indexed this from 1965. It's the present value. If,
20 in fact, the Surgeon General's report in 1986 determines
21 things that we ought to address, then I hope we come back
22 and revisit the tax.

23 Senator Armstrong. Well, Mr. Chairman, I guess all I
24 want to say is that I am going to vote against Senator
25 Chafee's proposal and I'm going to subsequently vote for the

1 package that is going to be put together. But I am sure
2 going to keep my own options open when we get to the Floor
3 and any time thereafter to vote for an increase in the
4 smokeless tobacco tax or to vote to increase the tobacco
5 tax.

6 I do think that the package, if I understand it
7 correctly, about which I have some doubt -- but if I
8 understand it correctly, I think it really has a laudable
9 end result, which is to get the Federal Government out of
10 the business of tobacco.

11 Senator Dole. We are talking about the same tobacco,
12 too. I mean this is part of it.

13 The Chairman. I would like to put the vote on
14 Senator Chafee's proposal.

15 Senator Bradley. Mr. Chairman, after the disposition
16 of Senator Chafee's amendment and Senator Dole's amendment,
17 I would like to offer a series of amendments.

18 The Chairman. Absolutely.

19 Senator Bentsen. Could I hear Senator Chafee for a
20 couple of minutes review what he is proposing?

21 (CONTINUED ON THE NEXT PAGE)

1 Senator Chafee. All right. The proposal of Senator
2 Dole is that the tax on snuff be at 24 cents a pound.

3 Senator Bentsen. And there is no tax now?

4 Senator Chafee. There is no tax now.

5 Senator Bentsen. All right.

6 Senator Chafee. And that the tax on chewing tobacco
7 be 8 cents a pound.

8 My proposal would make it \$1.20 a pound for snuff and
9 40 cents for chewing tobacco, which would work out at the
10 sales price--and I have had no contradiction on this--to
11 about 12 to 14 percent, that is the Federal tax.

12 And the cigarette tax would be 16 percent. And I
13 just thought we could put up these taxes at somewhat
14 similar percentages.

15 Then, also I feel strongly, as I mentioned before, it
16 isn't solely a revenue measure. The whole industry is
17 only \$700 million a year, so we are not talking a big
18 industry, but we are talking a deterrence as well.

19 The Chairman. I would like to vote if we could. I
20 think we have discussed this particular issue long enough.

21 Those in favor of the amendment of Senator Chafee
22 will say aye.

23 (Chorus of ayes)

24 The Chairman. Those opposed, no.

25 (Chorus of noes)

1 The Chairman. Those in favor raise their hands.

2 (Show of hands)

3 The Chairman. Those opposed raise their hands.

4 (Show of hands)

5 The Chairman. The noes have it.

6 I want to clear up, before we have any further
7 discussion or vote on the "package" as it is called, this
8 issue again of the savings.

9 I will repeat what I was told and Senator Boren's
10 understanding, and see if the Majority Leader agrees with
11 this.

12 If we adopt this program, at the moment we get credit
13 for the savings; but if the Agriculture Committee were to
14 then adopt the same program, they get credit for the savings?

15 Senator Dole. We don't have any chance of doing that.

16 The Chairman. Here is what I am worried about, and
17 I didn't realize this.

18 If they adopt it and then get credit for the savings,
19 we are then below our reconciliation totals, if we have
20 spent right up to it; and in that case we are at the mercy
21 of the Budget Committee.

22 And what I want is assurances from the Agriculture
23 Committee that they are not going to repass the same program
24 and undercut our savings and then put us below our
25 reconciliation totals.

1 Senator Dole. Let me indicate to the chairman that,
2 if that were to happen--I am on the Agriculture Committee--
3 I would move to strike it from one bill if it ever got out
4 of the committee, but I think it is fair to say that we
5 are lucky--we got a farm bill reported last night, and as
6 far as I am concerned, we may not meet for a while.

7 But we will give your our assurance on that.

8 The Chairman. Discussion on the package?

9 Senator Baucus. Mr. Chairman, on that particular issue,
10 that goes to the question I am going to ask.

11 If the Agriculture Committee is not credited for the
12 savings, what effect will that have on the agriculture bill
13 if ever it gets to the floor on pressuring other commodities
14 at lower levels?

15 That is, amendments will come in to lower the price
16 support levels for other commodities because the Agriculture
17 Committee does not get the credit for the savings.

18 I am just wondering if that is going to put more
19 pressure to cut down those price supports.

20 Senator Dole. Again, I can't speak for the committee,
21 but we are so far over the budget that this little amount
22 wouldn't be noticed.

23 (Laughter)

24 Senator Baucus. What is the amount?

25 Senator Dole. Depending on whether you use CBO's or

1 USDA's figures, I think one was \$10 to \$12 billion over, and
2 the other was \$20 plus billion over.

3 Senator Baucus. I mean the amount of the tobacco
4 provision--the savings?

5 Senator Dole. Mr. Franks?

6 Senator Moynihan. Mr. Chairman, we mean how much --

7 The Chairman. How much would be spent in the next
8 three years under the present tobacco support program, and
9 as I understand it, we will spend \$235 million less if this
10 package is adopted. Is that correct, Mr. Franks?

11 Mr. Franks. Yes, the "savings" is \$235 million over
12 three years.

13 The Chairman. How much is the total that we will spend?

14 Senator Moynihan. How much are we spending?

15 Mr. Franks. Let me see if I can get that figure.

16 Senator Dole. On all commodities?

17 The Chairman. No, just on tobacco.

18 Senator Moynihan. Any number. We have not heard a
19 single-- This is an entire section about savings which
20 are not savings and expenditures which cannot be determined.

21 Senator Dole. Most of these loans are repaid, you know.
22 It is an outlay, but it is repaid by the farmers.

23 The Chairman. Mr. Franks has an answer.

24 Mr. Franks. Mr. Chairman, I don't have the figures,
25 the projections, of what would be spent for the next three

1 years.

2 Now, let me just say this.

3 Senator Moynihan. How do you know it is savings if
4 you don't know what we are spending?

5 Mr. Franks. That is what I was going to point out.
6 The savings are from the CBO baseline. Now, I can try to
7 get that.

8 The Chairman. How much is the CBO baseline?

9 Mr. Franks. That is the point. I don't know what that
10 figure is.

11 Senator Moynihan. That is a secret.

12 Mr. Franks. I don't believe so, but the savings would
13 be from the CBO baseline. In other words, what they project
14 that under this bill you would spend the \$235 million less
15 than what they project for the CBO baseline.

16 Senator Moynihan. Mr. Franks, in all fairness, we
17 have four variations of what this program costs, and we
18 can't find any one of them, but we do know how much it saves.

19 Senator Dole. Down to the dollar.

20 Senator Moynihan. Down to the dollar.

21 (Laughter)

22 The Chairman. All right. Let me read these figures,
23 Mr. Franks, and you tell me--

24 This is a CBO cost estimate for S. 1418. Baseline 1986:
25 \$156 million. Savings: \$68. Baseline 198-- Oh, that

1 can't be right. Oh, I see, excuse me. I see what they are
2 doing.

3 Under the present law, the baseline savings are \$156
4 million; add \$68 to it for the savings if we adopt that.
5 I see where they get it.

6 Senator Moynihan. But what is the total expenditure?

7 The Chairman. It doesn't say here.

8 Senator Moynihan. Of course, it doesn't.

9 (Laughter)

10 Mr. Franks. Mr. Chairman, let me give you some figures
11 that you can extrapolate from these, I think. Let me give
12 you a few figures --

13 Senator Moynihan. We can't extrapolate. We can barely
14 add.

15 (Laughter)

16 Senator Moynihan. Extrapolation is a complex
17 mathematical function.

18 Mr. Franks. Well, you can add or subtract. In terms
19 of the loan operations--and this program is a loan program--
20 the Government makes loans to the cooperatives, as I
21 mentioned the other day, I will give you since 1980.

22 The loan outlays were \$172 million. Repayments were
23 \$260 million for actually a net to the Government of \$87.

24 Senator Moynihan. You mean they paid more back than
25 they borrowed?

1 Mr. Franks. Yes, sir. That is correct.

2 Senator Moynihan. Well, let's get into that business.
3 Why don't we expand it? Oh, come on, they didn't pay back
4 more than they borrowed.

5 Mr. Franks. Yes, they did.

6 Senator Dole. They pay interest on those.

7 Senator Bradley. They pay interest. Is that the
8 coops that did that?

9 Mr. Franks. Yes. The loans are made to cooperatives
10 that then, in effect, make the price support advances to
11 the producers. Now, it varies by year.

12 Senator Moynihan. Now, when you make it a loan, it
13 includes interest payments. So, when you pay back the loan,
14 you don't pay back more than you borrow. The interest
15 payments are included in what I assume you are paying back.

16 Mr. Franks. Yes, sir. That is correct.

17 Senator Moynihan. Then, why are you saying they pay
18 back more than they borrow?

19 Mr. Franks. There may be repayments from previous
20 years.

21 Senator Moynihan. You mean they paid money they didn't
22 owe?

23 Mr. Franks. No, sir.

24 Senator Moynihan. Then they didn't pay back more than
25 they borrowed.

1 Mr. Franks. Let me make just one point. It is not
2 always on a year-to-year basis. They make loans for a
3 particular crop--say the 1980 crop. Those loans may not
4 be paid back until 1983, 1984. They may be paid back in
5 1981.

6 So, you are not always going to get an equal payment
7 in each year.

8 Senator Moynihan. But over time it will equal out,
9 won't it?

10 Mr. Franks. Yes, sir.

11 Senator Moynihan. So, you picked a year in which just
12 by happy chance more money was due than was borrowed?

13 Mr. Franks. 1982. I am going to give you that. The
14 outlays were \$433 million; the repayments \$330.

15 Senator Moynihan. So, they paid less?

16 Mr. Franks. So, they paid less in that year, \$103,
17 yes.

18 Senator Moynihan. Paid just what they owed, and the
19 payments and the loans are on different schedules.

20 Mr. Franks. Mr. Chairman, Jeff Noel, who is the
21 legislative assistant with Senator Ford, who has worked
22 very closely on this with us, would like to make a comment
23 on this.

24 Mr. Noel. Senator Moynihan, one of the things that
25 happens is that each year the loans are established--the loan



1 rate for that tobacco, and they take into account how much
2 of that tobacco is under loan with the commodity, which
3 of course is the farmer owned cooperative.

4 Then, they reduce those marketing quotas that the
5 producer can raise. Then, when they go into the marketing
6 season, they put out a price structure on that tobacco through
7 all the trade channels.

8 Then, that is circulated all around, and the producers
9 raise a lesser amount of tobacco based upon the amount that
10 is under loan at that time.

11 Then, the markets open. The tobacco is purchased.

12 Senator Moynihan. I follow you perfectly.

13 Mr. Noel. All right.

14 (Laughter)

15 Senator Moynihan. And then you say: Sold American!

16 Mr. Noel. Senator Moynihan, one of the things you
17 try to do is get the production in line with the--you take
18 into account the amount of tobacco that is under loan, and
19 that tobacco accrues every day in value, based upon
20 additional storage costs; interest costs; and that is the
21 cost that is submitted to the purchasers of the tobacco
22 in the international trade market.

23 So, when they buy that tobacco, they have to buy it
24 for the cost that is in that tobacco, plus any additional
25 profits that the coops determine are necessary.

1 If the profits are made, then they are put into the no
2 net cost account. It does not go to the individual farmer.

3 So, each day that tobacco is under loan is based upon
4 the value that is there and it is offered through the trade
5 channels.

6 And the amount of tobacco that a producer can raise is
7 either lowered or raised, based upon the amount of tobacco
8 that is in under loan, based upon the markets that are out
9 there.

10 Senator Moynihan. Thank you, sir. I am not trying to
11 be disparaging.

12 The Chairman. I would hope the committee is ready to
13 vote. We have spent more time on this single issue than
14 all the other billions of cuts and the billions of
15 increases.

16 Senator Moynihan. Mr. Chairman, I have been on this
17 committee eight and a half years and never yet has a farm
18 bill come into this committee, and I think we have spent
19 25 minutes on it.

20 The Chairman. Actually, when we are done on this, I
21 have a small item on the Strategic Defense Initiative that
22 I plan to add.

23 (Laughter)

24 Senator Bradley. Mr. Chairman?

25 The Chairman. Senator Bradley?

1 Senator Bradley. Are we ready to vote on this matter?

2 The Chairman. I hope so.

3 Senator Bradley. I would call for a division.

4 The Chairman. Those in favor of the package will raise
5 their hands.

6 (Show of hands)

7 Senator Bradley. I call for a division of the package,
8 each issue voted on separately.

9 The Chairman. Oh, I thought you meant just a division
10 of votes. You want to vote on the program and on the tax?

11 Senator Bradley. I want to vote on each tax and the
12 program.

13 Senator Dole. Five votes?

14 Senator Bradley. Three votes.

15 The Chairman. You mean the tax? You mean the 16 cents?

16 Senator Bradley. I want to vote on the 16 cents, and
17 I want to vote on what you are doing with smokeless, and I
18 want to vote on the tobacco program.

19 The Chairman. That is a legitimate division. Did we
20 vote on yours, Senator Chafee, or not?

21 Senator Chafee. Yes.

22 The Chairman. We voted on the --

23 Senator Bradley. No, no. But Senator Dole has it.

24 The Chairman. All right. We are ready to vote, and
25 let's take them in that order.

1 We are going to vote on Senator Dole's smokeless first.
2 Those in favor of Senator Dole's smokeless will say aye.

3 (Chorus of ayes)

4 The Chairman. Opposed, no.

5 Senator Chafee. Didn't we vote --

6 The Chairman. The figures --

7 Senator Dole. You offered yours.

8 Senator Chafee. Oh, I am for it.

9 The Chairman. Those in favor say aye.

10 (Chorus of ayes)

11 The Chairman. Those opposed, no.

12 (No response)

13 The Chairman. Adopted. Let's vote on the 16 cent
14 cigarette tax.

15 Those in favor say aye.

16 (Chorus of ayes)

17 The Chairman. Those opposed, no.

18 (Chorus of noes)

19 The Chairman. Adopted. Let's vote on the program.

20 Senator Bradley. Mr. Chairman, before this vote, I
21 would like to declare my strong opposition to this program,
22 and I would like the record to state that.

23 I would like the record also to show that I think the
24 savings are not there, that it will cost the Government
25 money.

1 And I would also like to make the point that the
2 committee procedure under ADAP was by unanimous consent.
3 Therefore, I would like to demur from that as a precedent.

4 Senator Moynihan. Mr. Chairman, I would like to
5 associate myself with Mr. Bradley's remarks but in particular
6 could we ask of the chair--we can count--we know why we
7 are not having recorded votes. This is not a very seemly
8 occasion, but can we ask if the chair will give us the
9 assurance that we will get in writing over the years what
10 exactly this program has cost us?

11 The Chairman. I will be happy to get that.

12 Senator Moynihan. And, I mean, in English?

13 (Laughter)

14 Senator Dole. Well, I don't know about that.

15 (Laughter)

16 Senator Baucus. Mr. Chairman, before we vote, I would
17 just like to know--just to clear up for the record here--
18 whether this tobacco provision is appropriately before us,
19 that is whether it is even germane under our committee's
20 rules.

21 The Chairman. Anything in terms of reconciliation--any
22 committee can make cuts in any program.

23 I indicated earlier that the Agriculture Committee could
24 make cuts in the Medicare Program; and if they passed it,
25 they would get credit for it.

1 Normally, we do not invade each other's jurisdictions,
2 although we are doing it in this case at the request of the
3 Agriculture Committee, as we did at the request of the
4 Commerce Committee on ADAP.

5 But any committee could vote for savings in a program
6 not within their jurisdiction; and if they passed them, it
7 would be germane.

8 Senator Baucus. It is my understanding, without
9 belaboring this point, that under the committee's rules,
10 only matters that are on the printed agenda and which are
11 germane can come up ordinarily.

12 And the fact of the matter is that what is germane
13 under the committee rules are subjects which relate to the
14 same subject matter, as we have the cigarette tax.

15 Obviously what is germane relates to the tax, not an
16 authorizing program.

17 Technically, as I understand it, and I think in the
18 spirit of the rules of this committee, this tobacco
19 provision is not germane.

20 And I understand there has been a precedent here with
21 ADAP, but as was pointed out, that was unanimous consent;
22 and certainly unanimous consent can overrule any germaneness
23 objections.

24 I am just wondering if the staff could tell us whether,
25 in fact, the tobacco provision is germane and therefore

1 is appropriate before us.

2 The Chairman. I am going to rule, to begin with,
3 anything is germane to the committee in reconciliation
4 that is a saving.

5 Secondly, we have been on this topic since two or
6 three days ago. So, we have put out whatever notice
7 requirements are required. We have had the notice
8 requirements.

9 And we are in as much of a position, in terms of
10 germaneness, to vote on this as we were on the substantive
11 provisions of the ADAP rules and unanimous consent versus
12 51 percent does not mean morally that it is germane or not
13 germane.

14 Unanimous consent can't make something germane that
15 isn't. We did it, at the request of the committee. We have
16 the right to do it at the request of the Agriculture
17 Committee.

18 Senator Baucus. As I understand the chairman, then,
19 whenever a reconciliation bill is up before this committee,
20 there are no rules of germaneness.

21 The Chairman. There would be to the extent that
22 nothing had ever appeared on the whole subject on the agenda
23 and somebody could raise the issue that we didn't have 24
24 hours notice, which is one of the rules of the committees
25 for things we bring up. On this, we have done that.

1 Now, I would say to my good friend that I would be
2 delighted to support rules of germaniness in reconciliation
3 because I can see lots of committees looking at the programs
4 we have and saying, well, let's make a couple billion dollar
5 cut in Medicare and let's make a couple billion dollar cut
6 in Social Security; and we will get credit for it, instead
7 of having to cut our agricultural programs or our defense
8 programs or education programs.

9 This is a two-edged sword, and it is very easy to cut
10 programs not in your jurisdiction, that you don't have to
11 worry about and live and die with every day.

12 Senator Pryor. Mr. Chairman, if I follow what you are
13 saying to the enth degree, it might be appropriate even for
14 one member of this committee to take out of Department of
15 Defense those appropriated funds for the DivAd gun--where I
16 don't know what is going to happen to those funds--several
17 billion dollars and transfer those to another function in
18 Agriculture or in Finance.

19 And I am wondering if such an amendment would be
20 germane, to take the DivAd money and put it in U.S.D.A.

21 The Chairman. Again, I didn't mean to blind-side
22 anybody here, but this is one of the papers that went out
23 on September 9th to all of the committee members and their
24 staffs.

25 Other Congressional Action--we go down. We went to

1 the House action on the cigarette tax. "One-sixteenth of
2 cigarette excise tax revenues will be appropriated to a newly
3 established Tobacco Equalization Trust Fund for the period
4 and ..."

5 And we indicated that issue had been brought up in Ways
6 and Means and passed in their reconciliation package.

7 And if we have nothing, Max, what we are going to go to
8 conference with is their package, which cost \$1 billion,
9 against nothing with ours.

10 And if the normal tendency is to compromise, we will end
11 up with a \$500 billion increase in expenditures for the
12 tobacco program.

13 Do I like the process? I am not wild about it, but we
14 didn't start it; and it is in the House's Ways and Means
15 reconciliation package.

16 Senator Baucus. Mr. Chairman, I understand what is
17 happening here, and I agree with the Senator from New York
18 that this is an unseemly process, and I am not going to
19 push for a recorded vote.

20 But I would like to voice my objection to this procedure.

21 The Chairman. All those in favor of the program set
22 forth in S. 1418, which is before us, will say aye.

23 (Chorus of ayes)

24 The Chairman. Those opposed, no.

25 (Chorus of noes)

1 The Chairman. Let's have a show of hands.

2 All those in favor, raise their hands.

3 (Show of hands)

4 The Chairman. All those opposed, raise their hands.

5 (Show of hands)

6 The Chairman. Senator Long wants to go on record for it.

7 It is adopted.

8 And as I indicated earlier, other items are still open.

9 Could we just possibly just finish up with Senator
10 Grassley's item?

11 Senator Bradley. Mr. Chairman, could we go to my
12 amendment on this issue and then we will close the whole
13 issue?

14 The Chairman. Fair enough. Why don't you go ahead and
15 present your amendment, and hopefully it will dispose of
16 this issue.

17 Senator Bradley. My amendment is a very simple issue.

18 We have looked at the cigarette tax. We have had a
19 vote on 32 cents. We have had a vote on 16 cents. I would
20 like to propose raising the cigarette tax to 20 cents.

21 That would add an additional \$2.4 billion. The budget
22 deficit reduction would go up to about \$7.1 or \$7.2 billion.

23 The Chairman. You have heard the proposition. I think
24 the issue is very clear.

25 Senator Bradley. And I would ask for a recorded vote

1 on that.

2 The Chairman. And you will have it. Is there further
3 discussion? Senator Durenberger?

4 Senator Durenberger. Let me ask my colleague if he
5 would be willing to make a commitment of the extra four
6 cents to a specific program that might benefit the public
7 health of this country?

8 I have consistently voted against all of these taxes
9 because the other deterrent nobody is talking about here is
10 that every penny we take this tax up at the Federal level,
11 we are deterring State governments from using this tax as
12 a source for remedying the problems created by tobacco
13 smoking and everything else.

14 So, I will not support you if it is only another four
15 cents. If you are willing to commit that four cents to a
16 block grant of some kind that went back to the States to
17 handle some of the same problems that are taken care of in
18 Medicaid, Title XIX, and maternal child health and so forth,
19 it is not a matter of dedicating as much as it is a matter
20 of making a commitment through a block grant to return those
21 resources to the States, I would be willing to support your
22 amendment; but absent that, I can't do it.

23 Senator Bradley. Let me say to my friend from Minnesota
24 that I am in complete agreement with his desire for a
25 preventive program. I am in complete agreement with him in

1 his leadership here in saying that this is absolutely
2 essential.

3 In kind of calculating the circumstances, however, as
4 I have discussed with him, I don't think on this occasion
5 that I could dedicate or propose to dedicate a portion of
6 the tax to health care. So, I will regretfully lose his vote.

7 The Chairman. Further discussion on 20 cents a pack
8 tax?

9 Senator Symms. Mr. Chairman, I would just like to
10 take 5 seconds and say that, in States like Idaho where
11 we have a very flat economy--a resource-based economy--our
12 legislature and administration are having a terrible time
13 even meeting the current budget of the State.

14 And every time you raise a tax like the tobacco tax at
15 the Federal level, you deny them the opportunity to balance
16 their own budget. And I don't deny it is an opportunity for
17 us to pay our own school teachers. So, I certainly would
18 oppose this.

19 The Chairman. Those in favor of the Bradley amendment
20 will respond aye.

21 Senator Mitchell. He asked for a recorded vote.

22 The Chairman. Yes. Respond aye if in favor as the
23 clerk calls the roll; and no otherwise.

24 The Clerk. Mr. Dole?

25 Senator Dole. No.

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

1 Senator Moynihan. Aye.

2 The Clerk. Mr. Baucus?

3 Senator Baucus. Aye.

4 The Clerk. Mr. Boren?

5 Senator Boren. No.

6 The Clerk. Mr. Bradley?

7 Senator Bradley. Aye.

8 The Clerk. Mr. Mitchell?

9 Senator Mitchell. Aye.

10 The Clerk. Mr. Pryor?

11 Senator Pryor. Aye.

12 The Clerk. Mr. Chairman?

13 The Chairman. No.

14 The Clerk. The vote is eight yeas, ten nays.

15 The Chairman. The motion is defeated. Let's move on

16 to Senator Grassley's amendment.

17 Have we got this worked out, hopefully?

18 Senator Grassley. We have revenue estimates.

19 The Chairman. Are these revenue estimates including
20 everybody?

21 Senator Grassley. On Mr. Bentsen's amendment.

22 The Chairman. Thank you. What are the revenue
23 estimates if we include everybody?

24 Mr. Weiss. If the limitation to farmers is deleted from
25 the proposal, then the estimate would be about \$300 million

1 over the three-year period.

2 The Chairman. Would you say that again?

3 Mr. Weiss. About \$300 million over the three-year
4 period.

5 The Chairman. In other words, if it included only
6 farmers, it is \$10 or \$12 million? If we include everybody,
7 it is \$300 million.

8 Mr. Weiss. It is about \$25 million with just farmers.

9 The Chairman. And \$300 million with everybody?

10 Mr. Weiss. Right.

11 Senator Bentsen. Mr. Chairman, it is my understanding
12 that that does not include the limitation placed on it by
13 the Secretary, to be sure that the fellow had all of these
14 assets.

15 Mr. Weiss. That is correct.

16 Senator Bentsen. Which I certainly support, and I
17 would want that as a part of my amendment.

18 Mr. Weiss. That would reduce the cost, but we are not
19 quite sure how much, at this point.

20 The Chairman. Not very much though, would it?

21 Mr. Weiss. I would guess not a whole lot, but we would
22 have to look into it.

23 The Chairman. At this stage, I am reluctantly going to
24 have to vote against the Bentsen amendment because I think
25 it is fair to include everybody, but I am not prepared now

1 to go to \$250 or \$300 million to --

2 Senator Bentsen. To be fair.

3 The Chairman. To include everybody.

4 Senator Mitchell. Mr. Chairman?

5 The Chairman. Senator Mitchell?

6 Senator Mitchell. I would like to ask a few questions
7 about this because, while I applaud the intent, I think some
8 areas remain uncertain, at least in my mind.

9 The first point. Mr. Mentz, you defined insolvency
10 for purposes of this discussion as a situation where
11 liabilities exceed assets. Is that correct?

12 Mr. Mentz. Yes, sir.

13 Senator Mitchell. All right. So, there is no specific
14 amount involved. A person whose liabilities are \$200,000.00
15 and whose assets are \$199,000.00 is insolvent, by your
16 definition. Is that correct?

17 Mr. Mentz. Yes, and that is the definition in Section
18 108 of the Code, Senator. Yes.

19 Senator Mitchell. That is exactly right. Now, we all
20 know, of course, that in daily life, there are thousands of
21 people in this country who move from insolvency to solvency
22 on a regular basis as the value of assets fluctuates.

23 A change in the value of a stock that a person owns
24 means that a person could, and in fact no doubt does, in
25 our country move from insolvency to solvency at any given

1 time.

2 And so, you have a situation here where the only
3 criterion is that a person is insolvent immediately prior
4 to a transaction, not by any amount.

5 Now, the bankruptcy laws, of course, provide a fixed
6 point in time at which a person's financial situation is
7 frozen for purposes of making calculations; and therefore,
8 all subsequent transactions are based upon that.

9 That is not the case here, as I understand it. Is that
10 correct, Mr. Mentz?

11 If a person were insolvent on the date prior to the
12 transaction involved and subsequently became solvent, as this
13 is written, as I understand it, they would still be eligible
14 for the favorable tax treatment. Isn't that correct?

15 Mr. Mentz. That is right, and that is the way Section
16 108 works for cancellation of indebtedness as well.

17 As I indicated, Senator, I think the reasonable
18 limitation on this should be to the extent of insolvency
19 so that, if you are insolvent by \$5,000.00, your limit is
20 \$5,000.00, not \$5 million if you sell your property for
21 that much.

22 Senator Mitchell. Is that in the legislation?

23 Senator Bentsen. That is in my amendment to it. I
24 looked at the very points you are talking about, and there is
25 no sense in leaving a lot of money on the table. We want to

1 be sure that the fellow is totally insolvent and that he
2 only gets advantage of it to the extent of the deficiency
3 there.

4 I have tried to take care of that with what I have
5 stated.

6 Senator Mitchell. Is that in the underlying amendment
7 as well?

8 Mr. Mentz. It is not in the underlying amendment.

9 Senator Bentsen. No.

10 Senator Mitchell. Thank you.

11 Senator Moynihan. Underlying amendment?

12 Senator Mitchell. Would you agree, Senator, that it
13 should be?

14 Senator Grassley. The situation you describe--that
15 does happen every day, as you suggested. People's portfolios
16 change value, but we are talking about a situation here--this
17 is the last resort.

18 This is where people are forced into this position beyond
19 their control. Somebody is saying to them: We are going to
20 foreclose. Now, that is a very limited situation.

21 Senator Mitchell. I am going to get to that point next
22 --what is that sort of foreclosure under this amendment--but
23 the first point is: Don't you agree that the tax advantage
24 or the benefit to the person should be limited to the extent
25 of insolvency, so that a person who one day was insolvent by

1 a very narrow calculation or amount, and the next day, or
2 over time, an asset increased in value, that they ought not
3 to get the benefit except to the extent of insolvency?

4 Senator Grassley. In the case where a person had some
5 leeway in doing it, I would agree; but we are talking about,
6 under our definition, where the person has no alternative.

7 This is a last resort.

8 Senator Mitchell. But those are two separate concepts.

9 Senator Bentsen. Senator, my amendment takes care of
10 the point that you raised, and I think you have rightfully
11 raised it. And it was the suggestion of the Secretary, and
12 I have that as a part of mine.

13 Senator Mitchell. Right. I understand that.

14 Let me go to the second issue. I want to make clear
15 that we are talking about two different concepts.

16 The other one is the circumstances under which this is
17 available. As I read it, it says just merely the threat of
18 foreclosure with no definition of that.

19 So, if a banker is upset about someone being late on
20 a payment and calls you up and says if you don't make that
21 payment, I am going to foreclose, that would qualify under
22 this.

23 At the very least, do you not think there should be
24 some initiation or some formal foreclosure mechanism--a
25 written notice, a filing of foreclosure--something that

1 triggers the process to the point where it is a real threat
2 and therefore provides some objective standard for defining
3 when the threat of foreclosure exists?

4 You have many of these bill collectors who hold chatel
5 liens.

6 Senator Bentsen. Senator, he originally was talking
7 about the threat of foreclosure, and I didn't go for that
8 either.

9 We have to have something that has a little more
10 certainty to it than that, and I think the Secretary spoke
11 to that.

12 Senator Mitchell. No.

13 Senator Bentsen. Did he?

14 Senator Grassley. There is a test of insolvency, and
15 that would have to involve possible foreclosure or foreclosure
16 being imminent.

17 Senator Mitchell. You said that, but what does that
18 mean? You said the threat of foreclosure. Is there some
19 objective standard by which that is capable of being
20 measured?

21 Mr. Mentz. I think that is probably an evidentiary
22 point that could be handled administratively, Senator.

23 Senator Grassley. There is an objective standard of
24 what is insolvency.

25 Senator Mitchell. I understand that. We have been over

1 that. That is a separate concept.

2 Senator Grassley. All right.

3 Senator Mitchell. That is a person whose value of
4 assets is less than the value of liabilities at a given
5 point in time.

6 So, if a person has assets that are worth \$199,000.00
7 and liabilities that are worth \$199,100.00, that person is
8 insolvent at that point in time. A transaction then occurs.

9 The next day, he has some stock and it goes up in value;
10 now he is not insolvent. So, that is one concept.

11 But when the threat of foreclosure occurs is a different
12 concept.

13 Mr. Rollyson. Just on that point, the very fact of
14 foreclosure and the cancellation of indebtedness may itself
15 render the taxpayer solvent.

16 So, it may not even require that other assets appreciate
17 in value.

18 Senator Mitchell. That is correct, so you have that
19 circumstance.

20 But now, all I am trying to get at, Senator--and I
21 think you would agree--is that there has to be some mechanism
22 for determining in an objective way when a threat of
23 foreclosure does exist.

24 I am sure you will agree that a bill collecting agency
25 calling up and saying if you don't make this month's payment,

1 we are going to foreclose on your property--I mean, that is
2 done all the time.

3 Senator Grassley. As far as I am concerned, what you
4 say can be worked out in my amendment. It is more of a
5 problem in the amendment by the Senator from Texas. It is
6 more of a problem there.

7 In the case of where we are limiting this to farmers,
8 and you have obviously an instance where the banker is
9 moving in, it would seem to me that it is very clear.

10 But to the extent that you want that spelled out to a
11 greater extent, I am willing to do that. That is no problem
12 as far as I am concerned.

13 Senator Mitchell. You say, obviously a banker moving
14 in. When is that? All I am saying is why don't you put
15 in when a foreclosure notice is filed? Then it is obvious
16 that they are moving in.

17 Senator Grassley. In the case of the Federal Land Bank,
18 30 days over they send you a letter. I mean, it is that
19 simple, but I will be glad to spell that out for you,
20 either in the language or in the history.

21 And hopefully, we will find out that that isn't the
22 problem that you say it is, but if it is, I am willing to
23 spell that out because I think that if you need an exact
24 time, that is all right with me.

25 Senator Mitchell. Senator, I am only trying to make

1 this point. We very frequently take actions which create
2 opportunities for persons to avoid taxation.

3 And of course, we all know that is a large and important
4 business in this country--the mechanism by which people
5 avoid paying taxes.

6 Let's face the fact that almost all of those
7 opportunities arise as an unintended byproduct of an action
8 taken to be a benefit to people who need the help.

9 We are now in precisely such a situation. I have no
10 problem with helping farmers who are genuinely insolvent
11 under the circumstances you describe. I think that is a
12 fair thing.

13 I think Senator Bentsen's argument that, if you are
14 going to do it for farmers, you do it for others, is a good
15 thing.

16 All I am saying is that, at the very least, let's
17 attempt to foresee the implications of what we are doing.
18 Let's attempt not to create an opportunity for a whole new
19 industry to spring up on means by which to limit the amount
20 of taxes paid by persons who we didn't intend to help here.

21 And I merely raised the two questions of definition of
22 insolvency and creating an objective standard by which one
23 may measure when a threat of foreclose does in fact exist
24 to tighten this up and prevent that abuse in the future.

25 Mr. Yin. Mr. Chairman, I wonder if I might mention one

1 thing, and maybe this would clarify the point that Senator
2 Mitchell has raised?

3 I might just note that it is not unprecedented in the
4 Code to use language such as "under the threat of a
5 foreclosure" or something similar to that.

6 In Section 1034 (i) of the Code, there is language
7 similar to that involving "under the threat or imminence
8 of certain types of transactions."

9 And I believe Mr. Mentz said that that concept would
10 be administrable.

11 Senator Mitchell. Of all the reasons for doing
12 something, the fact that it has been done before is almost
13 invariably the least substantive and persuasive.

14 Senator Bentsen. I must say, when I heard Mr. Yin
15 start, I thought, well, that is not going to sell to Mr.
16 Mitchell, but Senator, I share with you your objectives.

17 And the secretary has stated that they will work
18 administratively to try to achieve those.

19 Mr. Mentz. I think we can get some language in the
20 committee report to take care of your points, Senator.

21 The Chairman. Are we ready to vote on the Bentsen
22 amendment? Those in favor of the Bentsen amendment will say
23 aye.

24 (Chorus of ayes)

25 The Chairman. Those opposed, no.

1 (Chorus of noes)

2 Senator Bentsen. A roll call, Mr. Chairman?

3 The Chairman. A roll call has been requested. The
4 clerk will call the roll.

5 The Clerk. Mr. Dole?

6 Senator Dole. No.

7 The Clerk. Mr. Roth?

8 Senator Roth. No.

9 The Clerk. Mr. Danforth?

10 Senator Danforth. No.

11 The Clerk. Mr. Chafee?

12 Senator Chafee. (No response)

13 The Clerk. Mr. Heinz?

14 Senator Heinz. (No response)

15 The Clerk. Mr. Wallop?

16 Senator Wallop. Aye.

17 The Clerk. Mr. Durenberger?

18 Senator Durenberger. Aye by proxy.

19 The Clerk. Mr. Armstrong?

20 Senator Armstrong. No by proxy.

21 The Clerk. Mr. Symms?

22 Senator Symms. Aye by proxy.

23 The Clerk. Mr. Grassley?

24 Senator Grassley. No.

25 The Clerk. Mr. Long?

1 Senator Long. Aye by proxy.

2 The Clerk. Mr. Bentsen?

3 Senator Bentsen. Aye.

4 The Clerk. Mr. Matsunaga?

5 Senator Matsunaga. Aye.

6 The Clerk. Mr. Moynihan?

7 Senator Moynihan. Aye.

8 The Clerk. Mr. Baucus?

9 Senator Baucus. Aye.

10 The Clerk. Mr. Boren?

11 Senator Boren. Aye.

12 The Clerk. Mr. Bradley?

13 Senator Bradley. Aye.

14 The Clerk. Mr. Mitchell?

15 Senator Mitchell. Aye.

16 The Clerk. Mr. Pryor?

17 Senator Pryor. Aye by proxy.

18 The Clerk. Mr. Chairman?

19 The Chairman. No.

20 The Clerk. The vote is 12 yeas and 6 nays.

21 The Chairman. It is adopted. Let me ask a question.

22 Let me ask a question first. It is adopted.

23 Now, what is this chargeable against--a revenue portion
24 of the bill?

25 Mr. Colvin. That is correct.

1 The Chairman. And how much was this amendment?

2 Mr. Colvin. \$25 million over three years.

3 The Chairman. No, no.

4 Mr. Weiss. With the-- Approximately \$300 million.

5 The Chairman. And where does that put us on revenue
6 with the \$300 million charged?

7 Mr. Colvin. If you assumed adoption of the \$300 million,
8 it would leave the committee approximately \$200 million over
9 its budget requirement.

10 The Chairman. Thank you. Senator Bradley?

11 Senator Bradley. Mr. Chairman, I was under the
12 impression that the Bentsen amendment amended the--

13 So, both of them are still pending?

14 The Chairman. Yes.

15 Senator Bentsen. Let me also say that I really want
16 you to go ahead and check now. Since we put these
17 limitations on, agreeing with the Administration and the
18 Secretary, and with Senator Mitchell, that is going to cut
19 your costs some.

20 And I think that should be further defined and studied.

21 Mr. Weiss. The estimate that-- We will definitely
22 incorporate that limitation into the estimate.

23 The Chairman. Now, we are now voting on the Grassley
24 amendment as amended by the Bentsen amendment. Those in
25 favor will say aye.

1 (Chorus of ayes)

2 The Chairman. Those opposed, no.

3 (Chorus of noes)

4 The Chairman. It is adopted. Could I add for the
5 record here that Senator Chafee requests that he be noted
6 as voting against the Dole tobacco amendment?

7 Senator Grassley. Mr. Chairman, I would like to also,
8 at the request of Senator Dole and Senator Danforth, have
9 them be added as a cosponsor of my amendment.

10 The Chairman. Without objection.

11 Senator Moynihan. Mr. Chairman, should we be recorded
12 on the Dole matter?

13 The Chairman. We didn't have a roll call vote. You
14 can have the record show how you felt about it.

15 Senator Moynihan. I would like to have the record show
16 that I was opposed to it.

17 The Chairman. Without objection.

18 I would like to very quickly take the Treasury's request
19 for the additional \$50 billion in bonding authority. I know
20 of no controversy.

21 This is where we prohibit how many bonds they can issue
22 about 4.5 percent over 10 years; and we raised it from \$150
23 to \$200 billion last year.

24 And they are now up against the ceiling again on bonds
25 of over 10 years, as to what they can sell at that percent.

1 And then, Senator Baucus, we will do the unemployment.

2 Senator Baucus. Thank you.

3 The Chairman. Is there any objection to raising the
4 limit? I don't know of any. If not, Treasury won't have
5 to say anything.

6 Senator Moynihan. Mr. Chairman, I have no objection.
7 This is something that is necessary, but ought there be a
8 limit? I mean, is this not an anachronistic provision?

9 I mean, doesn't it make you feel silly--not you, sir,
10 but I mean --

11 (Laughter)

12 Senator Moynihan. You sell these bonds at the market
13 price. Why did we ever do this in the first place?

14 The Chairman. There are two, Pat. One is that in the
15 past we have kind of regarded it just as the debt ceiling,
16 which I regard in that sense as anachronistic.

17 We come up to it every year, and after we have voted
18 the \$200 billion deficit, we have to raise the debt ceiling,
19 but we love to keep it so we can attach things to it.

20 And there is much the same argument about this. We have
21 to do it every year or two, and if we want to play with it,
22 we can; or otherwise we will bring the Government to a halt.

23 There is one further argument, and that is that if you
24 don't want them to fund too much of the debt on long term,
25 because these are maturities of 10 years or over.

1 And if there is a limit as to what they can fund on long
2 term, then they go over it on short term; and there is some
3 argument that that has some preference financially.

4 Senator Moynihan. Does the Administration have a view
5 as to whether you would like to see this limitation abolished?

6 Mr. Cavanaugh. The Administration recommended, in
7 testimony on the debt limit last week, Senator, that the
8 four and quarter percent ceiling be abolished.

9 Senator Moynihan. Yes.

10 Mr. Cavanaugh. But recognizing that this recommendation
11 has been made many times, it has not been abolished; and the
12 Administration requested that, if it is not abolished, it
13 should be increased by \$50 billion.

14 Senator Moynihan. I won't prolong the matter.

15 The Chairman. Any objection to raising it \$50 billion?

16 (No response)

17 The Chairman. Adopted. Senator Baucus, unemployment?

18 Senator Baucus. Mr. Chairman, this is a good management
19 technical amendment for the unemployment insurance laws.

20 Under Federal law, the State incorrectly overpaid
21 former employees insurance payments.

22 It may cover only that portion of the State's funds.

23 My amendment would allow State agencies to recover
24 unemployment insurance overpayments by also withholding
25 Federal unemployment insurance payments.

1 It is just basically a bookkeeping provision to allow
2 States to credit the appropriate accounts so that they are
3 not penalized when they make overpayments.

4 The Chairman. Discussion?

5 Senator Matsunaga. No substantive change?

6 The Chairman. No

7 Senator Baucus. No substantive change at all. It is
8 a no-cost amendment.

9 The Chairman. Is there objection?

10 (No response)

11 The Chairman. Without objection it is adopted. Senator
12 Roth?

13 Senator Roth. Mr. Chairman, I would like to offer on
14 behalf of Senator Moynihan and myself amendments to the
15 Trade Adjustment Assistance, S. 1544.

16 This particular piece of legislation has been sponsored
17 by 11 members of the committee, on both sides of the aisle,
18 and I want in addition to thank Senator Moynihan for his
19 assistance and coauthorship.

20 I also express my appreciation to Mr. Chafee and Mr.
21 Heinz, and especially to Mr. Danforth, who held hearings on
22 this legislation early last week.

23 It is important that we move now because the Trade
24 Adjustment Act will expire on September 30th, so this gives
25 us an opportunity to ensure that this program continue.

1 Our legislation, I think, has received strong liberal
2 and conservative support because it would reform the basic
3 criticisms that have been made of this legislation in the
4 past: the question of inadequate funding and insufficient
5 adjustment efforts by individuals.

6 Our program would add no new costs, so it does not have
7 any adverse effect on us as far as we are concerned with
8 reconciliation.

9 The Chairman. How do you finance this?

10 Senator Roth. The new program, Mr. Chairman, would be
11 funded by a small--maximum one percent--fee on all imports.

12 In effect, it would be a user fee. Those who benefit
13 from trade would pay for the cost of trade, and it would be
14 small price to pay for keeping trade open and expanding.

15 Under our legislation, the President would be instructed
16 to seek to negotiate, even next year, such a fee as the
17 GATT negotiation.

18 That should be extended for one year in the event it
19 doesn't happen. At the end of that period, the new program
20 would go in effect.

21 I would point out, Mr. Chairman, that under the new
22 program, all benefits now available to workers would continue
23 but workers would have to agree to retraining in order to
24 receive the so-called trade readjustment allowance or
25 extended unemployment benefits.

1 And they would receive a \$4,000.00 tax-free voucher to
2 cover the cost of the retraining program.

3 Our intention is to require that a worker actually begin
4 the adjustment process by entering in any one of a variety
5 of training programs and, at the same time, improve program
6 administration to ensure that a variety of programs will be
7 available for that purpose.

8 So, I would offer this bill as an amendment and, then,
9 Mr. Chairman, we do have a series of amendments to S. 1544
10 resulting from the hearings held last week.

11 And these block amendments would be offered, in addition
12 to myself, by Senator Moynihan, Chafee, Heinz, and Symms.

13 At this time, I would like to yield the chair to
14 Senator Moynihan.

15 Senator Moynihan. Thank you, my distinguished colleague
16 and the principal sponsor of the legislation which was a
17 fine offering to this committee.

18 I would make two points, and I am glad to see that
19 Senator Danforth is here, and that is to say that this is
20 a positive response to the problems of trade and the trade
21 imbalance and the increasing number of jobs lost through
22 loss of trade.

23 I mean, this is the spirit in which I think this
24 committee would like to advance, that is to say to American
25 workers that we do know you lose jobs, and we are concerned

1 about that. We recall that the trade adjustment was part of
2 a solemn agreement this committee made when the Tokyo rounds
3 were adopted.

4 I would like to say two other things. One is that we
5 make very clear that agricultural workers are involved.
6 They are included and timber mill workers, people such as
7 that.

8 The Chairman. Timber and agriculture?

9 Senator Moynihan. That is right, sir. The only thing
10 is that we are particularly pleased with the feature of
11 a \$4,000.00 voucher that the worker involved can take and
12 go find the training he or she senses is most relevant.

13 This is a new thing, an important idea. I mean, who
14 knows better what a person is able to do, wants to do, thinks
15 is worth learning to do than the person most involved
16 immediately, that is the displaced worker.

17 I think we have a good package here, sir.

18 The Chairman. Senator Bradley?

19 Senator Bradley. Mr. Chairman, I have discussed with
20 Senator Roth two additional modifications to the package
21 that I think are important to us, realizing the purpose,
22 which is to try to enable workers to upgrade their skills
23 and knowledge and move to other jobs for the longer term.

24 One of those would deal with eligibility and make
25 eligible not only those workers in the primary industry but

1 also those who are in supplier industries.

2 And the second amendment would allow the recipient of
3 the voucher to split that voucher so that he might take
4 \$1,000.00 of general education retraining; but then if he
5 landed a job and wanted to go to on-the-job training and
6 use the additional voucher monies, he could do that.

7 I think that would further enhance the purpose of
8 the bill, and I have discussed it with Senator Roth.

9 Senator Roth. I am sympathetic to those proposals,
10 and would support them. Would the Senator want to add them
11 to the --

12 Senator Bradley. Yes, I would like to add them to the
13 package.

14 Senator Heinz. Mr. Chairman, may I inquire? I was just
15 out in the anteroom. Is this the component part? Is this
16 the issue of covering workers and suppliers?

17 Senator Bradley. Yes.

18 Senator Heinz. Does your amendment include any
19 technical assistance for firms as well as the help for
20 workers?

21 Senator Bradley. It does not include any technical
22 assistance. It includes only to the workers.

23 Senator Heinz. Would the Senator be adverse to including
24 in his amendment technical assistance to the firms?

25 Senator Bradley. I think that is up to the distinguished

1 sponsor of the bill.

2 The purpose here, if I could say this to Senator Heinz,
3 is to try to facilitate workers, to upgrade their knowledge
4 and skills and to give them the tools to do that.

5 In previous trade adjustment assistance legislation,
6 of course, there was a firm component --

7 Senator Roth. Could I propose, Senator Bradley, that
8 rather than trying to add them--there is some split on this--
9 that we go ahead--and I support what you are doing--rather
10 than try to put them as part of a block, and treat this
11 amendment separately?

12 Senator Bradley. Fine.

13 The Chairman. Does the Administration have a view on
14 this? Mr. Secretary?

15 Mr. Rollyson. This is not really a tax policy question.
16 It is a trade issue, and I understand is that Trade is not
17 appearing here today.

18 Senator Matsunaga. Mr. Chairman?

19 The Chairman. Senator Matsunaga and then Senator
20 Danforth.

21 Senator Matsunaga. I wish to commend both Senator Roth
22 and Senator Moynihan for coming up with this package. I
23 think it closes the gaps for abuse, and I think it is a
24 darned good bill to replace the existing law.

25 The Chairman. Senator Danforth?

1 Senator Danforth. Mr. Chairman, in answer to the
2 question does the Administration have a view, I think that
3 it is fair to say that the answer to that question is the
4 same as the answer to any other trade measure that comes
5 before Congress.

6 Either the Administration is opposed, or the
7 Administration has not stated a position. That is sort of
8 the blanket stamp that is put on all trade legislation.

9 I think this is a good proposal. I think that it has
10 been carefully worked out by Senator Moynihan and Senator
11 Roth; and I also think that if we are going to provide any
12 sort of effective antidote to the wave of imports that is
13 sweeping this country without going the all-out protectionist
14 route, we must provide trade adjustment assistance.

15 I think that trade adjustment assistance is the
16 responsibility that we assume for a reasonably free trading
17 policy; and therefore, I think that this is a good bill.

18 I don't know if it is appropriate now--but I think it
19 is--to add to the package of amendments now pending an
20 amendment which I believe is--

21 I don't know if Senator Moynihan has looked at it.
22 I know Senator Roth has. This amendment would provide an
23 exception to the requirement that a worker must be in
24 training to be eligible for trade readjustment allowance if
25 the State agency certifies and the Secretary confirms that

1 no training program is reasonably available or suitable for
2 the individual.

3 In that case, the individual would still be able to
4 receive a 26 week trade adjustment allowance as under current
5 law.

6 Mr. Chairman, the purpose of this amendment is to
7 cover the case of, for example, the shoe worker who resides
8 in Windsor, Missouri or in some community in Maine where
9 there are no large employment opportunities.

10 Take a hypothetical shoe worker who is 55 years old and
11 the shoe factory closes down. Really, it is not meaningful
12 to say that that person has to be in some training program
13 because, unless the person is able to reduce his or her age
14 by about 10 or 15 or 20 years, and move to another
15 community, there is not going to be any job.

16 So, the hope is that this amendment could be accepted
17 in providing continuing relief for those people for whom
18 training is really inappropriate.

19 The Chairman. Senator Grassley?

20 Senator Grassley. I would like to thank Senator
21 Moynihan for what he said about workers from agriculture
22 related industries, and I understand that that is going
23 to be made very clear in the amendment that is being offered
24 in block.

25 I would only like to add, in addition to that, if there

1 is any way we could find a direct connection between imports
2 and agricultural workers, as opposed to agriculture-related
3 industry workers--agricultural workers being displaced and
4 the impact upon farmers themselves being displaced from
5 agriculture, and I understand it is kind of difficult.

6 But if there could be that relationship established,
7 I would like to ask the committee--and I am not going to
8 do that during this meeting, but maybe sometime between now
9 and the time it comes up on the floor--to consider if we
10 can make that relationship, broadening it to include
11 agricultural workers and farmers who be displaced as a
12 result of imports.

13 The Chairman. Further discussion?

14 Senator Heinz. A point of clarification, Mr. Chairman,
15 if I may?

16 The Chairman. Senator Mitchell first.

17 Senator Mitchell. I just want to say, Mr. Chairman, as
18 a cosponsor of this legislation and representing a State
19 which is particularly susceptible and has been adversely
20 affected in a severe way by imports, both by virtue of its
21 geographic location and the structure of its economy--the
22 types of industries that we have--I think this is a
23 critically important program.

24 The existing program has proven to be of immense value.
25 This legislation improves that, in my judgment.

1 I commend Senators Roth and Moynihan for their
2 leadership in this area and I am pleased to join them, and
3 I hope the committee will approve it by a large margin.

4 The Chairman. Senator Heinz?

5 Senator Heinz. Mr. Chairman, again I want to compliment
6 Senator Roth and Senator Moynihan. I am pleased to be able
7 to be a cosponsor of their trade adjustment assistance
8 amendment.

9 I think it is responsible. It is creative. It is, as
10 Senator Danforth said, the quid pro quo we have to have for
11 having a free trade policy.

12 I just want to ask Senator Roth or Senator Bradley a
13 point of clarification on the issue we raised a moment ago
14 about supplier firms.

15 The legislation that affects firms that are directly
16 affected by imports provides for both worker and firm
17 assistance in the form of technical assistance.

18 We have gotten rid of the loan program, and that is
19 something we all understand we have to do.

20 And I just wanted to be clear that, if we are not going
21 to have technical assistance for the firms who are secondary
22 casualties because they are suppliers, I just want to be
23 clear what the rationale for treating them differently was.

24 Senator Roth. Senator Heinz, first of all, let me say
25 I support the Senator Bradley amendment. It makes no sense

1 to me to, say, have headlights made by a component of General
2 Motors and be covered, but to have another worker working
3 with an independent supplier not be covered.

4 So, I think personally I am very sympathetic to --
5 Senator Heinz. As am I.

6 Senator Roth. Secondly, I feel the same way about your
7 proposal. I think it ought to cover that. We are dropping
8 the loans, and that is a part of the program that really
9 has been in need of reform, and I think there is a slight
10 savings there.

11 The technical assistance has been constructive and a
12 plus so that, as far as I am concerned, I would support
13 Senator Heinz' proposal.

14 Senator Heinz. You would support Senator Bradley's
15 amendment? If I were to make a similar amendment, you
16 could support that?

17 Senator Roth. That is correct.

18 Senator Heinz. My understanding is there is no required
19 cost added by the amendment. Those are appropriated funds.

20 Senator Roth. These programs will be covered by the
21 fee, so there is no additional cost.

22 Senator Moynihan. I think I would like to endorse what
23 Senator Roth has said. May I just take a moment to say,
24 Mr. Chairman, that Senator Danforth's statement was a very
25 important one, and we appreciate it.

1 And there are realities about age and location that
2 have to be considered.

3 Senator Danforth. Mr. Chairman, could we clarify whether
4 my -- Could my addition be added to the package that is
5 being adopted?

6 The Chairman. Senator Roth's package--I don't know
7 whether he wants to add it to the package or whether he
8 wants it added separately.

9 What do you want to do?

10 Senator Roth. I would say, unless there is objection,
11 that we adopt it.

12 Senator Bradley. Let's adopt yours first.

13 Senator Roth. All right.

14 The Chairman. Let's slow down so we know what we have.

15 I want to add a statement to the record of Senator
16 Durenberger, who asked me to put it in, relating to the
17 import fee portion of this bill.

18 (THE PREPARED WRITTEN STATEMENT OF SENATOR DURENBERGER
19 FOLLOWS:)

20

21

22

23

24

25

1 I want to make sure where we are. You have a package.

2 Senator Roth. Yes, sir.

3 The Chairman. You have two amendments that are not
4 part of the package, although they seem to support them,
5 but we want to vote on them separately.

6 Senator Bradley. They are completely consistent. It
7 is a matter of simply style --

8 Senator Roth. I think they could all be put in the
9 package.

10 The Chairman. Why don't we just vote on Senator
11 Bradley's amendments now because I haven't heard any
12 objections. Is there any objection to the two amendments
13 of Senator Bradley?

14 Senator Roth. As amended by Senator Heinz?

15 Senator Heinz. Whatever Senator Bradley wants.

16 Senator Bradley. Why don't we vote on mine and then
17 vote on Senator Heinz'?

18 The Chairman. Without objection, the two amendments
19 of Senator Bradley are adopted.

20 Now, the Senator Heinz amendment. Is there objection
21 to the Heinz amendment?

22 (No response)

23 The Chairman. Adopted. Now, Senator Danforth, do you
24 have an amendment?

25 Senator Danforth. Yes.

1 The Chairman. Is there objection to it?

2 (No response)

3 Senator Bradley. Mr. Chairman, his amendment, I think,
4 is essential to the package.

5 The Chairman. Without objection, his amendment is
6 adopted.

7 Are we now ready to vote on the amendments en bank?

8 Senator Roth. Yes.

9 The Chairman. Is there objection to the amendments en
10 bank?

11 (No response)

12 The Chairman. Without objection, they are adopted.

13 Are there further amendments to Senator Roth's
14 amendment?

15 (No response)

16 The Chairman. If there are no further amendments,
17 is there objection to the adoption of the Roth amendment?

18 (No response)

19 The Chairman. Without objection.

20 Senator Moynihan. This is a bipartisan matter, Mr.
21 Chairman.

22 The Chairman. There is not a partisan note of discord.

23 Senator Moynihan. On the Roth-Moynihan amendment.

24 The Chairman. On the Roth-Moynihan amendment. I
25 apologize.

1 Senator Bradley. Mr. Chairman?

2 The Chairman. It is adopted.

3 Senator Bradley. Mr. Chairman, I think that we have
4 done a good thing.

5 (Laughter)

6 The Chairman. I might suggest one thing here, and then
7 I will recognize Senator Wallop.

8 We have slight savings because of the tobacco program
9 that we adopted, and we have had close votes in this
10 committee that were defeated, I think, because of lack of
11 money--on the Katy Beckett issue, on the foster children
12 issue--foster children, foster children--

13 (Laughter)

14 The Chairman. And on the home and community based
15 services of Senator Bradley.

16 And what I would like to suggest is that those three
17 amendments be packaged together and staff be instructed to
18 allocate the money--and there isn't going to be enough money
19 to fund all of them--among them; and with this added caviat,
20 if something goes wrong and the savings that are attributed
21 to this committee for some reason do not get attributed to
22 it, we will reduce proportionally the savings in these three
23 programs.

24 I just don't want to get us in a situation where, for
25 some reason that I don't yet grasp, we lose our savings and

1 are swept under in the budget without having met our
2 reconciliation totals.

3 Senator Moynihan. Mr. Chairman, that is a perfectly
4 good, safe offer and very welcome from this side.

5 Could we suggest that, obviously if that should happen,
6 we meet and talk about it?

7 The Chairman. We may or may not. It depends on how
8 fast it comes. We are going to have our recommendations in
9 when we finish today.

10 Senator Moynihan. I guess I don't mean meet in
11 committee. I mean --

12 The Chairman. All right. Fine. Is there objection
13 to adopting that proposal?

14 (No response)

15 The Chairman. Without objection. Senator Wallop?

16 Senator Bradley. Mr. Chairman, I would just like to
17 thank you and say that I think home care has achieved a
18 major victory.

19 The Chairman. I thought they were good proposals, and
20 I am delighted we have the money to be able to do something
21 with them. Senator Wallop?

22 Senator Wallop. Mr. Chairman, my amendment relates to
23 the 861 regulations of Treasury. This committee has extended
24 moratoria now for three years.

25 And Treasury, instead of doing something about trying to

1 encourage R&D to remain onshore, it has simply waited for
2 the moratoria to run out or the circumstances to --

3 And it is really tragic, and furthermore, they--Mr.
4 Chairman, I can't even hear me.

5 Senator Heinz. Neither can the chairman.

6 (Laughter)

7 Senator Wallop. And I am the closest one to me.

8 (Laughter)

9 Senator Wallop. Basically, the 861 regulations have
10 the effect of chasing research and development in this
11 country offshore because it is treated as overhead and
12 allocated as a foreign source income and, therefore, receives
13 no tax benefit under those.

14 And at least by taking their R&D offshore, companies
15 are able to get a foreign tax benefit.

16 Now, for three years, we have expressed our displeasure
17 of that, saying that we thought it was a good idea to have
18 research and development in this country.

19 And while the sentiment for protectionism is rising, we
20 continue to do things that are going to cause us trade
21 problems, one of which is when something is researched and
22 developed offshore, franchising becomes a one-way street
23 into this country, exacerbating rather than minimizing the
24 trade benefit.

25 I always knew there was a great cost to waiting on.

1 things, but I didn't know there was such a cost as we have
2 discovered in the R&D because, as of yesterday, a three-year
3 extension of this would have cost \$395 billion; but overnight
4 Joint Tax went back on their February study and now says it
5 is going to be \$830.

6 The Chairman. For three years?

7 Senator Wallop. For three years. And when you ask why,
8 they just say new materials that materialized yesterday
9 appearing.

10 I must say that one of the things I want to get out of
11 this in some substantiation of that sudden tripling of the
12 expense of doing this.

13 I am wise enough to know that we can't now do it because
14 of that estimate for a three-year extension, but I would like
15 to do a one-year extension of it.

16 And in that one-year extension, ask Treasury to address
17 it (a) as part of tax reform, but realizing that that is a
18 complicated issue; come to us with a proposal that does try
19 to encourage research and development of American ingenuity
20 on American shores and not franchise our genius to Europeans,
21 to Orientals, to anyone who happens to be able to work with
22 us through their tax code and then cause us a problem.

23 The Chairman. Let me ask this. What is the one-year
24 cost of this?

25 Senator Wallop. As I understand it, it is \$300.

1 The Chairman. And how much money do we have left?

2 Senator Wallop. But I think that it is slightly less
3 than that. I have been told now that that figure --

4 The Chairman. This is chargeable against the revenue
5 side. We have taken care of the spending side with the
6 last action.

7 How much money do we have left on the revenue side?

8 Mr. Colvin. Mr. Chairman, it appears to be in the
9 mid-200s.

10 The Chairman. Over three years?

11 Mr. Colvin. Yes, sir.

12 The Chairman. And this is \$300 million for one year,
13 or maybe \$250 million for one year? Malcolm, we can't do
14 that.

15 Senator Wallop. Well, we can't do it, so what we are
16 going to do is create a set of circumstances where there is
17 more reason for protectionism that kills us.

18 The thing that is so frustrating is that yesterday, a
19 one-year extension would have cost us \$74 million. Today,
20 it costs \$300 million.

21 The Chairman. I wonder if the--because I am sympathetic
22 and agree with you--if you might be acceptable to a six-month
23 extension. At a minimum, we are going to have a technical
24 corrections bill this year.

25 I hope we have a real tax bill this year, and I think

1 we can get one, but would you be receptive to at least a
2 six-month extension, which gets us by the --

3 Senator Wallop. I would be receptive to a nine-month,
4 which I think probably --

5 Senator Bradley. Mr. Chairman, this is an issue that
6 I think has relevance to all of us, certainly. It is related
7 to the whole tax reform effort.

8 We are facing a deadline. It is going to expire. There
9 is confusion with numbers.

10 Senator Wallop. It did expire on the 1st of August.

11 Senator Bradley. Oh, it did expire. There is some
12 confusion with numbers, and I suppose that my reaction to
13 Senator Wallop is that I would be equally surprised if one
14 day I thought it was going to cost \$75 million and then
15 the next day it was going to cost \$250 million.

16 If we went for a small extension, could we come back
17 and at least revisit this issue, and maybe the numbers would
18 firm up between now and the floor, take a small extension
19 now.

20 And then, if the numbers are acceptable on the floor,
21 do it on the floor.

22 Senator Moynihan. Can we hear from Mr. Mentz?

23 The Chairman. I would suggest what we do is do the
24 same thing we did on the spending side.

25 I know how much money we have, but I don't know how

1 much this costs. But do not let the cost of this push us
2 over our reconciliation limit and therefore not meet the
3 total.

4 Senator Bradley. Yes. I think an argument could be
5 made, and I don't know if Secretary Mentz is going to make
6 this argument--I must say I have been wrestling with it
7 myself--but an argument could be made that this provision
8 might even be consistent in a world of tax reform.

9 Now, I know that in the Treasury's proposal, there is
10 elimination of 861. I think it is a close call, and at
11 least the idea of extending it until we get to the whole
12 issue of tax reform has some merit in my view.

13 Maybe Secretary Mentz has a stronger disagreement.

14 Mr. Mentz. Let me try to simplify or elaborate on
15 what the issue really is here because I think we are talking
16 about extending something that we are really not focusing
17 on what it is.

18 Basically, if a company is in business in the United
19 States and it makes forklift trucks and it makes them in
20 Germany as well, and it does some R&D to improve that forklift
21 truck, under the regulations as they were originally proposed,
22 some of that cost of the research and development would be
23 allocated to the income from the forklift trucks in the
24 United States and some of it from the income of the sales
25 of the forklift trucks in Germany.

1 The effect of allocating some of that cost to the
2 income from foreign sources--from German sources--would mean
3 that, if that company happens to be in an excess foreign
4 tax credit position--in other words, if it has foreign tax
5 credits that it can't use because it has not enough net
6 foreign income--the effect is identical to disallowing a
7 deduction for that portion of the research and development.

8 Now, what the moratorium has done is it has basically
9 said that for the past three years or so, all of the R&D
10 shall be treated as attributable to U.S. income, none of
11 it to foreign income, and therefore you don't have any hit
12 against the foreign tax credit limitation.

13 As a factual matter, that is clearly not correct, and
14 in fact, we have been working with the industry--various
15 segments of the high tech industries--to try and improve
16 those regulations.

17 I want to point out that the regulations--the way they
18 presently work--or the moratorium the way it presently works--
19 provides a benefit only to companies that are in business
20 abroad and have foreign tax credits and are in an excess
21 limitation.

22 If you are a high tech company but you are only doing
23 business in San Jose or the high tech area of Massachusetts,
24 this doesn't affect you one bit. It provides no incentive,
25 and you are not buying anything for our \$300 million.

1 The Treasury's preferred way of going on this would be
2 to improve those regulations which we are working on,
3 Senator Wallop.

4 I don't want you to think that Treasury is just sort
5 of letting this thing slide. We are not. I think there are
6 ways of improving them.

7 The point that you make of trying to keep the R&D on
8 shore is a valid one, and that has to be factored in. We
9 can't just do a mechanical approach to the regulations, or
10 we are going to lose some of the R&D to Germany in my
11 example.

12 But it is not a simple issue, and it is going to come
13 up in tax reform; and it is going to come up this way: if
14 tax reform results in a reduction in rates, your cost is
15 going to go very much higher. It is going to almost double.

16 The reason is because you cut the rate. You are going
17 to have more companies in an excess limitation position,
18 and that is going to result in a bigger revenue loss.

19 So, while we would basically oppose an extension of
20 the moratorium, if you do extend it we would hope that you
21 would extend it only until tax reform is addressed and that
22 it be addressed in tax reform, as Senator Bradley suggests.

23 The position we don't want to be in is having tax
24 reform come up and folks say, well, there is no point
25 addressing the 861 issue because that was passed on last

1 year. That would be a very bad position from the Treasury
2 standpoint and a revenue expensive one.

3 Senator Wallop. Mr. Chairman, I have no quarrel with
4 that, but that is, in fact, why we suddenly are talking
5 about it being \$300 million instead of \$74 million, because
6 it assumes tax reform, which is a shaky assumption.

7 Mr. Mentz. No, that is not right. The revenue
8 estimate--the Treasury revenue estimate--which admittedly
9 Joint Committee and Treasury are not always the same on
10 revenue estimates, but we are close here; our revenue
11 estimate for one year is \$287 million, without tax reform.

12 With tax reform, our revenue estimate is \$566 million.
13 So, you see it goes up quite a bit, and the reason is because
14 your rate is coming down.

15 Senator Wallop. I have no quarrel with that, but I
16 have this terrible recollection that that is the same thing
17 that happened to me when we were proposing the automobile
18 records.

19 It was \$25 million until we were on the threshold of
20 success, and then suddenly it was \$1 billion.

21 You know, I am getting used to this kind of treatment,
22 but I don't think the committee would deal this as wrong
23 if I were skeptical as to why it suddenly happens on the
24 night before events take place. This is the second time
25 in a row.

1 I would hope that we would do something as you suggested.
2 Mr. Chairman.

3 The Chairman. What I would like to do is what I did--
4 We have only got \$223 million for three years in any event,
5 roughly \$75 million a year.

6 So, whether the estimate of \$75 million is right or
7 \$300 million is right, we have only got \$75 million, so
8 I would like to move the extension, but not to take us
9 beyond the \$75 million, or \$74 million. Is that roughly it,
10 John?

11 Mr. Colvin. Mr. Chairman, it is somewhat more than
12 that. We are over by about a little over \$200 for the
13 three years, so your suggestion of six months could be
14 accommodated.

15 And if we could reserve the right to fix the precise
16 date to make sure that we have achieved our total for the
17 three years.

18 Senator Bradley. Mr. Chairman, we could raise the
19 cigarette tax to 17 cents.

20 (Laughter)

21 Senator Bradley. Seventeen cents would do it.

22 Senator Moynihan. Mr. Chairman, it seems to me that
23 Secretary Mentz made an important point here. There is a
24 question of fact, and they are looking at this.

25 And it is a question of one kind of firm as against

1 another kind of firm. Multinational firms, you know, all
2 of which are based in New York--or many of which--have
3 obviously an advantage over firms that simply do all their
4 production here.

5 Six months, fine, but I would really like to have the
6 Treasury come in and tell us what they think the real facts
7 are.

8 Mr. Mentz. Well, the facts, of course, will depend
9 upon each individual case.

10 Senator Moynihan. Well, what would be generally good
11 tax policy.

12 Mr. Mentz. I would point out that, if you go in this
13 direction, you are going to spend the money that--or is
14 this maybe not correct--are you going to spend the money
15 that would have otherwise been allocated for some of these
16 other programs?

17 Senator Bradley. This is the revenue side.

18 Mr. Mentz. All right, then. I withdraw the point.

19 Senator Wallop. Mr. Chairman, the only thing that we
20 need out of this in addition to what you have suggested,
21 and it may be a hopeless pipe dream because we have been
22 doing this for three years, asking Treasury for just this
23 very kind of thing, as Senator Moynihan pointed out.

24 But for three years, they have just been waiting for it
25 to go away, and have never come back to this committee with

1 some kind of means of making this a matter of good tax
2 policy.

3 You know, next year it is going to go away. The
4 revenues, we are not going to mention. We just will lose it.

5 Would we be within our rights to insist that we have
6 a report back both from tax as to these estimates and from
7 Treasury as to what they would suggest that we would do,
8 with or without tax reform, because that is speculative in
9 the best of circumstances.

10 The Chairman. I think we can get the revenue estimates
11 without difficulty. We may not agree, but the basis upon
12 which they rest them, and we understand the estimates with
13 tax reform and without tax reform.

14 Whether or not you are going to get what you want from
15 Treasury in terms of do they like or dislike the policy, I
16 don't know.

17 Senator Wallop. I don't care whether they like it or
18 not. I just want to know what kind of policy it would take
19 to not put in place a set of circumstance with multinational
20 purpose that drives our R&D offshore; and it is doing it.

21 Mr. Mentz. I will respond to that. Senator, we
22 certainly will get you a revised proposal on where we think
23 we ought to be on the 861-8 regulations as they apply to
24 R&D. I think you are right. I think you are entitled to
25 that, and three years is certainly plenty of time.

1 In exchange for that, however, could we make whatever
2 extension you choose to do on the moratorium--have it
3 terminate in any case with the effective date of tax reform
4 so we don't get into the box of having the extension go
5 beyond tax reform?

6 Senator Wallop. That is all right with me so long as
7 it is the effective date of a past tax reform and not a
8 projected one.

9 The Chairman. What you are saying is it will not go
10 beyond the date of tax reform?

11 Senator Wallop. Yes, but the problem is that tax
12 reform, as I understand it, hasn't passed but its prospective
13 date is January 1st.

14 The Chairman. Oh, I see.

15 Senator Wallop. That is not what I have in mind.

16 The Chairman. The answer is yes, though. We can do
17 that.

18 Senator Bradley. I think that your suggestion--taking
19 what available revenue and applying it--makes some sense,
20 but I wonder: How does that actually happen in a real
21 world?

22 Do you have people out there making business decisions
23 as to whether there is or isn't a moratorium and they make
24 them; and we say you can only spend \$75 million.

25 But we don't know how many people are making those

1 decisions out there.

2 It creates a real problem. Who do you disallow?

3 Senator Grassley. Actually, by our fussing around, we
4 have done it, anyway. R&D is not an overnight event, is it?

5 I mean, when you decide to try to develop something,
6 you are setting yourself up--

7 The Chairman. The way we will do this. Unless there
8 is objection to extending it, there will just have to be
9 a finite time.

10 I just have to know how much money we have and reasonably
11 accurate estimates to the extent we can get reasonably
12 accurate estimates.

13 Without objection.

14 Are there other matters to come before the committee?

15 (No response)

16 The Chairman. Is there any objection to reporting
17 what we have done to the Budget Committee?


18 (No response)

19 The Chairman. Without objection. We are into recess.

20 (Whereupon, at 11:58 a.m., the hearing was adjourned.)
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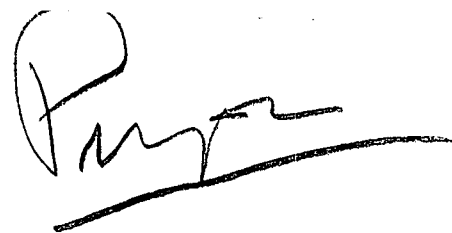
C E R T I F I C A T E

1
2 This is to certify that the foregoing proceedings of
3 an Executive Session of the Committee on Finance, held on
4 Friday, September 20, 1985, were held as herein appears
5 and that this is the original transcript thereof.
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WILLIAM J. MOFFITT
Official Court Reporter

15 My Commission expires April 14, 1989.
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9-20-85

HEALTH INSURANCE CONTINUATION

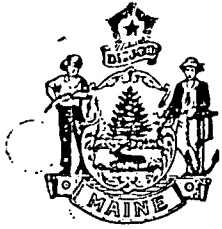
Mr. Chairman, before we finish the markup on this bill, I would like to make a very short statement about the amendment adopted yesterday dealing with the continuation of group health care coverage for certain people.

I don't think we fully appreciate the significance of this proposed change and what it would require. Requiring employers to maintain group health care coverage for divorced spouses, widows, dependents and others is a worthy objective, Mr. Chairman, and one that I'm sure we should look at, but I believe we should be very carefully in sticking another section in the tax code in order to accomplish this.

I realize that under the amendment the covered individuals, and not the employer, would be responsible for paying the premium.

But, I question whether we should use the tax code to do this, particularly since most of the talk for the last year has been over ways to "simplify" and "reform" our present tax system.

I hope members of the committee will take a close look at this provision before we consider this bill on the Senate floor.



State of Maine

OFFICE OF THE GOVERNOR

AUGUSTA, MAINE 04333

MEDICARE OR STATE
AND LOCAL GOVT.

MITCHELL

August 27, 1985

The Honorable George J. Mitchell
Russell Senate Office Building, Rm. 145
Washington, D.C. 20510

Dear George:

I am writing to you and other members of Maine's Congressional delegation to express the serious concern with which I and others in Maine's state and local governments view a proposal currently being considered which would require our state and local employees to be covered by Medicare effective January 1, 1986. Similar proposals would also mandate that all new employees hired after that date be included in the Social Security System. While I am sensitive to the fact that these proposals are estimated to result in over \$8 billion new revenue to the Federal Government over a three year period, an amount which would not have a major impact on the Federal deficit, I am troubled by the significant consequences to Maine. In effect, these proposals result in an additional, unplanned burden on those state and local governments not now included in the Social Security System and their employees.

Perhaps the most obvious and critical result of implementation of these proposals would be the immediate financial burden they would place upon our state and local governments. During the fiscal year which ended this past June 30, the State of Maine paid direct salaries and wages totalling over \$326 million. Consequently, for every five percent of additional payroll based costs such as those proposed, the State would be required to generate an additional \$16 million in revenues. As our budgets currently stand, it is simply not feasible within our existing sources of revenue. The State would be forced to either effect reductions in critical ongoing programs or enact higher or new taxes. Certainly, for Maine taxpayers at least, such a trade-off would be counterproductive considering the relatively small impact that any resultant reduction in the Federal deficit would have upon the economic well-being of Maine and its citizens.


Local governments in the State would, in most cases, be faced with an even greater dilemma should they be required to fund millions of dollars of such unbudgeted costs since their primary revenue resource is the property tax. Medicare and Social Security payroll costs for local government employees and teachers would surely result in an added burden upon property owners in the State - many of whom, due to fixed incomes, are hard pressed to met their current tax obligations.

In recent years the Maine Legislature has devoted considerable resources toward strengthening the Maine State Retirement System to ensure that our state, local government and school district employees can rely upon it as a dependable source of retirement income. Collective bargaining agreements with public employees in the State are, to a significant extent, predicated upon the State's commitment to ensuring the stability of the system - which has, traditionally, been one of the major factors why our dedicated public employees have been willing to forego the higher salaries they might receive elsewhere to serve in the public sector. Required participation in Medicare/Social Security would result in an unneeded second retirement system for these workers and could lead to an erosion of the soundness of the self-funded system that has served the State well.

I hope that in the months ahead as these and other deficit reduction plans are considered by the Congress that you will keep in mind the impact that they are sure to have at the state and local level. At the very least, we ask to be afforded the necessary time to prepare to meet such mandates and budget for them accordingly in a realistic manner - preferably on a phased-in basis.

We ask that the steps necessary to reach the goal of a balanced Federal budget be developed with consideration for the special circumstances faced by state and local governments.

Sincerely,


JOSEPH E. BRENNAN
Governor

JEB/bab



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

LIPR SYSTEM CODES
MEDICAID
MITCHELL

SEP 13 1985

The Honorable George J. Mitchell
United States Senate
Washington, D.C. 20510

Dear ^{George} Senator Mitchell:

As a follow-up to our discussion at the Finance Committee hearing yesterday, I want to reiterate that I share the deep personal concern you expressed for the quality of care being delivered to clients in our Medicaid Intermediate Care Facilities for the Mentally Retarded (ICF/MR).

As I told you, my Department will continue to vigorously enforce appropriate minimum standards to ensure the health and safety of Medicaid recipients who qualify for residence in ICFs/MR. Our routine "look behind" inspections used to validate the inspection reports of State officials who are responsible for monitoring ICF/MR facilities and guaranteeing they meet minimum Federal standards have shown alarmingly inadequate State performance.

This high incidence of non-compliance and failure of specific facilities to meet minimum standards of health and safety convinces me that our current "look behind" inspection program must continue. However, I believe we must support and continue our technical assistance to the States so that all State employees having responsibility in this area will be fully aware of the minimum Federal standards and know of our resolve to ensure that the individual clients benefit from full compliance with these standards.

As you know, the Department of Health and Human Services has been working on a Notice of Proposed Rulemaking (NPRM) for the Standards for ICFs/MR, in which the life safety code issue is addressed. This NPRM, currently under Departmental review, is awaiting final comments from each of the Assistant Secretaries and the General Counsel of the Department addressing potential legal and policy questions arising from the NPRM.

Upon returning from the hearing, I directed the Health Care Financing Administration, in the absence of a timely clearance of the NPRM, to treat the life safety code provisions as a separate regulation to facilitate immediate review and swift movement through the regulatory review process. This action should resolve the specific questions you raised regarding the confusion between the present standards being applied to the life safety code questions in ICFs/MR as opposed to less restrictive provisions in the NPRM.

I am certain that our common goal of providing the appropriate means to ensure the health and safety of mentally retarded populations requiring our assistance will continue to be met.

Page 2 - The Honorable George J. Mitchell

I look forward to future dialogue on this issue and will work closely with you to bring closure to the FY 1986 budget.

Sincerely,



Margaret M. Heckler
Secretary

*Re: Lyndsey Haine residents whom you
mentioned - we're working to
resolve their problem swiftly.*

C&D

AMENDMENTS FOR TRADE ADJUSTMENT ASSISTANCE, S. 1544

BLOCK AMENDMENTS

offered by Roth/Moynihan/Chafee/Heinz/Symms/Mitchell

1. Assure that trainers do not receive double payments, from TAA and other programs.
2. Change language in the statute to allow weeks a worker is on disability to be counted toward number of weeks of employment needed to qualify for certification.
3. Specifically provide that the report on the financial condition of the trust fund be sent to the Ways and Means and Finance Committees.
4. Specify that no reimbursement for on-the-job training is to be paid if the training would result in the displacement of currently employed workers or the hiring of a trainee to fill a job opening created by the action of the employer in laying off or terminating the employment of a regular employee.
5. Eliminate provision which places repayments of loans and interest from the firms program in the Trade Adjustment Assistance Trust Fund.
6. Specify that "training provided by an employer" is "on-the-job training." Exclude the training period from the 26 weeks that an employee must agree to employ the worker after training. Specify that trade readjustment allowances are not to be paid while a worker is on on-the-job training.
7. Provide for participation by certified workers in job search workshops and job finding clubs (three-day to two-week programs for learning resume-writing and job-interviewing skills). Allow workers to participate in these programs whether or not they are signed up for other training or receiving a trade readjustment allowance.
8. Mandate the approval of training programs by the Secretary (or the state agencies if the power has been delegated to them) if they meet the statutory criteria. Now the statute says that the Secretary "may approve" training subject to five criteria, including that the "approved

training is available." This language would be changed to "shall approve" and this criteria to "approved training is reasonably available."

9. Provide flexibility for training to be paid by the Secretary directly or by voucher up to the limit of \$4000.

10. Eliminate the authority to make new loans and loan guarantees under the firms program upon enactment of the bill.

offered by Grassley

11. Clarify that agriculture workers and firms are covered by the program as they are under current law.

offered by Danforth

12. Provide an exception to the requirement that a worker be in training to be eligible for a trade readjustment allowance, if the state agency certifies and the Secretary confirms that no training program is reasonably available or suitable for the individual then that individual can still receive a 26 week trade readjustment allowance, as under current law. Add a reporting requirement that the Secretary keep the Ways and Means and Finance Committees informed about how many people are receiving benefits under this provision.

CAD

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5. Eliminate provision which places repayments of loans and interest from the firms program in the Trade Adjustment Assistance Trust Fund.
6. Specify that "training provided by an employer" is "on-the-job training." Exclude the training period from the 26 weeks that an employer must agree to employ the worker after training. Specify that trade readjustment allowances are not to be paid while a worker is on on-the-job training.
7. Provide for participation by certified workers in job search workshops and job finding clubs (three-day to two-week programs for learning resume-writing and job-interviewing skills). Allow workers to participate in these programs whether or not they are signed up for other training or receiving a trade readjustment allowance.
8. Mandate the approval of training programs by the Secretary (or the state agencies if the power has been delegated to them) if they meet the statutory criteria. Now the statute says that the Secretary "may approve" training subject to five criteria, including that the "approved

training is available." This language would be changed to "shall approve" and this criteria to "approved training is reasonably available."

9. Provide flexibility for training to be paid by the Secretary directly or by voucher up to the limit of \$4000.

10. Eliminate the authority to make new loans and loan guarantees under the firms program upon enactment of the bill.

offered by Grassley

11. Clarify that agriculture workers and firms are covered by the program as they are under current law.

offered by Danforth

12. Provide an exception to the requirement that a worker be in training to be eligible for a trade readjustment allowance, if the state agency certifies and the Secretary confirms that no training program is reasonably available or suitable for the individual then that individual can still receive a 26 week trade readjustment allowance, as under current law. Add a reporting requirement that the Secretary keep the Ways and Means and Finance Committees informed about how many people are receiving benefits under this provision.

TRADE ADJUSTMENT ASSISTANCE

A. BACKGROUND

The current trade adjustment assistance (TAA) program, which provides assistance to both workers and firms injured by import competition, expires September 30, 1985. The budget compromise assumes continuation of the program at existing levels. If continued in its present form, the program would cost about \$114 million in FY1986.

In its Deficit Reduction Amendments, House Ways and Means approved a four-year re-authorization and expansion of the program that could raise costs substantially.

B. KEY ELEMENTS OF THE CURRENT PROGRAM

The program for displaced workers is administered by the Labor Department through state agencies.

1. Labor certifies workers in a particular firm as eligible when increased imports have contributed importantly to a significant number of lay-offs in the firm.
2. After regular unemployment benefits are exhausted, a certified worker is entitled to equivalent cash TAA benefits that pick up for the balance of 52 weeks. Thereafter, a worker

may receive an additional 26 weeks of cash benefits to assist in completing Labor-approved training.

3. Other TAA benefits available through state agencies include employment services, approved training costs, job search allowances, and relocation allowances.

The program for firms is administered by the Commerce Department.

1. Commerce certifies import-injured firms based in part on their inability to obtain funds elsewhere.
2. Available benefits include technical assistance for an adjustment plan, as well as funds for industrywide programs involving new-product or export development.
3. Financial assistance is available in the form of direct loans (up to \$1 million per firm) and loan guarantees (up to \$3 million per firm).

C. KEY ELEMENTS OF S. 1544

S. 1544 would make the following significant changes in the current program:

1. To be eligible for benefits, a worker would have to be enrolled in or be a graduate of an approved training program.
2. Eligible workers would receive vouchers for up to \$4,000 for use in approved retraining.
3. Direct loans and loan guarantees to firms would be eliminated.
4. The program would be funded by a small duty on all imports, capped at one percent (but likely to be no more than one quarter of one percent). The President is directed to negotiate GATT agreement on such a fee, but the fee would be implemented after one or (at the President's request) two years regardless of agreement.

Note: The program modifications contained in S. 1544 would not take effect until one year after the import fee is imposed (i.e., two to three years after enactment). Until that time, the current program would be extended.

D. COST OF S. 1544

Because S. 1544 would continue the existing program until one year after imposition of the import fee, the cost of S. 1544 would be the same as the existing

program for up to three years. Thereafter, the program would be funded entirely by the fee and not general revenues. Therefore, S. 1544 meets the budget assumption of costs no greater than extension of the existing program.

CBO Informal Cost Estimate

(by fiscal year, in millions of dollars)

	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
Worker Assistance					
Cash Benefits	70	70	70	74	74
Training	27	28	30	46	46
Firm Assistance	17	24	22	22	23
Total	114	122	122	142	143