

OFFICIAL TRANSCRIPT

Book

COMMITTEE ON FINANCE

UNITED STATES SENATE

EXECUTIVE SESSION

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EXECUTIVE SESSION

THURSDAY, SEPTEMBER 18, 1980

United States Senate,
Committee on Finance,
Washington, D. C.

The committee met, pursuant to recess, at 10:30 am. in room 2221, Dirksen Senate Office Building, the Hon. Russell B. Long (chairman of the committee) presiding.

Present. Senators Long, Talmadge, Ribicoff, Gravel, Byrd, Nelson, Bentsen, Matsunaga, Moynihan, Baucus, Boren, Bradley, Dole, Packwood, Danforth, Chafee, Heinz, and Durenberger.

The Chairman. Let's come to order, gentlemen.

Mr. Dole is recognized.

Senator Dole. Mr. Chairman, before we start our work I just want to say, I hope the story I read in the Washington Post this morning about maybe there might not be a tax cut action taken this year because of some difference of opinion on the Democratic side, is not an accurate story.

I think the Finance Committee has done an outstanding job. We have not only passed the bill by a nearly unanimous vote, we have agreed, both Republicans and Democrats, to keep off all "special interest" amendments. I would hope

1 that we could bring up the tax bill next week. If not, and
2 I don't say this in a threatening, we will feel constrained
3 to offer bits and pieces of it as we go along to all
4 appropriate bills. Nearly every one that I can think of is
5 appropriate.

6 The Chairman. Senator, let me just say as far as the
7 chairman of the committee is concerned, I am in complete
8 good faith about the matter, and pressing for the passage of
9 this bill. I believe that most of the Democrats sitting
10 here are in similar good faith in saying that we should pass
11 the bill.

12 I am doing the best that I can to bring that about. I
13 know for a certainty, from my own positive knowledge, that
14 the members of the Democratic side are doing the same
15 thing. I think the record will show, when the time comes,
16 which ones have proceeded in good faith feeling that we
17 should pass this bill and that it is in the national
18 interest.

19 If the Administration, and the Democratic leadership,
20 or the Democratic Policy Committee, or the Democratic
21 Caucus, whoever, should ordain that this bill is not to come
22 to a vote in the Senate, I would certainly respect your
23 right to offer the type of amendments you have in mind. If
24 I have no other choice, I would vote for that type of
25 thing.

1 I hope that we can pass this bill, and I intend to
2 support it. I will do what I can to bring that about. I am
3 continuing to advocate and fight for the position that this
4 bill ought to be called up and considered on its merits, and
5 that the House ought to consider it.

6 My position is clear that as far as I am concerned, I
7 have no intention of marching up the hill, and then turning
8 around and marching back down the hill. I don't plan to do
9 business that way. Anyone that does can make his position
10 known.

11 I think we have a good bill, and I am optimistic that
12 we will yet be accorded the opportunity to call the bill up
13 and vote on it. I would like to see it done before we
14 recess for the election.

15 Senator Dole. I would like to leave with each member a
16 gallop poll taken in August, which gives rather encouraging
17 figures on the need for a tax cut this year. I will pass
18 that around and not read it at this time. But it gives a
19 positive indication that people do want a tax cut this
20 year. Seventy-six percent would rather have a tax cut than
21 a reduction in Social Security tax.

22 It is a poll based on a legitimate sample by the Gallop
23 organization. Even though it has the Chamber of Commerce
24 heading on it that should not detract from it.

25 Senator Nelson. Mr. Chairman, I have a technical

1 amendment to the tax bill -- I think it is technical-- which
2 I would like to raise, and we could dispose of it in two
3 minutes. Could I raise that now?

4 The Chairman. I would hope that if you do, we are not
5 going to have other amendments raised to that bill at this
6 point.

7 Senator Nelson. If it does not qualify as a technical
8 amendment, I will withdraw it. I would be glad to defer to
9 staff and other expertise because I am not an expert.

10 This, Mr. Chairman, involves one of the nine proposals
11 included in that package of small business amendments. It
12 addresses the market-maker reserve section. By oversight,
13 we did not allow that reserve provision to apply to stocks
14 traded on an exchange.

15 We inadvertently created a situation where you allow a
16 market-maker to set aside a reserve for marketing stocks for
17 smaller companies, a non-taxed reserve for a period of time,
18 but if a stock exchange does exactly the same thing, they do
19 not have that reserve provision.

20 So we have created a discrimination in the marketing of
21 identical stock issues, or similar stock issues. I would
22 simply like to eliminate that part that excludes stock
23 traded on an exchange.

24 The Chairman. Is there any problem about that, Mr.
25 Lubick?

1 Mr. Lubick. Mr. Chairman, I would suggest that that
2 amendment is more than technical. That is a broadening of
3 the amendment which in effect will allow, really, Senator
4 Danforth, a colossal "bonbon" for the brokerage industry. I
5 would think that the basic provision has some very
6 deficiencies, but this would be just broadening it to allow
7 compensation income to be deferred. We would think that
8 that is much more than technical.

9 Senator Nelson. I would just say, as to that, this is
10 limited to stock issues of smaller companies. What we have
11 created by the statute is to say that any market-maker
12 anyplace in the United States can take an issue of \$3
13 million and have the reserve. But if that same little
14 company went to a place where the stock was treated on an
15 exchange, they would say, "No, you cannot do it here."

16 It seems to me that if the principle is sound, it is
17 sound to apply whether it is a stock exchange or not.

18 I understand that the total additional cost would be
19 \$10 million as a Treasury loss. Is that correct, Mr.
20 Shapiro?

21 Mr. Shapiro. As we understand it, the revenue loss
22 estimate is about \$10 million. It is difficult to get the
23 data completely on this. We are started working on it just
24 recently. But the preliminary estimate that we have right
25 now is \$10 million.

1 Mr. Lubick. There is a big difference between a
2 company that is listed on an exchange, and a company which
3 is not. You are getting into larger companies that have a
4 market and are listed on the exchange, which are clearly
5 much easier to trade. The difficulties in making the market
6 are not the same as they are in the over-the-counter
7 situation.

8 This is special tax relief to help the brokers, and not
9 to help the small companies.

10 Senator Nelson. It is limited to the stock of smaller
11 companies with a debt and equity of \$25 million or less. So
12 it applies to the same companies whether it is through an
13 exchange or some over-the-counter market making activity.
14 It does not change the size of the company that is eligible
15 for the market-maker to set aside this reserve.

16 Mr. Lubick. Once a company is listed on an exchange,
17 there is a market already established. You clearly don't
18 have the difficulties with listed companies that are traded
19 over the exchange that you have with companies that are not
20 able to qualify for listing. It seems to me that this
21 significantly expands the scope of the relief that is in the
22 bill.

23 Senator Nelson. Unless I misunderstand, the identical
24 company, the same company that you would deny there, could
25 go to a market-maker and have its stock marketed by that

1 market-maker.

2 Senator Dole. I may not have any quarrel with the
3 amendment, but I think with the other agreement we made,
4 maybe we could take a look at it, the staff and the
5 Treasury, and see if it could fall into that uncontroversial
6 category.

7 The Chairman. Let's go back to where we were.

8 Mr. Stern. When you broke yesterday, Mr. Chairman, you
9 were almost done with the revenue sharing. You had
10 completed many of the major items. You were discussing
11 Senator Danforth's amendment on severance tax.

12 You had not voted on it, but then you went to Senator
13 Moynihan's amendment on the 1838 debt.

14 The Chairman. Senator Moynihan.

15 Senator Moynihan. Mr. Chairman, I have two matters.
16 The one that we discussed yesterday, and it presented in the
17 materials of the staff, which is this curious business of
18 the distribution in 1836 of the surplus in the Federal
19 Treasury to the then States of the Union, with the result of
20 \$28 million so distributed, a debt carried as a debt by the
21 Treasury until an Act of Congress in 1910 that said, "Well,
22 don't expect to ever get it back."

23 It is still carried. I am sorry to have to tell my
24 colleague from Milwaukee that Wisconsin was not then a
25 state. It comes under the heading of foreign territory as

1 the map will show. There is nothing in this for the State
2 of Wisconsin.

3 It is a curious fact that this all bonded indebtedness
4 of the State governments to this day, they have to record
5 that they owe this money to the Federal government. After a
6 century and-a-half the Treasury, as I understand it, is
7 quite willing to accept that they are never going to get it
8 back. Indeed, they have done that some years ago, and it is
9 time to take off the books.

10 Senator Nelson. This occurred in 1836?

11 Senator Moynihan. Yes, and John C. Calhoun was
12 Chairman of the Finance Committee, commencing a tradition
13 that is unbroken since that day.

14 Senator Nelson. It looks like an urgent matter,
15 doesn't it?

16 (General laughter.)

17 The Chairman. Do you want to do that?

18 Does Treasury have any objection to us taking care of
19 this matter?

20 Mr. Refusa. The Department has been authorized to say
21 that it has no objection.

22 The Chairman. It has no objection?

23 Senator Nelson. Can't we keep it as an account
24 receivable to balance the budget?

25 (General laughter.)

1 The Chairman. It will not make any difference on the
2 budget. It is something that they will never collect
3 anyway. It sounds like a good idea.

4 All in favor say, aye.

5 (Chorus of ayes.)

6 Senator Nelson. No, just because there is nothing in
7 it for Wisconsin.

8 (General laughter.)

9 Senator Moynihan. Mr. Chairman, then I do have one
10 other matter, which is substantive, and that is a proposal
11 that for purposes of general revenue sharing, adjusted
12 population figures as determined by the Census Bureau should
13 be the full population as they calculate it, adjusting for
14 what is called the under-count.

15 This is an adjustment the Bureau Census is quite
16 competent about how to do. They know how to do it. They
17 know what would be involved. They, now, of course, adjust
18 regularly once each year during the intervening census
19 period. This would simply put, I don't want to say an
20 honest count because that would not be appropriate, but a
21 full count.

22 This is an issue which I think we should the standard
23 by. We know what the actual population of our states is,
24 and down to fairly small divisions, we know pretty
25 accurately what the subdivisions. It gets more problematic

1 when you get to smaller numbers. Since we do know, I think
2 that we should use these numbers.

3 I have a table which has been distributed. It
4 illustrates what was the situation for 1970. As you will
5 see, there was an undercount in the population of 2.5
6 percent. But you will also note, if you look at this, that
7 the largest under-count is in those states which we think of
8 as rural, rather than what we basically think of as urban.

9 Missouri, being sort of both, is exactly at 2.5
10 percent. The State of Louisiana is at 3.6 which is the
11 highest under-count. Georgia is 3.4, the next highest. The
12 lowest is Hawaii, which is a very compact area.

13 I will be happy to discuss this at greater length, as
14 the committee thinks appropriate.

15 This would not take effect until 1982, Mr. Chairman,
16 because the actual under-count tabulations will not occur
17 until then.

18 The Chairman. Any further discussion?

19 (No response.)

20 The Chairman. All in favor say, aye.

21 (Chorus of ayes.)

22 The Chairman. Opposed, no.

23 (No response.)

24 The Chairman. The ayes have it.

25 Senator Moynihan. I thank the chairman.

1 Senator Bradley. Mr. Chairman.

2 The Chairman. Senator Bradley.

3 Senator Bradley. Mr. Chairman, I have two brief items
4 to bring up.

5 The first concerns the U.S. Trust Territories, and
6 Puerto Rico and the Virgin Islands. It has to do with
7 whether they shall be included in the general revenue
8 sharing. They have not been to date.

9 Let me make the argument that we are presently under
10 negotiation with parts of the Trust Territories, not the
11 Northern Mariannas, or Guam, or American Samoa, but the rest
12 in the Pacific, about the final disposition of who will
13 defend the area. A long-term compact has been under
14 negotiation for a number of years.

15 I think one of the things that the local residents look
16 to is the degree of commitment from the Federal government
17 to the Trust Territories, and the Commonwealth. I think
18 that clearly one of the ways that we can demonstrate that
19 commitment is by including them in general revenue sharing.

20 So what I would propose to do is to simply authorize
21 that in the year 1982 to 1995 that they would included in
22 general revenue sharing to the level of \$25 million a year
23 for all, and that it would be subject to appropriation, just
24 as we did with the state share. This would, by an anomaly
25 of the way we round things off in the budget process, be

1 within our ceiling, and it would not take any money away
2 from states or from localities.

3 I would suggest that that \$25 million spread over the
4 biggest part of the Pacific and the Caribbean would be money
5 well spent down the line in demonstrating our concern and
6 commitment to those regions that are central to our national
7 security.

8 Senator Moynihan. Mr. Chairman.

9 The Chairman. Senator Moynihan.

10 Senator Moynihan. Mr. Chairman, I would like very much
11 to support Senator Bradley in this matter.

12 The Chairman. That would take \$25 million that would
13 otherwise be available to the other parts of the nation, and
14 spread it among these places.

15 Senator Bradley. No, it would not.

16 Mr. Morris. This would be an additional amount to be
17 appropriated.

18 Senator Bradley. If the Appropriations Committee chose
19 to, they could appropriate it.

20 The Chairman. It is an authorization, then.

21 Senator Bradley. It is an authorization condition.

22 The Chairman. All in favor of that amendment say,
23 aye.

24 (Chorus of ayes.)

25 Senator Byrd. Mr. Chairman, this is something new. It

1 was not done in the original bill.

2 Senator Bradley. It was not included in the original
3 bill. I would make the argument that our relationship with
4 those regions has significantly changed since 1972, and will
5 prospectively be more important to the entire country. It
6 is not a significant amount considering the total amount of
7 revenue sharing.

8 The Chairman. Those opposed, no.

9 (Chorus of nays.)

10 The Chairman. Let's have a show of hands. Those who
11 favor the amendment raise your hand.

12 (Show of hands.)

13 The Chairman. Those opposed raise your hand.

14 (Show of hands.)

15 The Chairman. The ayes have it.

16 Senator Bradley. Mr. Chairman, I have a second matter
17 which I wanted to bring up. It has to do with this formula
18 change that I mentioned yesterday. Let me just explain it,
19 and I would like to get the committee's reaction, and we
20 will make the decision.

21 It has to do with only the counter-cyclical portion of
22 the bill. The purpose of counter-cyclical is to get money
23 to poor communities whenever we are in an economic
24 downturn. The formula that is presently in the bill for
25 counter-cyclical includes the general revenue sharing

1 entitlement. The general revenue entitlement is composed of
2 three factors: population, tax effort, and income level.

3 The general revenue entitlement also has certain
4 restraints, such as you cannot get more than 145 percent of
5 your per capita income in the form of a grant. Secondly,
6 there is a tiering provision which says, basically, that it
7 will be split off at the county as well as the local level.

8 What I propose to do is eliminate those limitations,
9 and have only the three formula elements involved, which
10 are: income level, population, and tax effort, which would
11 have the effect in the counter-cyclical portion only of
12 getting the money to the poor communities that are making a
13 significant tax effort.

14 In the number of areas that would benefit, most of them
15 would be poor rural areas. The poor urban areas would also
16 benefit. But if we were looking at the number of towns that
17 would get slightly more because of this, it would be poor
18 rural areas in far greater numbers than poor urban areas. I
19 make this point simply because I think it is consistent with
20 the intent of the counter-cyclical legislation.

21 The Chairman. Is this the one, Mr. Morris, you said
22 presents a lot of complexity.

23 Mr. Morris. This amendment, operates basically as
24 Senator Bradley has explained. Yesterday afternoon we
25 received a full printout of exactly how it would affect each

1 jurisdiction throughout the United States. Unfortunately,
2 the printouts are rather complex and voluminous.

3 There are six volumes, and they give a comparison of
4 what each unit of government would have received during
5 entitlement period No. 10, which would be Fiscal Year 1979.
6 Then there is a separate printout which shows what the
7 difference in amount they would receive would be under this
8 change for the most recent period as compared to entitlement
9 period No. 10.

10 In attempting to go through it to determine exactly how
11 it would affect each state, it was really not possible for
12 us to do it over last night and this morning.

13 It is something that you may want to look at a more
14 detailed explanation on to see exactly how it affects each
15 state, and one that is presented in a more concise manner
16 than these voluminous printouts that we received.

17 However, as Senator Bradley pointed out, the basic
18 thrust of the proposal would be to eliminate the various
19 constraints that are built into the general revenue sharing
20 formula.

21 The Chairman. Before we go any further in discussing
22 this amendment, let me just ask one question.

23 My thought was that we would take up this Airport and
24 Airway User bill right behind this one. Senator Packwood, I
25 know, wants to be present to discuss that. I think Mr. Dole

1 is interested in that.

2 Might I ask if those on the Republican side of the
3 aisle are going to be prepared to discuss that, or do they
4 want to have that go over, the Airport and Airway User
5 matter?

6 Senator Dole. I hope that we can discuss it.

7 The Chairman. Ordinarily the Republican side of the
8 aisle is extremely well represented, but today I notice you
9 have sparse attendance.

10 Senator Dole. Senator Packwood is on his way.

11 The Chairman. Then we will plan to take that next,
12 right behind this, then.

13 Do you have those volumes available that you are
14 talking about?

15 Mr. Morris. Yes, sir.

16 Senator Ribicoff. Can you tell us in a few words what
17 they show.

18 Senator Bradley. Can you tell us how the pollution
19 bill does in that?

20 The Chairman. I said, when this thing came up
21 yesterday, that I would like to take enough time to see what
22 it is I am voting for, if I vote for that amendment, and
23 that is what I am voting for. The stack is about 18 inches
24 high of what that works out to.

25 I am almost afraid that if we get involved in that that

1 is going to jeopardize the bill, and jeopardize the whole
2 bill, much less the counter-cyclical part. It seems to me
3 that we would be better advised not to get involved in all
4 that on this bill to get to conference.

5 Mr. Brooks is not for the revenue sharing of any sort.
6 It looks to me as though that gives him the ammunition he
7 needs to say, "Look at all that complexity. We can't agree
8 to anything like that." At this point, I don't want to give
9 him that much ammunition, and make it that complex, and
10 adding that much confusion to the issue.

11 Senator Bradley. Mr. Chairman, I would argue that this
12 actually simplifies. I understand that the revenue sharing
13 entitlement is in it. Therefore, everybody is used to it.
14 But there are now poor governments in rather wealthy
15 counties that are being needlessly hurt if we would go to an
16 unemployment rate of 7.5 percent and this counter-cyclical
17 program would be triggered. They would not be getting as
18 much money as they deserve because of these artificial
19 constraints that are a part of the GRS entitlement

20 I don't want to jeopardize the bill, certainly. At the
21 same time, I think that this is a fairly simple thing to
22 explain. The general principal is that if unemployment goes
23 to 7.5 percent, all of these 39,000 units of local
24 government are not going to receive the money, only those
25 units of government that have significant unemployment.

1 When the money gets down to them, you want them to
2 benefit from it to the degree that they are in distress. If
3 you have an artificial constraint that says that first it
4 has to go to the country, and you have to limit it because
5 you cannot get more than 145 percent of your per capita
6 income, you basically artificially limit the amount of money
7 that you can give to the poor community.

8 Maybe it is not the simplest thing in the world, but
9 that is the theory behind it.

10 The Chairman. Let's just call the roll. As far as I
11 am concerned, how the committee wants to act is all right
12 with me.

13 Those in favor say, aye.

14 (Chorus of ayes.)

15 The Chairman. Opposed, no.

16 (Chorus of nays.)

17 The Chairman. The Chair is in doubt.

18 Those in favor of the amendment raise your hand.

19 (Show of hands.)

20 The Chairman. Those opposed.

21 (Show of hands.)

22 Senator Bentsen. Mr. Chairman, it may be a good
23 amendment, but I would not know what I am voting on.

24 The Chairman. It is not agreed to.

25 If you want a roll call, Senator, we will have a roll

1 call.

2 Senator Bradley. Mr. Chairman, I think the committee
3 members have already made their views known, but for the
4 record I would like a roll call.

5 Let me just say that in a place like Texas, places like
6 Billy City in Hidalgo County, and McCallen City would have
7 an increase in the amount of funds that would flow to them,
8 while Dallas and Houston would have a decrease.

9 In Montana, Megar and Blaine County would have a
10 dramatic increase, while Billings and Butte would lose
11 some.

12 The Chairman. The only thing I find wrong with your
13 argument is, Senator, that it is a lot tougher to explain to
14 somebody why you took something away from them, than it is
15 to explain to somebody why you gave him more.

16 It is all right with me, just call the call.

17 Mr. Stern. Mr. Talmadge.

18 Senator Talmadge. No.

19 Mr. Stern. Mr. Ribicoff.

20 Senator Ribicoff. Aye.

21 Mr. Stern. Mr. Byrd.

22 Senator Byrd. No.

23 Mr. Stern. Mr. Nelson.

24 (No response.)

25 Mr. Stern. Mr. Gravel.

1 Senator Gravel. Aye.
2 Mr. Stern. Mr. Bentsen.
3 Senator Bentsen. Present.
4 Mr. Stern. Mr. Matsunaga.
5 (No response.)
6 Mr. Stern. Mr. Moynihan.
7 (No response.)
8 Mr. Stern. Mr. Baucus.
9 Senator Baucus. No.
10 Mr. Stern. Mr. Boren.
11 (No response.)
12 Mr. Stern. Mr. Bradley.
13 Senator Bradley. Aye.
14 Mr. Stern. Mr. Dole.
15 Senator Dole. No.
16 Mr. Stern. Mr. Packwood.
17 Senator Packwood. No.
18 Mr. Stern. Mr. Roth.
19 (No response.)
20 Mr. Stern. Mr. Danforth.
21 Senator Danforth. Aye.
22 Mr. Stern. Mr. Chafee.
23 (No response.)
24 Mr. Stern. Mr. Heinz.
25 (No response.)

1 Mr. Stern. Mr. Wallop.
2 (No response.)
3 Mr. Stern. Mr. Durenberger.
4 Senator Durenberger. Aye.
5 Mr. Stern. Mr. Chairman.
6 The Chairman. No.
7 Mr. Stern. Mr. Moynihan.
8 Senator Moynihan. Aye.
9 Mr. Stern. Mr. Matsunaga.
10 Senator Matsunaga. Aye.
11 Mr. Stern. Mr. Chafee.
12 Senator Chafee. Aye.
13 The Chairman. The Ayes are eight, and the nays are
14 six. Tentatively the amendment is agreed to, depending upon
15 the way the absentees want to record themselves.
16 Senator Danforth. Mr. Chairman.
17 The Chairman. Mr. Danforth.
18 Senator Danforth. Mr. Chairman, I offered an
19 amendment, and I would like a vote on it. If I could, I
20 would just like to take five minutes to explain it again.
21 The point of this amendment would be to place a freeze
22 on the percentage of local tax effect comprised of state
23 severance tax receipts. It would freeze the status quo.
24 What has happened, Mr. Chairman, between 1972 and 1978
25 is that state severance tax receipts increased from \$710

1 million to \$2,033,000,000. The concern is that with
2 decontrol, state severance tax receipts for oil and gas, and
3 also for coal, are going to go up very markedly. The point
4 of this amendment is to freeze the status quo.

5 Without such a freeze, the total revenue sharing pie
6 will, by operation of economics, be continually recut so
7 that more of the general revenue sharing funds will be
8 allocated to states which show a severance tax increase.
9 That increased share of the pie will, in turn, be taken from
10 those states which do not produce minerals, or which do not
11 have severance taxes.

12 It looks to me, in looking at the figures that I have
13 before me, that the states which will do best if severance
14 taxes continue to have an increased proportion of the local
15 tax effort, will be the states of Alaska, Wyoming, New
16 Mexico, Texas, Oklahoma, and Louisiana. It looks to me as
17 though the other states would, in turn, have their share of
18 the revenue sharing diminished.

19 Mr. Chairman, between now and the end of this decade,
20 state tax revenues from decontrol from both severance taxes
21 and oil receipts are going to go up by \$127.7 billion, and
22 three quarters of that amount will go to Alaska, Wyoming,
23 New Mexico, Texas, Oklahoma, and Louisiana.

24 All I am saying by this amendment is that in addition
25 to that tremendous increase in state revenues, we should not

1 permit a recutting of the revenue sharing pie
2 prospectively. We should not permit a constant recutting of
3 the revenue sharing pie so that those states will get a
4 larger proportion of the general revenue sharing, and other
5 states will get a smaller proportion of general revenue
6 sharing.

7 The states could select 1979, 1978, or 1977, whichever
8 is their best figure, for their percentage of severance
9 taxes making up their local tax effort. But it would simply
10 say that for the years ahead, as severance tax receipts are
11 going to be increased, particularly by these states which
12 already are going to do very, very well in their state
13 revenue receipts, they will not get a larger proportion of
14 the general revenue sharing fund.

15 The Chairman. Let me just submit this question.

16 During the next few years in Louisiana, our severance
17 tax collections will go up. But it is estimated that within
18 the next seven years almost all of that oil is going to be
19 gone. It is declining already.

20 So I would assume that during the next few years,
21 Louisiana will be reducing its other taxes because it
22 increases its severance tax. But then that oil is going to
23 be pretty well depleted, and at that point it goes down. It
24 is going to be almost exhausted. At that point, the state
25 is going to put some drastic heavy taxes on its people, just

1 in order to maintain services, quite apart from revenue
2 sharing.

3 It seems to me as though you have sort of a feast and
4 famine situation. I cannot for the life of me understand
5 why a state must be penalized because they have temporary
6 good fortune, when you can look right on the other side of
7 the ledger where the state is going to get the worst of it.

8 Louisiana is just the one state. The gas and oil is
9 being used faster than we can find more of it. Out on the
10 ounter-continental shelf there is a lot of potential, when
11 you get out into 500 or 1000 feet of water, but the stuff
12 that is inside the state is going to be very much depleted.

13 I would say that this is a tax that comes out of the
14 producer. It is not being passed on to the consumer. The
15 price of oil is being determined by the world market price.
16 Insofar as the producer pays it, he gets that much less.
17 The same thing is true of the royalty owners. Goodness
18 knows they are complaining bitterly about that.

19 I would think that it ought to be left up to a state to
20 decide how it wants to raise its revenues.

21 Mr. Bentsen also wants to be heard on this amendment.

22 Senator Danforth. Could I answer those two questions
23 that you put, Mr. Chairman?

24 First of all, this bill, as I understand it, is simply
25 a five-year authorization, so that is all we are talking

1 about.

2 The second is, I am not proposing to penalize any
3 state. I am simply proposing to freeze the status quo --
4 that is all that is involved here -- so that we do not see
5 in the years immediately ahead, the five years immediately
6 ahead, a recutting of the revenue sharing pie by which the
7 states which are going to have a very marked increase in
8 their state revenues are going to get more of general
9 revenue sharing, and other states are going to get
10 relatively less.

11 The Chairman. I am not sure you are right about that.
12 This increased income measures against the per capita
13 income.

14 I would like to ask Mr. Morris this question.

15 Mr. Morris, isn't it correct that Louisiana's share of
16 revenue sharing, for example, has been actually going down,
17 not because of the severance tax matter, but because the per
18 capita income has been coming up. So the increase in
19 mineral income in the state has been major item in
20 increasing the per capita income. That, in turn, is the key
21 item that is pushing Louisiana's share down, and not up.

22 Mr. Morris. Between 1975 and 1980, the total amount
23 distributed to the State of Louisiana has declined by 10.4
24 percent.

25 The Chairman. So we are not going up, we are going

1 down.

2 Senator Bentsen. Mr. Chairman, if this is not a
3 private debate, I would like to get in on it.

4 The Chairman. Senator Bentsen.

5 Senator Bentsen. I have some interest in this issue.

6 When my friend from Missouri talks about dividing up
7 the resources of the country, and redistributing them, I am
8 not sure where that stops. If we are talking about forest
9 land, or we are talking about mineral land, or we are
10 talking, perhaps, even about climate. This summer, we would
11 have liked to share the northern states' climate.

12 Let's talk about how we tax, and whether this is an
13 exportable tax or not. Sixty-two percent of the oil that we
14 produce in Texas is used in Texas. Sixty-two percent of
15 it.

16 If you raise the severance tax, do you think you raise
17 the price of oil? No. That is set by the OPEC countries
18 just like the chairman said.

19 So who pays for it? Well, that is paid by the
20 producers in our state. It seems to me that it ought to be
21 a local decision.

22 We have a severance tax on oil that is a little over 4
23 percent, as I recall. We sure might have to raise it, but
24 again it will be paid for by Texans if we raise it because
25 the price of oil is not determined by Texans. Thirty years

1 ago it was, but that is not the case now. So the price of
2 oil stays flat. But we ought to be able to decide.

3 If that is not the case, then why don't we put a
4 limitation on the New York Stock Exchange's tax on the
5 exchange of stock? It seems to me that that is an
6 exportable tax. But I don't think that we ought to do
7 that.

8 Why don't we put a limitation on the taxes put in
9 Detroit on automobiles? I don't think that we ought to do
10 that. I think that this is a state decision and we ought to
11 be allowed to accomplish that.

12 We have a depleting resource. Our oil reserves are
13 headed downhill. If we think the oil producers ought to be
14 carrying a bigger share of the burden of educating our
15 children, and the rest of it, I think that is for us to
16 decide. I think that this is particularly true where we
17 don't influence the price of oil to the rest of the nation.
18 We can't because the OPEC countries, unfortunately, have
19 that as their prerogative in this day and time.

20 So I think you are talking about a real invasion of the
21 ability of the local people to decide where the tax ought to
22 be paid. I think that it is a decision of the state if it
23 is done, and I certainly oppose the amendment.

24 Senator Danforth. Mr. Chairman.

25 The Chairman. Senator Danforth.

1 Senator Danforth. The question is very simple and can
2 be stated in one sentence. It is, whether or the next five
3 years the states which will have a large increase in their
4 revenues by virtue of decontrol of oil, will also get a
5 larger share of general revenue sharing funds at the expense
6 of other states.

7 Senator Gravel. Mr. Chairman.

8 The Chairman. Mr. Gravel.

9 Senator Gravel. First off, I think the assumption that
10 it is revenue sharing is a bit euphemistic. Probably the
11 best example of what may be over-criticism right now,
12 Alaska, we have not raised or been capricious with our
13 severance tax, no more than anybody else.

14 The state, recognizing its responsibilities to its
15 citizens, sought to levy a tax to get its fair share of a
16 resource. I don't hear any gnashing of teeth, and I have
17 tried in the past to try and seek some type of indexing with
18 respect to taxes because of high cost areas.

19 Our citizens in Alaska, on an average, pay twice as
20 much personal federal income tax than do the citizens of
21 your state. That is a form of revenue sharing. We are
22 paying more in an unfair fashion because we are in higher
23 brackets because of high cost areas.

24 Now that we have a resource that is going to be gone 25
25 years from now, and will have developed a society that will

1 be there, we will have no recourse but to go back to severe
2 taxation at the local level.

3 I just emulate the argument of the chairman. That is,
4 there is a time when we can make the capital improvements in
5 our society, and that is when we have a resource that is
6 being sold. Now, if there was some outlandishness, or some
7 capriciousness, but all the states are tracking about in the
8 same area of severance tax, and I am sure all the states are
9 tracking about the same in terms of manufacturing taxes.

10 So, if we were to make a study of many of the
11 manufacturing activities that are pursued in the State of
12 Missouri that we pay taxes on because we buy our products --
13 and everything we consume in my state is imported -- so
14 maybe we should be exempt from that because it is unfair
15 advantage that is being taken of us.

16 I would merely want to state that I think to
17 characterize this as revenue sharing is really not so, and
18 to have it rest on the fact that we are deregulating energy,
19 which should never have been regulated to begin with, and
20 you would probably be paying less for energy right now with
21 the surpluses we have had it not been for the government
22 propping it up.

23 Senator Baucus. Mr. Chairman.

24 The Chairman. Senator Baucus.

25 Senator Baucus. Mr. Chairman, I frankly do not find

1 this proposal by the Senator from Missouri very thoughtful.

2 I support the reasons already mentioned to the amendment.

3 Frankly, I think that it is outrageous.

4 First of all, it is really, in effect, an attempt by
5 Congress to start limiting state taxes. It is not directly,
6 but in effect that is what it is. I don't think that that
7 is the road we want lightly to start walking down. It is a
8 very serious matter and for that reason alone I would
9 strenuously oppose it.

10 Second, the people in opposition to the amendment have
11 alluded to other state taxes. Frankly, I think that this is
12 another serious deficiency in this proposal in that it
13 focuses only on state severance taxes. To me that means
14 that this amendment is not very thoughtful. It has not
15 really been thought through.

16 Through the next five years the states are going to
17 impose various other kinds of taxes that are going to have
18 different kinds of effects. I think that it is very unwise
19 to limit in the first place, which is very wrong, but if it
20 is a limit at all only on one kind of tax among many kinds
21 of taxes that states might levy in the next several years.

22 I think that it would be very, very unwise for us to
23 adopt this amendment.

24 The Chairman. Senator Durenber.

25 Senator Durenberger. I wonder if I might direct a

1 clarifying question to the Senator from Missouri. It deals
2 with the issue of depletion. I think we can all be very
3 sensitive to whether we are talking about oil or gas, or
4 coal. But in some cases, at least, in some states, severance
5 taxes go into the trust fund, reflecting the nature of the
6 depleting resource, the need to provide for that time when
7 the resource is not available.

8 I am not sure how the amount of severance taxes that
9 will go into your capping formula are computed, but suppose
10 that a proportion of that annual severance tax goes into a
11 trust fund, or suppose that it all is going into the trust
12 fund, are you taking into consideration here the amount of
13 money that is being spent out of that trust fund in the
14 current; or are you taking only the amount of actual
15 severance taxes collected in a particular year to come up
16 with the statistic we are talking about.

17 Senator Danforth. No, I am not trying to put any
18 condition or have any judgment on how states spend or save,
19 or whatever amount that they would produce by severance
20 taxes. All I am saying is that it is a very simple point
21 that the reason for general revenue sharing, as I understand
22 it, is just to take money from a state, bring it to
23 Washington, and send it back to the states, absent handling
24 charges. But that the whole theory of revenue sharing has
25 to do with providing states with resources by which they can

1 operate.

2 It would seem to me that to would readjust the amount
3 of revenue sharing that would be distributed to the states
4 to send relative more to states that are going to do very
5 well economically, and relatively less to states like New
6 York and New Jersey, Rhode Island and Missouri, which have
7 real problems. That to me is outrageous.

8 Senator Baucus calls my amendment outrageous,
9 thoughtless, frivolous, and all kinds of perjorative
10 statements about it. All I am saying is that it just seems
11 to me that there should some consideration in revenue
12 sharing in not letting the rich get richer and the poor get
13 poorer. That is the only point.

14 The Chairman. Why don't we vote. We could debate this
15 thing all week. We will be debating it on the floor
16 anyway.

17 Let's call the roll.

18 Senator Bentsen. Let me just make one comment, when he
19 talks about the rich getting richer, and the poor getting
20 poorer.

21 The per capita income, and I have it right here, shows
22 Texas still slightly below the nation's average. Then I
23 have the one that talks about the millionaires --

24 Senator Danforth. But that is not the issue.

25 Senator Bentsen. No, but that was your statement, "the

1 rich get richer, and the poor get poorer."

2 Senator Danforth. I am not talking about individuals.

3 Senator Bentsen. Then we get into the millionaires,
4 and there are sure a lot more in a lot of other states than
5 there are in Texas.

6 The Chairman. Let's call the roll.

7 Senator Danforth. Mr. Chairman, just a minute.

8 That is not the point I am making. The point that I am
9 not making is how many individuals are wealthy, or where
10 they are located. The question is how the state governments
11 are doing. That is the issue of general revenue sharing,
12 and not how individuals are doing.

13 The Chairman. Let's call the roll.

14 Mr. Stern. Mr. Talmadge.

15 Senator Talmadge. No.

16 Mr. Stern. Mr. Ribicoff.

17 Senator Ribicoff. Aye.

18 Mr. Stern. Mr. Byrd.

19 Senator Byrd. No.

20 Mr. Stern. Mr. Nelson.

21 (No response.)

22 Mr. Stern. Mr. Gravel.

23 Senator Gravel. No.

24 Mr. Stern. Mr. Bentsen.

25 Senator Bentsen. No.

1 Mr. Stern. Mr. Matsunaga.
2 Senator Matsunaga. No.
3 Mr. Stern. Mr. Moynihan.
4 Senator Moynihan. Yes.
5 Mr. Stern. Mr. Baucus.
6 Senator Baucus. No.
7 Mr. Stern. Mr. Boren.
8 (No response.)
9 Mr. Stern. Mr. Bradley.
10 Senator Bradley. Aye.
11 Mr. Stern. Mr. Dole.
12 Senator Dole. No.
13 Mr. Stern. Mr. Packwood.
14 Senator Packwood. Aye.
15 Mr. Stern. Mr. Roth.
16 (No response.)
17 Mr. Stern. Mr. Danforth.
18 Senator Danforth. Aye.
19 Mr. Stern. Mr. Chafee.
20 Senator Chafee. Aye.
21 Mr. Stern. Mr. Heinz.
22 Senator Danforth. Aye.
23 Mr. Stern. Mr. Wallop.
24 Senator Dole. No.
25 Mr. Stern. Mr. Durenberger.

1 Senator Durenberger. Aye.

2 Mr. Stern. Mr. Chairman.

3 The Chairman. No.

4 Mr. Stern. Mr. Boren.

5 Senator Boren. No.

6 The Chairman. Eight ayes and 10 nays. The amendment
7 is not agreed to.

8 Shall we vote to report this bill?

9 Mr. Morris. Mr. Chairman, we have one more issue to be
10 decided by the committee.

11 Yesterday the committee agreed to provide a
12 counter-cyclical assistance program of \$1 billion with a
13 national trigger when unemployment goes over 7.5 percent the
14 program would go into effect.

15 The issue to be decided by the committee is whether
16 this program is to be over the same five-year period as the
17 extension of general revenue sharing or for some other
18 period.

19 Senator Bradley. Mr. Chairman, it was the intent, and
20 I thought that the committee agreed that it would be a
21 five-year authorization consistent with the entire
22 authorization for general state and local.

23 The Chairman. Without objection, it will be a
24 five-year authorization.

25 Are we ready to report on this bill?

1 Mr. Stern. Mr. Chairman, I am assuming that what you
2 are talking about is reporting S.2574 which was the original
3 bill that Senator Moynihan had introduced, with this as an
4 amendment in the nature of a substitute, because there is no
5 House bill that has passed yet.

6 The Chairman. All right.

7 Senator Bradley. That is all right with me.

8 Senator Bentsen. Let me understand, Mr. Chairman. Do
9 we have time to consider on what vehicle will we consider
10 some other extensions of present tax laws, because I have
11 some that I want to bring up that are purely extensions.

12 Mr. Stern. You have acted in the last couple of days
13 to take the substance of about four minor tariff bills, and
14 put them on another bill. So you will have some tariff bill
15 numbers as vehicles if you want to report some extensions as
16 a separate measure.

17 Senator Bentsen. I have some, and I would like to know
18 when it is appropriate that they be considered.

19 The Chairman. I would suggest that we not put them on
20 this one right here. On this one we would go to conference,
21 as I understand it, with the Government Operations
22 Committee. Is that right?

23 Mr. Stern. That is correct, Mr. Chairman.

24 Senator Bentsen. Can I give you a technical amendment
25 the Treasury supports, as I understand it, and that is

1 double tax when people switch from the accrual method to the
2 installment method. I think Treasury is supporting that.

3 Mr. Stern. Mr. Chairman, I think the problem is that
4 when you go to conference, if you did not have this kind of
5 an amendment, you would be going to conference with a
6 different committee in the House, and the Ways and Means
7 Committee would not be involved at all.

8 Senator Bentsen. All right.

9 Senator Dole. Mr. Chairman, before we report the bill,
10 I was not here when you discussed Senator Moynihan's
11 amendment. I am not certain if I oppose it or not, but I
12 want to reserve the right to raise questions on the floor.
13 It seems to me that it may favor urban areas, which complain
14 of undercounting. It also gives a lot of power to the
15 Census Bureau. It might also create some uncertainty in
16 many jurisdictions.

17 There was not much discussion of it when it was
18 adopted, and I want to reserve the right to raise
19 appropriate questions on the floor.

20 Senator Moynihan. Mr. Chairman, may I suggest that in
21 the illustrated table of the Finance Committee, it is rural
22 areas and rural states that have the highest level of
23 under-count, and that is the way it turns out.

24 Senator Dole. There would not be as many people
25 involved probably in the under-count. It would probably be

1 ten instead of nine. Anyway, I did not want to surprise you
2 on the floor.

3 The Chairman. All in favor of reporting the bill say,
4 aye.

5 (Chorus of ayes.)

6 The Chairman. Those opposed, no.

7 (No response.)

8 The Chairman. The ayes have it. The bill is ordered
9 reported.

10 Mr. Stern. Mr. Chairman, there is one additional
11 item.

12 Since there is an authorization for appropriations in
13 Fiscal Year 1981 in relation to the counter-cyclical
14 program, you would need to report out a resolution
15 requesting a budget waiver.

16 Senator Bradley. Could I raise that.

17 Is there a budget problem after we move the trigger to
18 7.5 percent?

19 Senator Bradley. Any appropriation of appropriations
20 under the Budget Act is supposed to be reported before May
21 15th of the year preceding that year. Since this is after
22 May 15th, you would need a waiver.

23 The Chairman. We shouldn't have much difficulty
24 getting that.

25 Mr. Stern. I don't know that you would. A resolution

1 would simply request waiving that point of order. This is
2 done from time to time on the Finance Committee bills.

3 The Chairman. Without objection, we agree to that.

4 (Document F follows:)

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1 The Chairman. Is the Airport Tax next?

2 Mr. Stern. That is correct.

3 The Chairman. Is that the next one on the agenda?

4 Mr. Stern. Yes.

5 Senator Ribicoff. Mr. Chairman.

6 The Chairman. Senator Ribicoff.

7 Senator Ribicoff. I will not be here tomorrow when you
8 meet on the installment sales. I have no amendment, I just
9 want to make a statement about this non-controversial
10 stuff. If I could take one second before you take this up.

11 The Chairman. Senator Ribicoff wants to make a short
12 statement about installment sales.

13 Senator Ribicoff. Mr. Chairman, it looks we will not
14 reach installment sales today, and I will not be here
15 tomorrow. I would just like to make a very brief
16 statement.

17 The installment sales bill is an excellent bill and I
18 support its passage. Recently, however, it has been brought
19 to my attention that the code section applicable to
20 installment sales may have an unintentional and inequitable
21 effect upon life insurance companies.

22 Specifically I am concerned (d)(5) of 453. This matter
23 involves an extremely complex area of tax law and
24 shareholders law. I only bring this up now because if an
25 equitable accommodation can be reached with Treasury and the

1 staff before this bill comes to the floor, so it will not be
2 controversial, I will ask the committee to consider this
3 matter, and seek to have an amendment reported out as a
4 committee amendment to be attached on the floor.

5 Mr. Shapiro. Senator, as you know, the staff is
6 working with your staff on that particular problem, to the
7 extent that an accommodation can be worked out.

8 Senator Ribicoff. I know that, and if it cannot be
9 worked out, it will be dropped. I just want to make sure
10 that if the staff and Treasury reach an accommodation, it
11 can be offered as a committee amendment. That is the only
12 request I have, Mr. Chairman.

13 The Chairman. Fine.

14 Senator Ribicoff. Thank you very much.

15 The Chairman. Now let's have Mr. Shapiro explain what
16 the Airport and Airway Improvement Act is about.

17 Mr. Shapiro. Mr. Chairman, the item is in your
18 folder. It is item No. G of the staff materials. As you
19 may know, the Airport and Airway Revenue Act was passed in
20 1970. It provided for the ticket taxes which were at an 8
21 percent level. Prior to that time it was a 5 percent tax.

22 There were also taxes added on international
23 departures, which is the so-called \$3.00 head tax. In
24 additional there was the airfreight tax, which is tax on the
25 air transportation of property, which was at a 5 percent

1 level.

2 Then there was a series of new taxes adopted dealing
3 with the fuels for non-commercial aviation which was
4 increased from four cents a gallon level up to seven cents,
5 and also an aircraft use tax which is essentially a
6 registration tax, and also a tax on tires and tubes.

7 If you will look on the second page of your staff
8 material G, you will see a summary of the schedule of taxes,
9 and that is at the bottom of page 2 of the materials, and
10 you will see the schedule which shows the present rates, and
11 then to the right of that is the rates that are scheduled to
12 expire.

13 As indicated, the tax and the trust fund were created
14 in 1970 for a 10-year period. That ten-year period expired
15 on June 30th of 1980. In view of the fact that there was
16 not sufficient time for the Congress to deal with the
17 subject at that time, there was a three-month extension
18 agreed to by the Congress. Therefore, that extension
19 expired on September 30th. If there is no further extension
20 of these taxes, the rates in the right-hand column will be
21 applicable effective on October 1st.

22 The Administration has proposed essentially extending
23 the trust fund for 10 years, and the taxes to be extended at
24 the existing levels. The Ways and Means Committee, however,
25 extended the program for a five-year period. Essentially,

1 they extended the ticket tax at the 8 percent level for two
2 years, through September 30th, 1982, and then they let the
3 tax go down to five percent with an understanding in the
4 committee report that at that particular the committee
5 expected that the Congress would have a complete review of
6 the financing of the trust fund and the airway system to
7 determine to what extent the taxes should be set.

8 In other words, it was not that they were saying that
9 it should be at a 5 percent level, but to have the 8 percent
10 tax continued for two years, and at which time the 5 percent
11 level would come into play, but in the meantime there would
12 be a study by the Departments of Treasury, Transportation,
13 consulting with the staff of the Joint Tax Committee, in
14 order to determine at what level the tax should continue for
15 the continuation of the program.

16 The rest of the taxes were continued by the Ways and
17 Means Committee bill as is, except for the use tax which was
18 repealed for non-commercial aircraft. There are also some
19 so-called technical modifications which were supported by
20 the Treasury, essentially, and agreed to by the committee as
21 well.

22 The House has not yet passed the bill. It has been
23 agreed to by the Ways and Means Committee. It has been
24 reported. It is waiting for House action. The particular
25 problem that exists right now is that we have just a little

1 over a couple of weeks before the taxes expire, and it may
2 be that the committee should make its determination so that
3 when the Houses passes the bill, you are ready for floor
4 action.

5 I should point out, however, that there is a big
6 difference between the two Houses in the authorization
7 levels. The House continues essentially the same
8 authorization levels that existed -- the Administration
9 essentially asked for that -- plus an increase in operations
10 and maintenance to be paid out of the trust fund.

11 The Senate, however, has already passed its bill
12 dealing with the authorization, and the major change in that
13 is that they have defederalized some 70 airports, and as a
14 result reduced the amounts that are required as
15 authorization in the trust fund.

16 As a result of that, the recommendations from the
17 Commerce Committee, and proposals that were made in this
18 committee, sponsored by Senator Packwood, would be to reduce
19 the ticket tax from 3 percent to 2 percent, and
20 corresponding decreases in the other taxes, as a result of
21 the reduction of the need in the trust fund because of the
22 reduced levels of the authorizations.

23 The Secretary of Transportation, Secretary Goldschmidt
24 is here to present the Administration's case with regard to
25 the position of the trust fund. What I have just tried to

1 do is to give you a general overview, but there are some
2 other details and some other proposals as well.

3 You may want to hear from the Secretary at this time.

4 Senator Packwood. Mr. Chairman, may I ask a question
5 before the Secretary testifies.

6 As I understand it, our function here is not to reargue
7 whether or not we should defederalize airports. Our
8 function here is to decide what the appropriate tax level is
9 to carry out and make sure that there is enough money in the
10 trust fund to carry out the programs that Congress sets.

11 Mr. Shapiro. That is correct.

12 Let me comment a little more in the sense that prior to
13 1970 there was no trust fund. There was essentially a 5
14 percent ticket tax, and everything else came out of general
15 revenues. The trust of 5 percent went into general revenues
16 and all expenditures for the airway system was out of
17 general revenues.

18 In 1970 the Congress wanted to set up a trust fund
19 essentially for safety and other airway purposes, airports
20 as well. Therefore, you had a structure on a 10-year
21 program for a trust fund and authorization. There are some
22 indications that there were some legislation intent to use
23 some of the operations and maintenance from the fund, but
24 that was not part of the statute as such.

25 The way the Finance Committee and the Ways and Means

1 Committee, essentially the tax writing committees, generally
2 function with respect to dual-jurisdiction issues of trust
3 funds is that the authorizing committees establish the
4 amounts of money they need for their programs, and the tax
5 writing committees provide those funds, but they have some
6 control over it in that the tax writing committees put some
7 limitation as to what those funds can be used for.

8 If the tax writing committees are going to raise those
9 funds, they want to put overall limits. In other words, the
10 tax writing committees do not indicate by line item as to
11 what the funds will be spent for, that is authorizing
12 committees, but you handle the broad categories.

13 For example, you may set that the trust fund can be
14 used for safety, but it is up to the authorizing committees
15 to specify what types of functions that would categorize for
16 expenditure from the fund especially for safety.

17 Senator Packwood. The Senate or the Congress has
18 decided that we don't want to use any money for operation
19 and maintenance, or we want to use \$100 million. It is not
20 the function of this committee to decide that we want to use
21 \$500 million for operation and maintenance.

22 Mr. Shapiro. That is correct. This committee does not
23 deal with what should come out of the trust fund, or how
24 much. That is the authorizing committee. This committee
25 clearly has the determination as to the taxes, whether or

1 not they want to raise taxes that do not go into the trust
2 fund. But as far as the needs of the trust fund, that has
3 generally been set by the authorizing committees, and the
4 tax writing committees correspondingly match that amount to
5 go into the trust fund.

6 Senator Packwood. Mr. Chairman.

7 The Chairman. If I may, I would like to call on
8 Secretary Goldschmidt to explain the position of his
9 Department, or the Administration's position if he is in a
10 position to speak for the Administration on it. Then I will
11 call on Senator Packwood and other Senators.

12 Secretary Goldschmidt. Mr. Chairman, let me make four
13 or five quick points. I think that this need not be
14 belabored.

15 There is a surplus in the trust fund for reasons that
16 we can get into in a moment, if you like. But it is this
17 surplus which is the bone of contention, and which drives
18 much of the discussion about where we should go with the
19 tax. I would like to suggest the following to you today as
20 the Administration's position, and I think there is
21 considerable logic behind it.

22 First, the proposed tax reduction to 2 percent will
23 very quickly set this committee and the Congress up for a
24 tax increase again for reasons which Assistant Secretary of
25 Budget, Mort Downey, from our Department can lay out in

1 detail by looking at both budgets that have been developed
2 by the Senate Committee of jurisdiction, that Bobby Shapiro
3 referred to, and by both committees in the House.

4 Second, the reduction of the tax here in fact decides
5 some of the questions which we think are still ahead of us,
6 and they include: airport defederalization which has been
7 raised and dealt with by the Senate Commerce Committee; the
8 question of operations and maintenance, which we think is
9 very important, that the trust fund money should be used for
10 that purpose.

11 Third; it really assaults the whole cost recovery
12 concept that I think this committee has stood by before in
13 terms of cost recovery from the air traveller. We think it
14 will be shelved by a tax reduction of this size. Frankly,
15 it is possible you will also decide both the size of the
16 airport aid program, and the facilities program, in effect
17 deciding safety issues here that would be inappropriately
18 considered at this point.

19 Fourth, the air traveller who is often travelling with
20 a business tax deduction, and by our studies at least is
21 shown to be more affluent than the national average citizen,
22 in effect will be subsidized by the income tax paying
23 non-travelling citizen by the outcome of this reduction.

24 Fifth, the surplus in the trust is there because
25 currently there are \$1.3 billion in annual costs in the

1 aviation system out of a total of about \$2 billion that are
2 attributable to commercial travellers and that are not being
3 paid from trust funds that are being generated by users. I
4 am including in that the users in general aviation.

5 The bill that the Senate Commerce Committee has sent,
6 and will eventually perhaps go to conference, 92 percent of
7 the cost of general aviation and two-thirds of the cost of
8 commercial aviation under the Senate bill would be paid for
9 by the general taxpayer.

10 So let me suggest this to you. We believe it
11 inappropriate to reduce the tax. There are considerable
12 policy issues ahead that have not been decided by the House,
13 and certainly have not come to conference.

14 While we understand that there is a surplus there, we
15 would like to suggest to you today that the surplus is there
16 because, in fact, those funds are not being used in a manner
17 consistent with cost recovery. The travellers have paid
18 those bills.

19 That this, in fact, is not a consumer bill because in
20 the end the travelling public has paid these monies for
21 purposes of supporting the system and cost recovery.
22 Ultimately, we will end up with a tax increase income taxes
23 or some place else to continue to paying the bill.

24 So we would strongly urge that the committee not accept
25 these proposed reductions.

1 Senator Packwood. Mr. Chairman.

2 The Chairman. Mr. Packwood.

3 Senator Packwood. Mr. Chairman, almost everything that
4 the Secretary argues for is not under the jurisdiction of
5 this committee. Defederalization, authorizing O&Y, whether
6 we should undertake a greater portion of funding for the
7 FAA, which is part of the cost airlines, those are not
8 within this committee's jurisdiction. Those issues in the
9 Senate have been decided when we passed S.1648 by about a
10 two to one margin.

11 The issue is now that if we keep the tax level as it
12 is, this trust fund will go to a surplus of about \$11
13 billion by 1985, based upon the bill that has passed the
14 Senate. There is about \$3.8 billion in the trust fund right
15 now.

16 So the issue becomes, are we going to tailor the taxes
17 which are in this committee's jurisdiction to pay for
18 roughly what the Senate has said should be paid for from
19 this trust fund. If we are going to keep the taxes at a
20 substantially higher level than that, and run up a surplus
21 of \$4, \$5, \$6, or \$8 billion -- I can tell you frankly the
22 only conceivable justification, and it is very minor, the
23 only conceivable justification for that is on a unified
24 budget, it reduces your deficit.

25 You are not using it for anything else. You can't use

1 it for anything. But when you add up the columns on the
2 right, and the columns on the left, you are using trust fund
3 surpluses to balance that on the books, general fund
4 deficits.

5 I don't think that we should continue the taxes at this
6 level. I think they ought to be lowered to accommodate what
7 the Senate has passed. Then when we get to conference with
8 the Ways and Means Committee, and the Ways and Means has a
9 relatively high extension in comparison to what I am
10 suggesting, and what Senator Cannon and I are sponsoring,
11 when we get there we can see what the situation is. We can
12 see what the House has done with the substance of what the
13 money is to be used for. But I do not think, from a
14 standpoint of government, you can justify these immense
15 surpluses.

16 Think of yourself if you were in any state legislature,
17 and you had a surplus of \$2, \$3, or \$4 billion, you would be
18 strung up if you did not return that to the public.

19 This trust fund is going to grow and grow, and grow,
20 unless there is a drastic reduction in the taxes. The
21 Administration does not like the bill we have passed. They
22 would like to fund almost all of the FAA out of the trust
23 fund if they could, because they would not have to fund it
24 out of general revenues. But that trust fund was not
25 intended to be used for that purpose.

1 The Chairman. I personally feel that if we cut this
2 tax, we will have to make the money back somewhere else. I
3 have a lot of people complaining to me about taxes, but in
4 the last four years I have not had anybody come to me and
5 complain about this tax. This is the only one I have not
6 had somebody complain about.

7 Senator Packwood. I think there are some people in the
8 audience who are complaining about this tax.

9 The Chairman. You have got some people in the airline
10 business, bless their heart, there they are trying to get
11 more routes all the time. I admire them for doing that.
12 They are enterprising people. Some of them feel, and I
13 would ask Mr. Goldschmidt if this is not right, if they can
14 cut the tax, they can raise the prices that they are
15 charging, and it will not be an overall increase to the
16 public. They will catch that money back by raising their
17 rates.

18 I see you nodding, Mr. Goldschmidt.

19 Secretary Goldschmidt. It is a very strong
20 possibility.

21 The Chairman. That is one of the things in people's
22 mind.

23 If you think in terms that if you reduce this tax, a
24 dollar is a dollar and you will have to get it back
25 somewhere else, why do you want to cut this one and put more

1 burden on the income tax.

2 Senator Packwood. Why do we have to get it back dollar
3 for dollar if you are not going to spend it.

4 The Chairman. You just mentioned the consolidated
5 budget, and you are familiar with it just the same as I am,
6 I personally think that the airway and the airline industry
7 ought to pay the whole cost. As the Secretary mentioned,
8 the people who travel the airlines are a class above the
9 average in per capita income.

10 Generally speaking, here is a tax on affluent America
11 to pay for what affluent America is enjoying. Then why
12 shouldn't they pay for it?

13 Senator Packwood. Mr. Chairman, we will come back to
14 my question.

15 You can talk about affluent America, and that is fine.
16 But if we are not going to spend this money, why collect
17 it?

18 The Chairman. We are spending it.

19 Senator Packwood. No, we aren't. At the rate we are
20 going, we will have an \$11 billion surplus in this fund by
21 1985.

22 The Chairman. By the time you get through adding both
23 columns of figures up, and come down to it, we have a great
24 big deficit. We have a big budget that we are trying to
25 balance, and we are in the red. Goodness knows we Democrats

1 heard about that from the other side of the aisle.

2 It seems to me that here is a source of revenue that
3 people who can well afford to pay it, a lot of them are
4 paying out of expense accounts anyway. It is generally
5 speaking a tax on people who can well afford to pay. I
6 would simply say, why do you want to cut that one and put
7 heavier reliance on the income tax, which is getting to the
8 point where you are taxing the poverty brackets.

9 Senator Packwood. I will come back to this question,
10 Mr. Chairman. Is it the jurisdiction of this committee to
11 decide what this money is to be spent for?

12 The Chairman. I agree that it is within our
13 jurisdiction to decide how much tax we are going to levy. I
14 will agree with you about that.

15 Senator Packwood. It is not within this committee's
16 jurisdiction to say, let's transfer it to the general fund,
17 and pay \$7 or \$8 billion of the deficit. That is not the
18 function of this committee as far as this fund is
19 concerned.

20 The Chairman. It is our burden to try to raise enough
21 dough so this government will not go broke.

22 Senator Byrd. Hell, this government is broke.

23 (General laughter.)

24 The Chairman. If we set the rate enough, if we can get
25 it with taxes, we will have to borrow it.

1 In any event, we are still here. My thought is that we
2 ought to just extend it for a year, and take that year to
3 decide what we want to do about the matter.

4 I think that this is what you recommend, Mr.
5 Secretary.

6 Secretary Goldschmidt. It is, in fact, Mr. Chairman,
7 because in fact on the very subject that Senator Packwood
8 points out, and Senator Cannon and the committee have not
9 acted favorably on our proposal to put operating and
10 maintenance fund in the Senate bill. The House bill
11 includes \$800 million to do that very thing. If the House
12 bill were accepted, ultimately we would be back here for a
13 tax increase.

14 Senator Packwood. No, you wouldn't. There is a \$3.8
15 billion surplus in the fund now. If the House bill is
16 accepted, we can pay it out of that surplus for the next
17 year, and we will not be back for a tax increase for that
18 money.

19 Secretary Goldschmidt. Senator Packwood, if you want
20 to go through the numbers, we would be happy to do it. But
21 in a couple of years we are going to be back here saying to
22 you, projecting that in a year or so that trust fund will be
23 gone, and we will need the money. Meanwhile, it is possible
24 that the airlines will have pocketed the difference by
25 raising their ticket prices, and we will have paid for the

1 costs out of income taxes instead of out of the trust fund.
2 We will be back raising this tax or something else. We
3 don't think that that is very prudent.

4 Senator Packwood. You are presuming that the Congress
5 is going to adopt all of the spending provisions you want.

6 Secretary Goldschmidt. No, we are not. I am just
7 saying that we think that it is prudent for this committee
8 to assume that that is a possibility. A year's extension
9 certainly would leave the issue open.

10 Senator Packwood. Talk about prudence. We have \$3.8
11 billion in the fund now. If we don't pass anything, as of
12 October 1 of this year the ticket tax drops to 5 percent,
13 the gallonage drops from seven to four cents. We will still
14 make money this coming year.

15 There is nothing imprudent if we did nothing. It is
16 kind of an ad hoc year basis as to what do you do, and I
17 think that it is an unwise way to go, and I am not
18 recommending it. But catastrophe is not going to happen in
19 the next 12 months or 18 months if we were to pass either
20 what Senator Cannon and I suggest or do nothing, or a
21 compromise that I would suggest, which I suggest only
22 because the budget that we have assumed for 1981 has assumed
23 an extension of those taxes through 1981.

24 The frustration comes when you approach the end of the
25 year, and the airlines are selling tickets, and they don't

1 know whether the tax is going to be 8 percent, 5 percent, 2
2 percent.

3 People buy their tickets for vacation two and three
4 months ahead of time, and the last thing you want to do if
5 you are an airline, or anybody else, is to go back to the
6 passenger and say, "By the way, when we sold you the ticket
7 last December, the tax was only 2 percent, but now it has
8 gone to 8 percent. We have got to collect some more
9 money."

10 I could conceivably support a compromise that would
11 leave the taxes where they are for Fiscal Year 1981, and
12 then go down to the levels that are recommended of 2 percent
13 on the ticket tax from 1982 to 1985, and 1.25 for the
14 waybill tax, and \$2.00 for the international departures.
15 But I think just to extend this for a year, and nothing
16 else, is unjustified.

17 Senator Bentsen. Mr. Chairman, we really have some
18 problems at some of our airports around the country. I
19 certainly disagree with the idea that we are not utilizing
20 these funds to the extent we should. It is a user tax, and
21 we ought to be appropriating the funds, instead of seeing it
22 used as a savings and loans. But if you do cut this tax,
23 then there is no chance of winning that argument on the
24 other side, and getting the modernization that we need to
25 bring about to our airports in this country as traffic

1 increases.

2 I really get concerned as to what is happening in the
3 way of safety and the problems we are seeing with the
4 terminals today, and the inconvenience that is brought about
5 by the congestion. So I would rather take my chance on
6 seeing that we can convince the Senate and the House to do
7 some of things in the way of assisting the modernization of
8 these airports, and continue the tax.

9 Senator Packwood. Mr. Chairman.

10 The Chairman. Mr. Bradley had his hand up.

11 Senator Bradley. Mr. Chairman, I just want to voice my
12 strong support for extension of the present tax. If you
13 want to know where you might spend some of that surplus, you
14 ought to try to land at Newark Airport, or laGuardia, or
15 Kennedy, when planes crash, as they do from time to time, in
16 resident development. You could see, I think, a very big
17 place where you could spend some of those trust fund monies
18 that are for the purpose of safety and capacity extension.

19 But the irony in this bill, S.1648, which I think the
20 Senate later is going to reconsider, is that you exclude
21 Minneapolis Airport, Philadelphia-Pittsburgh, Lambert,
22 Dallas-Houston, the entire New York-New Jersey complex of
23 airports from being able to receive any of these funds for
24 safety and capacity expansion.

25 You state in the bill that the airport can renegotiate

1 with the airlines. Well, that is terrific. If I have
2 authority to renegotiate, and the party that I made the
3 contract with does not want to renegotiate, that authority
4 is not worth very much.

5 So I am saying that you basically cut out a number of
6 airports from the eligibility for these funds at precisely
7 the time when they need them most. At least, we need
8 another year or so to try to think whether we should
9 reconsider this bill.

10 Senator Packwood. Bill, you misstate the bill. You
11 misstate S.1648. Nothing is cut out in terms of safety
12 grants in that bill. What we have cut out is a lot of
13 operation and maintenance for the 72 largest airports in
14 this country.

15 Today, on operation and maintenance, those airports get
16 about 90 percent of their funds through contracting with the
17 airlines. They get about 10 percent from the airport
18 development funds. Those airports are going to have no
19 difficulty negotiating with the airlines for that additional
20 10 percent.

21 They are not going to leave Houston, New York or Los
22 Angeles. They will negotiate and they will pay. The safety
23 funds are not cut.

24 The Chairman. Let's hear from Senator Eoren. He has
25 been trying to get a word in.

1 Senator Boren. I want to associate myself with the
2 concerns that have been raised both by Senator Bentsen and
3 Senator Bradley. When we are talking about negotiating
4 strength, I think that there is even greater danger.

5 It may be true that some of the airports named, like
6 Los Angeles, will be strong enough to be in a bargaining
7 position to renegotiate funds for the care of the airports,
8 but you get down to communities the size of Oklahoma City,
9 or Tulsa, or Baton Rouge, for example, some of those, we are
10 not going to be in that kind of bargaining position.

11 I think that we are going to have severe problems. I
12 think that we are going to be right back where we were
13 before, either having to appropriate funds from some source
14 that will be less fair in terms of who will pay for it.

15 I think that if we lower the tax now we are sending a
16 signal in the midst of this battle over defederalizing the
17 airports that we are ready to go along with it. Mr.
18 Chairman, I don't think we should at this point because I
19 think we are going to leave a lot of airports across the
20 country in a helpless situation, and that is going to impact
21 on the efficiency, the safety, and all the rest of it.

22 Senator Packwood. We have already voted to
23 defederalize those airports.

24 The Chairman. Senator Moynihan.

25 Senator Moynihan. Mr. Chairman, I would just like to

1 amplify Senator Boren's remarks by calling to the attention
2 of the committee the surprising results we have had of
3 deregulation of airlines generally, and the degree to which
4 some airports have turned out to be very strong, and others
5 surprisingly weak. This would introduce into that condition
6 of weakness a bargaining problem which I think many could
7 not sustain.

8 I think that Senator Boren is right.

9 The Chairman. Any further discussion?

10 Senator Packwood. Mr. Chairman.

11 The Chairman. Senator Packwood.

12 Senator Packwood. I am going to offer a motion, as a
13 compromise, as follows:

14 The airline passenger ticket tax will be at 8 percent
15 through Fiscal '81, which will accommodate itself to the
16 budget projections. It will drop to 2 percent from Fiscal
17 Year 1982 to 1985.

18 On the airfreight waybill tax, it stays at 5 percent,
19 which is where it is now, through Fiscal '81, and drops to
20 1.25 percent from 1982 to 1985.

21 The international departure tax of \$3.00, which is
22 present level will stay through Fiscal '82, and then will
23 drop to \$2.00.

24 That we go to 8.5 cents per gallon tax on fuel, and in
25 exchange drop the aircraft user tax. That is a trade-off,

1 and by and large that is not a controversial argument. The
2 tax is paid by the airlines. They would rather pay the tax
3 instead of the user charge, but the budget effect is
4 essentially a wash. You can separate that point from the
5 other three.

6 I would offer that as a compromise.

7 The Chairman. Let me just make this suggestion.
8 Unless I miss my guess, and I don't think I am going to miss
9 my guess on this, there is not going to be a majority unless
10 someone is holding some proxies here with which I am not
11 familiar. So if this fails to muster the necessary
12 majority, I would like to also have a vote on a motion which
13 I will make myself, unless someone else wants to make it,
14 that we just extend the existing levels for another year,
15 during which it will give us time to look at it and see what
16 we want to do about it.

17 So I would suggest that we vote on your motion. Then,
18 if that fails to muster the 11 votes necessary, we will vote
19 on my motion. If we have to poll the absentees, they can
20 record themselves on both proposals.

21 Go ahead and call the roll.

22 Senator Danforth. Mr. Chairman, may I just ask the
23 Secretary.

24 You would support Senator Long's proposal?

25 Secretary Goldschmidt. Yes, sir, I would.

1 Senator Dole. Before we vote, let me ask you.

2 Would you also support, I think Bob Packwood made a
3 good point, replacing the current seven cents tax with
4 eight-and-a-half, and eliminate the user tax.

5 Secretary Goldschmidt. No.

6 Senator Dole. You don't have any quarrel with that, do
7 you, in the event that his compromise fails?

8 Secretary Goldschmidt. No.

9 The Chairman. Call the roll.

10 Mr. Stern. Mr. Talmaige.

11 (No response.)

12 Mr. Stern. Mr. Bibicoff.

13 Senator Packwood. Aye.

14 Mr. Stern. Mr. Byrd.

15 Senator Byrd. Present.

16 Mr. Stern. Mr. Nelson.

17 (No response.)

18 Mr. Stern. Mr. Nelson

19 (No response.)

20 Mr. Stern. Mr. Bentsen.

21 Senator Bentsen. No.

22 Mr. Stern. Mr. Matsunaga.

23 Senator Matsunaga. Aye.

24 Mr. Stern. Mr. Moynihan.

25 Senator Moynihan. No.

1 Mr. Stern. Mr. Baucus.
2 Senator Packwood. Aye.
3 Mr. Stern. Mr. Boren.
4 Senator Boren. No.
5 Mr. Stern. Mr. Bradley.
6 Senator Bradley. No.
7 Mr. Stern. Mr. Dole.
8 Senator Dole. Aye.
9 Mr. Stern. Mr. Packwood.
10 Senator Packwood. Aye.
11 Mr. Stern. Mr. Roth.
12 (No response.)
13 Mr. Stern. Mr. Danforth.
14 Senator Danforth. No.
15 Mr. Stern. Mr. Chafee.
16 Senator Packwood. Aye.
17 Mr. Stern. Mr. Heinz.
18 Senator Heinz. No.
19 Mr. Stern. Mr. Wallop.
20 Senator Packwood. Aye.
21 Mr. Stern. Mr. Durenberger.
22 (No response.)
23 Mr. Stern. Mr. Chairman.
24 The Chairman. No.
25 Mr. Stern. Senator Gravel votes aye.

1 The Chairman. The ayes are eight, and the noes are
2 seven. We will just have to record the absentees later on
3 and see how it goes.

4 Let's call the roll now, and I will accept your
5 modification of the user tax.

6 Senator Packwood. This just passed eight to seven.
7 You are going to record those who are not here, but in the
8 meantime we are going to vote on something else that would
9 only be voted on if this failed.

10 The Chairman. I am trying to do exactly what I told
11 you I would do.

12 Senator Packwood. I know what you are trying to do,
13 Mr. Chairman. I do object to taking a vote on something
14 that has passed among the members who are here. Maybe they
15 will vote for it.

16 The Chairman. Senator, even assuming that it carried,
17 I can still offer an amendment, or a substitute. When we
18 have done business around here for many years has been that
19 when we vote on something, it does not preclude somebody
20 else from offering an amendment that could displace the
21 thing in whole or in part.

22 Senator Packwood. Why don't we roll these members
23 first and see if they like this provision as it passed, in
24 which case you can offer your amendment.

25 The Chairman. Senator, even if we had not agreed to

1 what we agreed to, I could offer my amendment. So I just
2 want to offer my amendment to say that we simply continue
3 the tax at existing levels, with the modification that was
4 suggested by Mr. Dole here, which I understand the
5 Administration is willing to accept.

6 Senator Packwood. Let me ask you this, this is to
7 continue it through 1981; is that right?

8 The Chairman. That is right.

9 Senator Packwood. My amendment would do that. So your
10 amendment is really to knock off anything after 1982.

11 The Chairman. That is right.

12 Senator Packwood. So that everyone understands, I have
13 continued it through 1981.

14 The Chairman. I understand. I will continue it
15 through 1981, and then existing law that would otherwise be
16 the case, would be the case after 1981.

17 Senator Byrd. Could I ask this question, Mr.
18 Chairman.

19 The Chairman. Yes.

20 Senator Byrd. Under your proposal, does the 8 percent
21 expire at the end of 1981?

22 The Chairman. Can the staff give me that situation.
23 If you just extend the existing level of tax through Fiscal
24 Year 1981, if you just do that, would you just explain how
25 that works out as far as after 1981, and where we go. I

1 think Mr. Packwood's proposal cuts the 5 percent tax down to
2 2 percent.

3 Senator Packwood. No.

4 The Chairman. Hold on a minute, and let's let the
5 staff tell us.

6 Mr. Shapiro. If I understand what you are saying,
7 there are three ways to look at it.

8 One, if you extend present law, it is at an 8 percent
9 level. After October 1, 1981, if you take no action, that
10 would go to 5 percent.

11 The Chairman. Senator Packwood's would take it down to
12 2 percent.

13 Senator Packwood. In 1982. If there is no action, it
14 would go to 5 percent this October.

15 Mr. Shapiro. That is correct.

16 The Chairman. But would there be some difference at
17 the end of the year if you just agreed to my motion compared
18 to his?

19 Mr. Shapiro. At the end of 1981, according to your
20 motion, if there is no action it would be 5 percent. If
21 Senator Packwood's motion were adopted, it would be 2
22 percent.

23 The Chairman. Okay, let's just vote on my motion.

24 Mr. Stern. Mr. Talmadge.

25 (No response.)

1 Mr. Stern. Mr. Ribicoff.

2 Senator Packwood. No.

3 Mr. Stern. This is on the one-year extension.

4 The Chairman. This is on my amendment, with the Dole
5 modification.

6 Senator Byrd. It is an extension of one year at 8
7 percent, and at the end of one year it goes to 5 percent.

8 Mr. Shapiro. With no other action, it would go to 5
9 percent. The amendment does not go to 5 percent. It means
10 a one year extension, and if there is no other legislation,
11 the present law would be that it would be 5 percent.

12 Senator Byrd. This, in essence, keeps the present law
13 as it is.

14 Senator Matsunaga. This is on the passenger tax, and
15 the user tax.

16 Mr. Shapiro. Yes, it would continue all the taxes at
17 the present level for one more year.

18 Senator Matsunaga. This is the amendment now being
19 proposed.

20 Mr. Shapiro. This is the Senator Long amendment, yes.

21 The Chairman. And that is the Administration's
22 position.

23 Let's go ahead and call the roll.

24 Mr. Stern. Mr. Talmadge.

25 (No response.)

1 Mr. Stern. Mr. Ribicoff.
2 Senator Packwood. No.
3 Mr. Stern. Mr. Byrd.
4 Senator Byrd. Aye.
5 Mr. Stern. Mr. Nelson.
6 (No response.)
7 Mr. Stern. Mr. Gravel.
8 (No response.)
9 Mr. Stern. Mr. Bentsen.
10 Senator Bentsen. Aye.
11 Mr. Stern. Mr. Matsunaga.
12 Senator Matsunaga. No.
13 Mr. Stern. Mr. Moynihan.
14 Senator Moynihan. Aye.
15 Mr. Stern. Mr. Baucus.
16 Senator Packwood. No.
17 Mr. Stern. Mr. Boren.
18 Senator Boren. Aye.
19 Mr. Stern. Mr. Bradley.
20 Senator Bradley. Aye.
21 Mr. Stern. Mr. Dole.
22 Senator Dole. Aye.
23 Mr. Stern. Mr. Packwood.
24 Senator Packwood. No.
25 Mr. Stern. Mr. Roth.

1 (No response.)

2 Mr. Stern. Mr. Danforth.

3 Senator Danforth. Aye.

4 Mr. Stern. Mr. Chafee.

5 Senator Packwood. No.

6 Mr. Stern. Mr. Heinz.

7 Senator Heinz. Aye.

8 Mr. Stern. Mr. Durenberger.

9 Senator Durenberger. Aye.

10 Mr. Stern. Mr. Chairman.

11 The Chairman. Aye.

12 I have Mr. Nelson's proxy, aye.

13 Eleven ayes and six nays. The motion appears to

14 carry.

15 The final vote on the Packwood amendment was eight ayes

16 and nine nays.

17 Senator Packwood. Having lost, I have an amendment to

18 offer.

19 The Chairman. The one that got the 11 ayes, that is

20 the majority.

21 Senator Heinz. Is the next order of business the

22 expiring tax provision?

23 Mr. Stern. You have not ordered this reported. You

24 have not reported this measure that you have just voted

25 for. Would you like a separate bill for this, or do you

1 want to report this as an amendment to one of these tariff
2 bills that you have acted on, maybe the H.R. 6571, which is
3 the bill relating to suspension of duty on tuna percine.

4 The Chairman. If there is no objection, we will add it
5 on that bill.

6 Senator Durenberger. Mr. Chairman, I have a matter to
7 bring up that relates to this bill before we vote on it, and
8 also an amendment.

9 In the report language from the Commerce Committee on
10 S.1648, the committee calls to our attention the fact that
11 the Internal Revenue Service issued a notice of proposed
12 rulemaking on January 5, 1979, which would have the effect
13 of redefining what an airport includes, with the intent of
14 changing the tax exemption status for certain facilities
15 located within an airport.

16 The Commerce Committee recognizes that this committee
17 has jurisdiction over industrial development bonds for
18 airports, and recommended that it was their feeling that it
19 was not the prerogative of the Internal Revenue Service, but
20 the prerogative of the Congress and the Committee to decide
21 the issues of definition of qualifications for tax exempt
22 status under IDEs.

23 I have an amendment which would, in effect, redefine
24 the word airport, not expand it beyond what existing law has
25 now, but would overcome the uncertainty that has been cast

1 on the use of industrial development bonds all over this
2 country for the construction of airline facilities, and
3 computer facilities on or adjacent to airport property. I
4 would like to propose that amendment.

5 The Chairman. Does the Administration have any
6 position to take with regard to that amendment?

7 Mr. Goldschmidt, if you want to, you can be excused if
8 you have something else that you want to do.

9 Mr. Lubick. Mr. Chairman, to give you the background
10 of this. When you adopted the rule on the taxation of
11 industrial development bonds back in 1968, you permitted the
12 use of industrial development bonds for the financing of
13 airports.

14 However, the legislative history at that time indicates
15 clearly that you do not intend that the industrial
16 development bond financing go beyond the construction of
17 facilities for airports and those things which service the
18 airport, the passenger terminals, the restaurants, and the
19 like.

20 The question has come up because in a number of
21 instances it has been proposed to construct general office
22 facilities for the operation of the whole airway system
23 through the device of industrial development bonds. In
24 point of fact, the most famous case was the move by American
25 Airlines and the construction of an office facility to run

1 their nationwide system out of downtown Manhattan to the
2 airport in Dallas-Fort Worth.

3 Because there had been some ruling issued by the
4 Internal Revenue Service in this area, a private ruling
5 issued in connection with the computer terminal which was
6 constructed to permit this, we put out a notice of proposed
7 rulemaking to clear up what really should have been
8 abundantly clear. We did it on a prospective basis, and all
9 of the parties that were concerned thought that that was
10 appropriate.

11 So the regulations which are out, Senator Durenberger,
12 squarely reflect the legislative history and the debate in
13 1968 in the Congressional Record. To reserve those
14 regulations would mean that you would be authorizing the
15 construction of commercial facilities that have nothing to
16 do with the airport by industrial development bonds simply
17 because they happen to be located in an airport.

18 There is no particular reason to justify the
19 construction of office facilities, and it was never intended
20 through industrial development bond financing.

21 Senator Byrd. May I ask a question in that regard?

22 Has there been a hearing on this proposal? I don't
23 recall one, but there may have been.

24 Senator Durenberger. Basically, this is the existing
25 law as it has been interpreted for a long time. I was not

1 around in 1968, obviously, to deal with the issue of
2 legislative intent, but there has been financing of these
3 kinds of facilities over the relatively long period of
4 time.

5 If you take Mr. Lubick's expanded definition, I cannot
6 make that statement as a flat statement, but I know that the
7 effect of the proposed rulemaking has been to put a damper
8 on any kind of headquarters construction with IDEs.
9 Whereas, IDEs have been used since the passage of the Act in
10 1968 for headquarters facilities and for computer
11 facilities.

12 Mr. Lubick. Senator Durenberger, I don't think that
13 that is quite correct. You are correct that the Dallas-Fort
14 Worth is an illustration of that, and that was the only case
15 of a headquarters facility as to which a ruling was asked
16 for.

17 If persons have constructed others without the benefit
18 of a ruling, we think that it was an improper construction
19 of the statute and regulation. There were a couple of
20 rulings that did involve computer facilities, and again we
21 think that that was an improper construction.

22 In order to accommodate those people who may have had
23 some doubt, we agreed that we would propose the clarifying
24 regulations on a prospective basis. We did not think that
25 there was much doubt, but we were giving those people that

1 had gone out and made some contracts on this basis the
2 benefit of the doubt.

3 I think it was a very liberal act on the part of the
4 Revenue Service. But nobody has been in doubt since then,
5 and I think anybody who properly examined the statute and
6 the regulations should not have been in doubt.

7 So I don't think that it is fair to say that there has
8 been general reliance on this type of finance to construct
9 office facilities at airports. There are a number that have
10 come to us and have suggested that they wanted the date
11 moved back, but we saw no basis for doing that.

12 . There has not been a hearing on this particular
13 provision, Senator Byrd.

14 The Chairman. Is there any further discussion of this
15 amendment?

16 (No response.)

17 The Chairman. All in favor say, aye.

18 (Chorus of ayes.)

19 The Chairman. Opposed, no.

20 Senator Byrd. No.

21 The Chairman. The ayes appear to have it.

22 Senator Packwood. Mr. Chairman, I have an amendment.

23 The Chairman. Senator Packwood.

24 Senator Packwood. Agriculture, of course, is exempt
25 from the fuel tax, except for helicopters used in logging.

1 Timbering, of course, is agriculture. They fly off their
2 own pads. They truck the fuel to them. They do not use
3 public facilities. They seldom fly more than a half to
4 three-quarters of a mile from the pads. They pick up the
5 logs, and load them to where the trucks pick them up. It is
6 agriculture, and they should not have to pay taxes it.

7 I am simply going to move that taxes on helicopters
8 used in logging will be exempt from the fuel tax as is all
9 other agriculture.

10 Senator Byrd. If the Senator would yield.

11 As I understand it is very similar to a tractor that is
12 used only on a farm. There is no tax there.

13 Senator Packwood. Every time that they go to a public
14 facility, and any time that they use them in anything other
15 than agriculture they pay the tax. But this would exempt
16 them from the agricultural standpoint.

17 The Chairman. Senator, if you want to suggest that.

18 First let me ask, how does the Administration feel
19 about that?

20 Mr. Lubick. We would be opposed to starting to
21 introduce exemptions. The general facilities of the airway
22 system are available to helicopters. Once we start down
23 this line of making exemptions, depending upon whether or
24 how much use a person actually makes of these facilities, it
25 is not going to be very difficult to stop.

1 I would suggest that in light of the extension which
2 you have voted, it might be appropriate to consider these
3 things during the next year, when you are going to get into
4 this subject in great detail.

5 Senator Packwood. Don, I am not trying to make an
6 exemption. We already exempt agriculture from the fuel
7 tax. I am trying to say that when helicopters are used
8 solely in agriculture, timbering, they will not have to pay
9 the tax.

10 I am not saying that if they go to a general aviation
11 airport, or are transporting passengers, or taking somebody
12 from Love Field to another field, or anything else. I am
13 just saying that when they are used in agriculture, the fuel
14 that they use for agricultural purposes will not be taxed as
15 is any other agricultural fuel not taxed.

16 Mr. Lubick. You are suggesting a new exemption that is
17 not there now, otherwise you would not be suggesting it.

18 Senator Packwood. I am suggesting that it be treated
19 the same as any other agricultural uses.

20 Mr. Lubick. I really think, Senator Packwood, that it
21 would be appropriate to consider the scope of exemptions and
22 the nature of the tax, and that would best be done after we
23 have had hearings on the whole tax, and within the scope of
24 the consideration you are going to be giving within the 12
25 months --

1 The Chairman. I don't know what position I want to
2 take on this. I know I am like Bob Kerr used to be, I am
3 against any combine I ain't in on.

4 We use these helicopters down in Louisiana that work
5 back and forth on those rigs to produce oil out on the
6 continental shelf. I think that all the logic that applies
7 to the amendment, where they are used for forestry, and
8 seeding, and fertilizing, and spraying, I think that that
9 also ought to be included in the amendment.

10 It seems to me that the same logic applies to those
11 uses as it does to what the Senator has in mind.

12 Senator Packwood. I have always thought of petroleum
13 as agriculture, Mr. Chairman.

14 (General laughter.)

15 Senator Bradley. What about the traffic helicopter
16 that monitors the flow of traffic into major metropolitan
17 areas?

18 The Chairman. First let's get my business settled. I
19 am talking about the helicopter that works back and forth.

20 Bobby do you have the language for the proposed
21 amendment that I had in mind.

22 Mr. Shapiro. No. Your staff showed me what you had in
23 mind, something that goes back and forth between the
24 drilling rigs.

25 The Chairman. Under the regulations prescribed by the

1 Secretary, no tax shall be imposed under this section on any
2 liquid sold for use in farm operations, or used in
3 helicopter natural resource discovery, or recovery support.

4 Mr. Shapiro. Yes, I have seen that.

5 The Chairman. Do you want to modify your amendment?

6 Senator Packwood. Fine.

7 The Chairman. It would be very embarrassing to me to
8 have it agreed to with Louisiana left out.

9 Mr. Lubick. Mr. Chairman, the fact that you are able
10 to suggest all of these other items, I think, does indicate
11 that this is a continuum that we have here. I do think that
12 it might be appropriate if you would give us the few months
13 until you are able to go through this whole picture to see
14 what ought to be exempt and what ought not to be exempt. I
15 think that it would be better, in light of the climate of
16 rationality that has been prevailing here so much lately.

17 The Chairman. It is all matter of votes. If you have
18 the votes, you can delay it forever.

19 Do you want to suggest an amendment, Mr. Bradley?

20 Senator Bradley. I don't have the exact wording, Mr.
21 Chairman. I don't actually have the data. But I was simply
22 saying, natural resources and logging merit the exemption,
23 perhaps the traffic helicopter that monitors and advises
24 motorists as they come into major urban areas should also be
25 exempt from the fuel tax.

1 Senator Packwood. The argument on agricultural
2 helicopters, I am just familiar with logging, is that they
3 do not when they are in agricultural use public facilities.
4 They use their own private systems. I don't know where
5 traffic helicopters land. I don't know if they land at
6 commercial airports, and keep in contact with towers. I
7 can't speak to it.

8 The Chairman. In our part of the country, these
9 helicopters that we are talking about, they don't use the
10 airport. They have the little helicopter pads out there,
11 and they work back and forth from the helicopter pads.

12 Senator Packwood. They truck the fuel to their own
13 private pad.

14 Senator Bradley. Mr. Chairman, I withdraw my
15 amendment. I only hope that we have a chance to use your
16 amendment in the Baltimore Canyon.

17 Senator Danforth. Mr. Chairman, I wonder, with respect
18 to your amendment, if we are going to extend it, shouldn't
19 it cover any business uses?

20 The Chairman. What we are talking about is the kind of
21 situation where the helicopter is not using the safety
22 facilities, and the airport devices, and all that. If you
23 have a helicopter that is working in and out of an airport,
24 he has got to use the tower to get in and out of the
25 airport. Senator Packwood is talking about the situation

1 where there is the same principle as a farm tractor, where
2 it not using the highway.

3 I am not particularly pressing for the amendment. All
4 I am saying is that it ought to apply equally to working
5 back and forth from the landbase to the offshore, where they
6 are not using the airport.

7 All in favor say, aye.

8 (Chorus of ayes.)

9 The Chairman. Opposed, No.

10 (No response.)

11 The Chairman. The ayes appear to have it. The ayes
12 have it.

13 Senator Heinz.

14 Senator Heinz. Mr. Chairman, the next business of the
15 committee, as I understand it, is the expiring provisions.

16 Mr. Shapiro. I have one point that I want to say on
17 the airway, just for the committee record, and that is the
18 effective date, that we want January 1, 1981, for the gas
19 tax change that you agreed to.

20 The Chairman. Without objection, it is agreed to.

21 Mr. Lubick. On the airways tax, Mr. Chairman, there
22 has been some question that has been raised by the airway
23 industry as to what they ought to be doing on collecting the
24 tax on transportation sold to be used after October 1.

25 Since all of the bills, Senator Packwood's bill, the

1 Administration proposal, your proposal, and the House bill
2 would continue the tax at 8 percent, I think that it might
3 be appropriate if the committee would declare that it is the
4 intention to do this, and that they ought to continue to
5 collect the 8 percent tax with respect to all transportation
6 that will ultimately be subject to the extender. Otherwise,
7 we are going to have a very confusing situation, and they
8 are looking for a signal.

9 They asked me for a letter, and I said that my record
10 in predicting what the Congress will do has not been too
11 outstanding, and they could do as well as I.

12 The Chairman. We will no notify people.

13 Now, Mr. Heinz has an amendment.

14 Senator Moynihan. Would Senator Heinz yield to me for
15 a question. I have a matter which I would like the
16 committee to consider, which would be properly attached to
17 H.R. 5295.

18 Senator Heinz. I cannot yield for that purpose because
19 I have a matter that is going to take one minute.

20 Senator Moynihan. I don't want to leave this matter
21 after today because it will be too late.

22 Senator Heinz. I have exactly the same problem.

23 Mr. Chairman, the '76 Tax Act provisions that deal with
24 the allowance for deduction for charitable contributions to
25 conservation easements will expire next year. The House has

1 passed a bill, H.R. 7956, which includes a section 103 that
2 allows for the continuation of those deductions as stated.

3 It is important that we act now to extend that
4 legislation so that the donors and donee organizations will
5 know what is expected of them. The House has acted.

6 Senator Moynihan. May we have order, Mr. Chairman.

7 The Chairman. Let's have order.

8 Senator Heinz. I know of no controversy about the
9 extension itself, but I would like to state some
10 clarifications with the staff and the Joint Tax Committee on
11 some of the applications of the provisions of Section 103
12 that remain in my mind after looking at what the Ways and
13 Means Committee has done in their report.

14 My concerns reflect the views of a number of
15 conservation groups in my state, and I understand that there
16 is a broad national interest in these matters as well.

17 First, is it your understanding that a state or local
18 conservation program need not be funded by direct
19 appropriation, Federal, State or local, to satisfy the
20 requirement that there be a "clearly delineated governmental
21 conservation policy" to which the contribution of an open
22 space easement is pursuant.

23 Mr. Brockway. That is correct, Senator. The statement
24 that you are referring to, funded programs in the committee
25 report, was an example. The only requirement is that there

1 is a significant governmental commitment to preserving that
2 type of area.

3 Senator Heinz. I thank the staff.

4 Second, the committee reports lays out four factors to
5 be considered in determining whether a particular
6 contribution will yield a significant public benefit. Is it
7 your understanding that these four factors are not
8 exclusive, that there are other criteria that might satisfy
9 the significant public benefit test?

10 Mr. Brockway. That is correct.

11 Senator Heinz. I thank the staff.

12 Third, would it be possible that the committee report
13 to include examples illustrating the application of the
14 significant public benefit test, so that potential donees
15 might have a better idea of what would qualify and what
16 would not qualify thereby minimizing the need for extensive
17 litigation?

18 Mr. Brockway. Certainly. There will be no problem
19 with that.

20 Senator Heinz. So it will be possible to put in
21 appropriate examples. Is that correct?

22 Mr. Brockway. Yes.

23 Senator Heinz. Finally, I am concerned about the House
24 Report language stating that a contribution is "not
25 exclusively for conservation purposes if the contribution

1 would accomplish one of the enumerated conservation
2 purposes, but allow uses of the property that would be
3 destructive of other significant conservation interest."

4 How would this apply in the following example?

5 Shorelands along a scenic river that are completely
6 protected from residential, commercial, and other
7 development. Would the fact that controlled timbering was
8 not prohibited under the terms of easement result in loss of
9 the tax deduction?

10 Mr. Brockway. It would not, Senator. We would be happy
11 to clarify this. It is not intended that the land be kept
12 pristine. Controlled timbering would be very consistent
13 with the conservation purpose.

14 Senator Heinz. I appreciate that very much.

15 Mr. Chairman, is there any disagreement from any of the
16 members?

17 Senator Bentsen. Mr. Chairman, I would just like to
18 announce my support for it. I think that it is a major
19 contribution in getting some protection of wetlands, for
20 example, for migratory birds and wildlife. It is a major
21 contribution for getting lands committed to the public use
22 voting that type of thing. I think that it is a step
23 forward, and I support it.

24 Senator Heinz. I thank my colleague from Texas.

25 Senator Byrd. I would like to commend Senator Heinz

1 for the clarifications that he has brought about today.

2 Senator Heinz. Thank you.

3 Senator Durenberger. Mr. Chairman, I would like to add
4 my strong endorsement as one who is a beneficiary not as a
5 donor, but as someone who worked in putting together park
6 and open spaces projects. This is a tremendous piece of
7 work. Thank you very much.

8 Senator Heinz. Mr. Chairman, I thank my colleagues.

9 The Chairman. Without objection, it is agreed to.

10 Let me ask Mr. Stern, because I have to go to another
11 meeting.

12 When can we meet again, Mr. Stern. I have to be in a
13 conference this evening, starting at 3:00 o'clock.

14 Mr. Stern. Mr. Chairman, after checking with your
15 schedule, Wednesday would be the next day, if you want to
16 continue with the agenda on next Wednesday.

17 The Chairman. I suppose that this is how it will have
18 to be, then. I want to take care of these matters as soon
19 as we can.

20 Senator Moynihan. Mr. Chairman.

21 The Chairman. Yes, Mr. Moynihan.

22 Senator Moynihan. Do you have a moment, Mr. Chairman.
23 I am sorry to put it to you this way

24 The Chairman. Go ahead.

25 Senator Moynihan. We are reporting out today H.R.

1 5295, I believe that is your intention, is it not?

2 Mr. Stern. That bill was ordered reported the other
3 day.

4 Senator Moynihan. But you are going to actually send
5 it out? Can we still add to it.

6 Mr. Stern. Until the bill is reported, the committee
7 can consider it.

8 Senator Moynihan. Mr. Chairman, this is a simple and
9 also complex matter. You will recall the so-called Michel
10 amendment to the Fiscal 1980 appropriations for HEW imposed
11 a penalty system for states which had an error rate in
12 Medicaid and in AFDC of about 4 percent.

13 There is a problem here which is that although this
14 error rate is associated with fraud and things like that in
15 some cases, in fact this is not the case.

16 We held a hearing on this in this committee last
17 November, a long day's hearing, to establish the amount of
18 fraud in these programs, and it was very small. Indeed, the
19 degree of error is in many ways a function of your effort to
20 maintain quality control. The more you require information,
21 and you check and things like that, the more errors you
22 find, but also the less fraud and things like that there
23 is. One produces the other.

24 The tight controls produce the discovery of errors.
25 People who don't have any controls think that there are no

1 errors at all.

2 In the House of Representatives, Congressman Conable,
3 the ranking minority member, amended the Welfare Reform
4 Bill, H.R. 4904, which we have here in this committee, to
5 eliminate this Michel amendment which is being treated by
6 HHS as social security legislation, even though it is
7 mentioned in the appropriation bill, and to substitute three
8 things.

9 One is to take 4 percent of the non-binding costs; two,
10 to direct the Secretary of HHS to produce permanent
11 regulations based on a genuine study of this problem and its
12 curious complexion; and three, in the meantime codify and
13 establish what were the previous regulations, just internal
14 regulations in then HEW, which penalize states which are
15 above the mean average error rate, and are not moving down
16 towards that mean.

17 I am sorry to have to go through a long matter, but a
18 great many states are involved. I think that this committee
19 should allow language on appropriations bill to change the
20 Social Security Act. The proposal that I bring to you would
21 establish this new arrangement until December 31, 1981, at
22 which time we would have a report from the Secretary of the
23 Department saying, this is the way that it should be done.

24 Senator Dole. Mr. Chairman

25 The Chairman. Senator Dole.

1 Senator Dole. I discussed this briefly with the
2 Senator from New York. In the meantime, I have talked with
3 others. I would just hope that you might try to change this
4 on the Senate floor because I think that there will be
5 opposition to it.

6 The Michel amendment applies to future error rates
7 beginning October, 1980, sanctions do not occur for a
8 year-and-a-half, and a study of the effects is being
9 conducted in the meantime. It does call for a phase down of
10 error rates over three years to 4 percent or less. It is
11 not an abrupt cut-off.

12 The Department of Health and Human Services has broad
13 waiver authority, even under the Michel amendment, in the
14 case of any severe cases.

15 We have all been talking about fraud, waste and abuse,
16 and that our progress is slow. I can cite my own state
17 which has gone from 4.1 percent error in 1978 up to 8
18 percent in 1979.

19 I think that this is a very controversial matter.
20 Since we really have not had time to focus on it, and we are
21 down to two members on this side, maybe you could raise it
22 on the Senate floor.

23 Senator Moynihan. Mr. Chairman, I will be happy to
24 accept that proposition. But before I leave the subject
25 matter, I would suggest to the Senator from Kansas that that

1 error rate in Kansas may have gone up because you are
2 running a better program. It is tighter. You follow up
3 things. You catch things more than you used to do.

4 That can be the counter-intuitive effect of tightening
5 up. The quality control increase error rates. Until you
6 have quality control, you have no error rates. You don't
7 even know about them.

8 The Chairman. That is a good point.

9 I think that we ought to look into it and study it a
10 little bit more. I quite agree that we cannot act on it at
11 this moment.

12 So we will meet again, then, at 10 o'clock on
13 Wednesday.

14 Thank you, gentlemen.

15 (Whereupon, at 12:35 p.m., the committee adjourned.)
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