

1 EXECUTIVE COMMITTEE MEETING

2 THURSDAY, JUNE 17, 1993

3 U.S. Senate,

4 Washington, DC,

5 The meeting was convened, pursuant to notice, at 10:03
6 a.m. in room SD-215, Dirksen Senate Office Building, the Hon.
7 Daniel Patrick Moynihan (chairman of the committee)
8 presiding.

9 Also present: Senators Baucus, Boren, Bradley, Mitchell,
10 Pryor, Riegle, Rockefeller, Daschle, Breaux, Conrad,
11 Packwood, Dole, Roth, Danforth, Chafee, Durenberger,
12 Grassley, Hatch, and Wallop.

13 Also present: Senator Hank Brown.

14 Also present: Lawrence O'Donnell, Jr., Staff Director;
15 Edmund Mihalski, Chief of Staff, Minority.

16 Also present: Kathy King, Professional Staff Member,
17 Senate Finance Committee, Majority; Jane Horvath,
18 Professional Staff Member, Senate Finance Committee,
19 Majority; Barbara Wynn, Professional Staff Member, Senate
20 Finance Committee, Majority; Margaret Malone, Professional
21 Staff Member, Senate Finance Committee, Majority; Karen
22 Pollitz, Deputy Assistant Secretary for Legislation,
23 Department of Health and Human Services; Jerry Klepner,
24 Assistant Secretary for Legislation, Department of Health and
25 Human Services.

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1 Also present: Hank Gutman, Chief of Staff, Joint
2 Committee on Taxation; Leslie Samuels, Assistant Secretary
3 for Tax, Treasury Department; Joseph Gale, Chief Tax Counsel,
4 Majority; Peter Cobb, Deputy Chief of Staff, Joint Committee
5 on Taxation; Sam Sessions, Deputy Assistant Secretary,
6 Treasury Department.

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1 The Chairman. The Republican leader has asked to have a
2 brief meeting of the Senators on that side in the back room.
3 It sounds rather jovial from where I am sitting. A good
4 sign. Record that joviality. This is a large measure, as
5 all of you here will know. It had been prepared by
6 understanding on the Democratic side. It has been approved;
7 there are 11 votes on the Democratic side. And we have, by a
8 perfectly amicable understanding with our colleagues on the
9 Republican side -- you heard the joviality in the back room
10 just now. It has been a sign of good will and willingness to
11 go forward with the Nation's business. I will commence as
12 soon as we stop talking. I think, for that purpose, I will
13 stop talking right now.

14 I yield to my distinguished friend, the sometime Chairman
15 of the Committee of Finance, Senator Packwood.

16 Senator Packwood. Well, I might say, Mr. Chairman, with
17 this bill, I think the future chairman of the committee.

18 (Laughter)

19 The Chairman. Well, I want it to be recorded that that
20 can only come about if the bill passes.

21 (Laughter)

22 Senator Packwood. Do we count on your help to avoid that
23 happening?

24 The Chairman. I'm prepared to take the -- out of
25 friendship we are going to pass this bill.

1 Senator Packwood. The friendship will continue, but I
2 wonder if we might yield to Senator Dole for just a moment.

3 The Chairman. The Republican Leader. I believe that you
4 will have to be away part of the day.

5 Senator Dole. Well, we're happy to be back here. This
6 place has changed a lot, and we have all got name tags in
7 case Democrats may not remember us.

8 (Laughter)

9 Senator Dole. We are members of this committee, and
10 Senator Danforth might be willing to identify ourselves in
11 case you have lost touch. I get your newsletter.

12 (Laughter)

13 Senator Dole. Some of our members do not have their tags
14 yet.

15 (Laughter)

16 The Chairman. Senator Baucus.

17 Senator Baucus. I do not have my tag. Mr. Chairman, I
18 very much appreciate the hard work you have dedicated to
19 putting this package together. Those of us on our side know
20 that at many times these deliberations have not been easy.
21 Very strong points of view held by different members on our
22 side were not always in sync. But, throughout it all, you,
23 Mr. Chairman, were the quintessential cheerleader, the
24 quintessential cohesive force, the glue to bring all of this
25 together. I wish that everyone in America could see your

1 demeanor and your attitude and the way in which you so
2 unselfishly worked to bring all of this together. And we are
3 here today, I think, primarily because of your very, very
4 strong leadership in putting this together. I commend you
5 and thank you for it.

6 I also think it's important to point out how far we have
7 come in this bill. I know, Mr. Chairman, you are going to
8 make this point, but just to reemphasize the point, we are on
9 track now toward more dollars in spending cuts than we are
10 going to raise. That is a major achievement. In addition,
11 we are on track toward major deficit reduction: over \$500
12 billion in five years. No president has attempted to reduce
13 the budget deficit by as much as President Clinton, \$500 in
14 deficit reduction, and your leadership, Mr. Chairman. We are
15 well on our way. We are over \$500 billion in deficit
16 reduction and we are now on the way to achieving that goal
17 with many more dollars in spending cut than revenue raised.
18 And it is through your leadership that we have reached that
19 point. I thank you.

20 The Chairman. You are very generous, Senator. It could
21 not have been done without you, you are the Ranking Member of
22 this committee, and you know how much we all look to you and
23 turn to you. Senator Packwood, you wanted to make a point?

24 Senator Packwood. I thank the Chairman. In seriousness,
25 the Chairman knows, I called him several days ago and said

1 the Republicans would be willing to negotiate if we could
2 achieve a ratio of at least \$2 in spending cuts to \$1 in
3 taxes, and I indicated I was going to call the President with
4 that offer. I called him, but did not talk to him.
5 Secretary Bentsen called me back, and, after some talking,
6 called me back again and said it was simply impossible to
7 make or meet a 2:1 ratio. The Republicans will have
8 amendments to offer that will prove we can get there on
9 better than 2:1, we can get there with deficit reductions
10 with no taxes at all, not to a balanced budget in five years,
11 but significant deficit reductions. But, when anyone says
12 that this bill is 1:1 or more taxes than spending, this bill,
13 per se, all by itself is not. The argument will be made that
14 the entire reconciliation package will do that, but I will
15 use just one example of what is going to happen.

16 The President suggested that we eliminate the deductions
17 for lobbying and that that go for deficit reduction. We have
18 already used up that money in the Campaign Finance Reform
19 Bill, for if we are going to have some public financing to
20 use that method of paying for it. We have spent it. And
21 this is what is going to happen as we start going down month
22 after month with monies that we say we are going to set aside
23 for deficit reduction. We are going to end up spending them.
24 We will declare emergencies, we will find ways to supersede
25 the laws that we have passed, if we ever pass them. But, by

1 the time we are done, this package, in my judgment, is going
2 to be someplace between \$3 and \$4 of taxes to about \$1 in
3 spending cuts that are built into the law. I don't mean
4 promises and hopes for the future, I mean built into the law
5 as we pass it. But we will have ample time, Mr. Chairman, to
6 argue that out when we get to the floor.

7 The Chairman. I appreciate that. It is a fair point and
8 a necessary warning. Senator Breaux. Good morning, sir.

9 Senator Breaux. Good morning, Mr. Chairman. Thank you.
10 I want to say to the members of the committee, and
11 particularly the Chairman, I think he, indeed, has done a
12 very fine job very patiently trying to listen to all of the
13 concerns and all of the legitimate interests that have been
14 expressed as we have reached this recommendation to the
15 committee.

16 The easy days of solving these problems are behind us.
17 If anybody says we can reach the deficit reduction goals of
18 the President as outlined simply by cutting spending, they
19 are wrong. And anybody that says we can do it only by
20 raising taxes, they are wrong. It is going to have to be a
21 combination of hard choices which includes real spending cuts
22 and real revenue raises. I mean, it was easier when we were
23 in the Congress with President Reagan, because he asked us to
24 cut taxes, which everybody was happy to do, at least a
25 majority, and asked us to spend more money. And most members

1 of Congress said, I can handle that. Let us spend more
2 money. Let us cut taxes. The problem is, as a result of
3 that, we have a \$4 trillion long-term debt, and a \$350
4 billion deficit that is getting worse each year. And yet, we
5 still have people that say, well, straighten it out and fix
6 the problems and just cut spending. It is not going to
7 happen. It is not going to work. Some may advocate, well,
8 we can get most of it done just by raising taxes. I would
9 suggest that that would be a very foolish assumption and it
10 would not work.

11 So, what we have achieved in this recommendation to the
12 Finance Committee is a bill that proposes more in spending
13 cuts, \$260 billion in spending cuts which were not easy to
14 reach, and \$248 billion in more revenues over five years,
15 which also was not easy to reach. But, I think it is in
16 balance, and that is the important thing.

17 One of my main concerns with the original proposal was
18 the so called BTU tax. I thought it was a bad idea. I did
19 not think it was going to work. It was anti-competitive. It
20 would have hurt us in exports. It would have created a whole
21 new bureaucracy of BTU cops to try and implement and enforce
22 a program which was becoming replete with more and more
23 exemptions for our legitimate special interests. It was
24 unworkable and unmanageable. I am very pleased to see that
25 the recommendation consists of a package that does away

1 completely with the BTU tax. It is not in this bill because
2 it is a bad idea and it should not have been.

3 What we have replaced it with is more spending cuts.
4 What we replaced it with is a 4.3 cent broad-based
5 transportation tax, which many people were involved in
6 crafting, but I think is something that the American people
7 can handle. My calculations indicate that it would cost, on
8 a per person basis per year, \$29. I think the American
9 people are willing to sacrifice \$29 a year if it goes for
10 deficit reduction. Factor it out as less than one cent per
11 day per person in this country. I think it is fair, in the
12 sense that it is offset by the continuation of the Earned
13 Income Tax Credit, which this bill has.

14 So, Mr. Chairman, I commend you for bringing together a
15 balanced package. It is not easy, but it is going to get the
16 job done.

17 The Chairman. Thank you very much, Senator Breaux.
18 There is a gentlemen over there, a fellow named Jack. Oh,
19 Jack. Good morning. Welcome.

20 Senator Danforth. Good morning, Mr. Chairman. Thank you
21 very much for recognizing me. I am, in fact, Jack. You are
22 absolutely accurate.

23 Mr. Chairman, this is a nightmare, to me. This is
24 exactly the way we should not be functioning. What we are
25 dealing with now is the result of one party going in one

1 direction and one party going in another direction. And the
2 fact that we have come to this point is the fault of all of
3 us; the fault of Democrats and Republicans, alike.

4 I know that we indicated to the administration and to
5 you, Mr. Chairman, that Republicans were not players. You
6 indicated to us that you were going to do it by yourself.
7 There could be a lot of finger-pointing about how we came to
8 the position where 11 members, all Democrats, meet and put
9 together a bill. This is traditionally the way the Ways and
10 Means Committee does business. It has been, on a few
11 occasions, the way the Finance Committee does business. But
12 I think that the result is to create legislation which is not
13 balanced. I think that the future of this country is best
14 served if we gravitate somewhere toward the middle of the
15 political spectrum, and I think that that is accomplished
16 through a two-party system, not through a one-party system.
17 And, therefore, I am very disturbed about this and I am very,
18 very concerned about the product, of what we have produced.

19 Mr. Chairman, I believe that there is no way to reduce
20 the budget deficit effectively without having some mix of tax
21 increases and spending cuts. In that regard, I differ from
22 some people on my side of the aisle who say, no new taxes
23 under any circumstances, or that we can put together a
24 program with no taxes at all. I do not believe that, and I
25 never have believed that. I think it is going to take some

1 kind of a program which includes both spending taxes and tax
2 increases.

3 But the question then is, if you think that way, well,
4 what is the appropriate ratio? How do we do that, how do we
5 put it together? And there are various claims as to whether
6 this is 1:1 or not 1:1, and that is something that will be
7 hotly contested. I do not think it is 1:1. I think that
8 this is very heavily weighted toward tax increases, and I do
9 not believe that this is the way to close the budget deficit.

10 Now, I do not think that it is possible to do a
11 responsible job in reducing the budget deficit unless there
12 is a real effort to control the growth of entitlement
13 programs. That also is a controversial point. Some people
14 would disagree with that. Some people would say, well, that
15 is cruel to deal with the entitlement programs, because
16 beneficiaries of the entitlement programs are old people, or
17 they are poor people. But the entitlement programs are the
18 rapidly growing part of our budget. Entitlement programs
19 which were 30 percent in the 1960s, 53 percent today, 69
20 percent 10 years from now, add to that interest on the
21 national debt, which truly is off limits. And, if
22 entitlements are off limits, I do not see how we can deal
23 with the budget deficit on the spending side. And
24 entitlements truly are the third rail of politics, and there
25 is no way that we are going to deal with entitlements unless

1 it is on a bipartisan basis. If there were some easy,
2 popular way to reduce the budget deficit, we politicians
3 would have found that easy, popular way along time ago. It
4 does not exist. And, therefore, we are looking for political
5 advantage, one party over another. And the result of this is
6 we are coming up with ideas that are not going to work, and
7 this is one of those ideas.

8 So, Mr. Chairman, I am going to pose a question or a
9 plea. Is it possible, even in the next two days, to
10 reconstitute some sort of bipartisan effort in the Finance
11 Committee to come up with a program that deals with the
12 entitlement programs that--maybe not this year or next year,
13 maybe three years out--that provides a cap for the
14 entitlement programs, and, at the same time, which relies
15 less heavily on tax increases than this program? I would
16 hope that the answer to that question is yes. I would hope
17 that it is not yet too late for Republicans and Democrats who
18 have a long history on this committee of working on a
19 bipartisan basis to try to put something together which is
20 more balanced than this particular program. If it were
21 appropriate, this is opening statement time, I would offer
22 that as a motion. But I simply raise this as a point for the
23 Committee's consideration.

24 The Chairman. I would say to my dear friend and
25 colleague of some 17 years in this committee, that this is a

1 fine and principled opposition. Yet, when we get by the
2 necessary near emergency work of budget reconciliation, I am
3 prepared to spend the rest of this year on that subject.

4 And I see the Republican Leader has asked to be
5 recognized. Senator Dole.

6 Senator Dole. Mr. Chairman, thank you very much.
7 Senator Baucus was praising the Chairman up. When I was
8 Chairman, I did not want too much praise on a tax bill
9 because people were always --

10 The Chairman. Moderate praise.

11 Senator Dole. Moderate praise. So, I moderately praised
12 the Chairman. This is a difficult task. I certainly have no
13 quarrel. I commend the Democrats. I remember once, Senator
14 Long telling me when I was Chairman, we are not going to be
15 able to help you on this matter, and that was the end of
16 that. And he did not.

17 (Laughter)

18 Senator Dole. So, we had to get together and work out a
19 plan. I know how difficult it is. I think we are going to
20 be debating for some time. I mean, I hear all of these
21 claims, the President saying, well, if it is \$498 billion, I
22 might not worry. It has got to be close to \$500 billion. We
23 have just gotten the papers just this minute, so we have not
24 had a chance to go through the papers. But, as I look at it,
25 there is \$110 billion out there that we assume we are going

1 to save in the appropriations process that has not been saved
2 at all. So, you take \$100 billion off whatever the figure
3 is. Then there is \$54 billion in interest savings, which is
4 not a spending cut. So, you end up with primarily a tax
5 bill, about \$240 some billion in taxes, and \$100 billion, if
6 you look at all of the different committees, in so called
7 spending cuts.

8 But I have got to believe, based on precedent around this
9 place--not just Democrats, but also Republicans--if we look
10 through that \$100 billion, much of it is going to be smoke
11 and mirrors. In fact, it will probably give smoke and
12 mirrors a bad name. So, we do not know how much we are going
13 to actually -- there are going to be real, hard spending
14 cuts. But, most Americans do know that once the taxes go
15 into effect, that they are going to be permanent. That is
16 the problem with this package: we did not cut spending first.
17 The Finance Committee cannot do it all; I understand that.
18 But you look at the other committees, some have done hardly
19 anything. Foreign Relations is going to save \$61 billion,
20 which is tremendous, over the next five years.

21 So, I do not know where the savings are, but we hope to
22 find that out in the next few days. But it seems to me that
23 it is not a question of reducing the deficit. I think if we
24 could take out all of the new spending programs that
25 President Clinton wants to initiate--nobody wants to initiate

1 new programs--we are going to be spending, what, \$130-\$135
2 billion in new programs. There may be some necessity in some
3 areas, but certainly not everything. Then we could reduce
4 the tax burden and have a better ratio. I share the views
5 expressed, in part, by Senator Danforth. I think there are
6 Republicans on this side of the aisle who have in the past
7 voted for a combination of cuts and revenues, but I do not
8 really believe this because what we are reporting out today
9 is \$4.41 in taxes for every dollar in spending cuts, and then
10 the overall reconciliation bill is \$3.28 in taxes for every
11 dollar in spending cuts. You cannot get anywhere. There is
12 no other way you can do it unless you assume interest
13 savings, which is certainly not a cut, and assume \$100
14 billion that we might save through the appropriate process.
15 If you take out \$150 billion, you are not left with \$500
16 billion, you are left with \$350 billion, and most of that is
17 taxes. The American people understand that, and they are
18 going to understand it more as the days go forward. That is
19 why President Clinton's support has dropped from 78 percent
20 for this package to around 36 percent, and even lower in some
21 other States.

22 So, I think, certainly, I know the Democrats have met
23 their instruction from the Budget Committee, but I am not
24 sure we have met the instruction from the America people.
25 The American people do not want us to raise taxes unless we

1 are also going to cut spending. And you can say it is \$260
2 billion in spending cuts; it is not. There is no way that
3 can be demonstrated. It can be said, but it cannot be proved
4 because we do not have the \$100 billion. Well, assume \$110
5 billion. Assume future savings from appropriations. You do
6 not count interest savings as spending cuts. So, it seems to
7 me it is way off mark. Most Americans understand that. We
8 hope that they will even understand it more between now and
9 the vote on the conference report.

10 The Chairman. I thank the distinguished Republican
11 Leader and acknowledge that we are only dealing today with
12 the issues in the providence of this committee, and in that
13 we have no alternative. The Majority Leader, Senator
14 Mitchell. Good morning, sir.

15 Senator Mitchell. Mr. Chairman, thank you very much. I
16 will be brief, because I know you want to get on with the
17 business of the committee. This is a significant deficit
18 reduction package. And, as so often happens, we now face the
19 test of whether we are serious about reducing the deficit or
20 whether we merely wish to talk about reducing the deficit.
21 This committee room and the Senate chamber have been filled
22 with speeches, intense rhetoric, high flown phrases about the
23 need to reduce the deficit. And the vote on this package
24 will determine the seriousness of purpose and the seriousness
25 of the many words spoken on reducing the deficit.

1 Mr. Chairman, this is the \$508 billion deficit reduction
2 package overall. This committee, whose efforts will comprise
3 most of that total, I think, will be presented with an
4 outstanding package. It deserves the support of every member
5 of this committee, and, I believe it will have the support of
6 the American people because it is a serious effort to reduce
7 the effort. I hope that all of those who have given so many
8 speeches about the need to reduce the deficit will join in
9 supporting action to reduce the deficit.

10 The Chairman. I thank the distinguished Majority Leader.
11 I make the point, as is evident to those of us here at the
12 dais, that we have before us on the eminent panel, headed in
13 the first instance by Mr. Gutman, who is Director of the
14 Joint Committee on Taxation, a bipartisan body, who will walk
15 us through the measure as soon as we have made our opening
16 statements, which I think the two leaders have been exemplary
17 in their example. Mr. Gutman will assert that there is more
18 than a quarter trillion dollars in spending cuts in this
19 measure. No such measure has ever passed the United States
20 Congress, much less been contemplated by the Committee on
21 Finance. And now, I believe, Senator John.

22 Senator Chafee. So nice to be here. I am flattered you
23 remembered me.

24 (Laughter)

25 Senator Chafee. Mr. Chairman, I want to express my

1 deepest regrets that this bill has been fashioned in such a
2 partisan manner. This is not a Finance Committee measure, as
3 you know. This is a measure from 11 Democrats on the
4 committee. Now, you stated, Mr. Chairman, in individual
5 conversations, that the Republicans did not want to be
6 players because they were against the House bill. That is
7 absolutely true. But so were nearly all of the Democrats
8 against the House bill. And so you decided or it was decided
9 that you would proceed with no Republicans, and you held
10 these in camera sessions where each member had a veto power.
11 And I think this is a very, very poor way of doing business,
12 and I find it especially disappointing, Mr. Chairman,
13 because, while you were Chairman of the Environment and
14 Public Works Committee, you so successfully and skillfully
15 blended all of the factions in producing that outstanding
16 Surface Transportation Act of 1990, both in the committee, on
17 the Floor, and you were Chairman of the Conference. There
18 you brought everybody in and it was a successful bill. And,
19 for some reason, you chose not to perform in that manner in
20 connection with this legislation. I have always been proud
21 of the bipartisan nature of this committee where I have had
22 the privilege of serving for some years, and, I must say, I
23 am concerned about the precedent we are establishing here
24 because there are other difficult issues coming down the
25 pike, whether it is health care or the North American Free

1 Trade Agreement, or whatever.

2 And, I must say, Mr. Chairman, I think I can say safely
3 that no one is more committed in this committee than I am to
4 doing something about deficit reduction. But I am going to
5 vote against this package because it simply does not address
6 the fundamental problems behind our enormous deficits, which
7 are too much Federal spending. And, as has been said before,
8 this relies heavily, principally on new taxes as a way of
9 reducing the deficit. We can argue back and forth that
10 somehow, these now count as savings rather than taxes. We
11 will go through that, I am sure, ad nauseam, here. But, Mr.
12 Chairman, I would like to reiterate what the Senator from
13 Missouri said. Every single member of this committee knows
14 that to truly deal with our Nation's deficits, we have got to
15 tackle the entitlements. And that requires bipartisan heavy
16 lifting. You are not going to get it from one party alone,
17 because they have got to have some cover from the other side.
18 And that, unfortunately, has not been done here. Therefore,
19 you talk about deficit reduction, but I think it is fair to
20 point out that even under the administration's assumption,
21 and with this bill, the debt of the Nation goes up \$1
22 trillion--\$1 trillion--in the next four years. So, Mr.
23 Chairman, I am disappointed in this legislation.

24 I will just give you a little illustration. For some
25 reason, the gasoline tax of 2.5 cents that currently goes

1 into the general fund now goes into the Highway Trust Fund,
2 where we all know it will be spent rather than going into the
3 general fund where there is a chance it can be used toward
4 deficit reduction. And I know a lot is going to be made
5 about the 4.3 per gallon gasoline tax. I regret that that
6 was not more substantial. It will certainly do nothing about
7 conservation; everybody recognizes that. It will not do a
8 lot for income.

9 So, Mr. Chairman, I hope this thing fails all the way
10 around and we can go back to square one and do something
11 about true deficit reduction for our Nation.

12 The Chairman. I thank you, Senator Chafee. Senator
13 Chafee, may I say that it may be this is a pattern that takes
14 occurrence early in new administrations. In 1982, as Senator
15 Dole referred to, the exact sequence took place here as it
16 taking place today. In the New York Times, in the press,
17 generally, of May 15, it was reported that I had had a
18 conversation with Senator Packwood which was entirely
19 friendly and collegial, as our conversations are, in which he
20 indicated that there would be no Republican support for the
21 taxing proposals the President had. And I said, well, we
22 will go on our own. This was confirmed by a spokesman of
23 Senator Packwood. This is the last of these events. We will
24 go directly to extending the fast-track authority for the
25 President on trade barriers, a matter of great concern to

1 you, and it will be a completely bipartisan -- well, I mean,
2 it will be a joint effort as it always has been. But --

3 Senator Chafee. Well, Mr. Chairman, I do not want to
4 prolong this too long, but certainly anybody that knows some
5 of the members on this side knows that we have supported
6 taxes time and time again, whatever it is. And it is true,
7 you have got some on this side who are dedicated to no new
8 taxes, but that does not include the Senator, and does not
9 include others, and we have made that perfectly clear in
10 individual conversations --

11 The Chairman. And have acted accordingly.

12 Senator Chafee. -- speaking with the Secretary of
13 Treasury, no matter who it is.

14 The Chairman. And have acted accordingly. I am happy to
15 say that we have just received a message from the Secretary
16 of the Treasury, who is saying how he thinks this is
17 extraordinary legislation and he supports it completely.
18 Senator Conrad, in order of appearance, our newest member,
19 and our first Tax Commissioner ever.

20 Senator Dole. And he has a special desk there, too.

21 The Chairman. Yes. That was fashioned in the days of
22 Russell Long to, I think, add two more Senators from oil and
23 gas produced.

24 (Laughter)

25 Senator Conrad. Senator Wallop and I are both --

1 The Chairman. Here are the two ranchers.

2 Senator Conrad. We are the caboose on the train.

3 The Chairman. One wheat farmer and one rancher. That is
4 the way the plan sometimes goes. Good morning, sir.

5 Senator Conrad. It is good to be here. Mr. Chairman, I,
6 too want to salute your leadership because I think,
7 especially without your good humor, bringing together 11
8 members around a package of this magnitude simply could not
9 have happened.

10 So, I especially want to salute the extraordinary good
11 humor that you display, and, beyond that, the statesmanship
12 that you displayed. And, I must say, there were many acts of
13 statesmanship as this package was put together.

14 What we have come up with, I think, is a dramatic
15 improvement over what we were sent by the House. No BTU tax;
16 no barge tax; the largest package of deficit reduction that
17 has ever come before the Congress; and, in fact, more
18 spending cuts than tax increases. And let me emphasize that,
19 because --

20 Senator Dole. Explain it. Explain it.

21 Senator Conrad. I would be glad to. I would not be
22 supporting this package. I was one of those that said there
23 had to be more spending cuts than tax increases. And, when
24 you take the package in total, not only what is in the
25 jurisdiction of this committee, but what is in the

1 jurisdiction of the Appropriations Committee, there are more
2 spending cuts than tax increases. There are \$260 billion of
3 spending cuts, and there are \$248 billion of tax increases.

4 Senator Dole. You are counting interest savings as a
5 spending cut.

6 Senator Conrad. Which has always been done. In the
7 packages that your side passed, Senator Dole, you considered
8 reductions in interest expense to be spending reductions.
9 That has traditionally been the scoring, and that is the
10 scoring that has been followed here. In fact, it is a
11 reduction in spending when you are not spending money for
12 interest. In addition, 90 percent of the revenue--90 percent
13 of the revenue--is coming from those earning over \$75,000 a
14 year. This is a progressive tax package, as well as being a
15 dramatic deficit reduction package.

16 One other point Mr. Chairman, that I think should be
17 made. Some of us felt that spending reductions had to exceed
18 tax increases, and we believe that has been accomplished in
19 this package. Some of us would like to see even more
20 spending reductions, but they would need to come from areas
21 outside the jurisdiction of this committee, just as the
22 Budget Resolution requires that there are more spending cuts
23 from jurisdictions outside the Finance Committee. Mr.
24 Chairman, we are hopeful that there will be, in addition to
25 the plan that is in place, additional spending cuts in

1 jurisdictions outside this committee. I think there are
2 going to significant opportunities on the floor to do that.

3 One other note that I think should be sounded, because
4 there has been a great deal of concern about the Medicare
5 cuts, I think we should emphasize, these are not cuts, they
6 are reductions in increases. The fact is, if we had not done
7 anything, the increase in Medicare and Medicaid over the next
8 five years would be 67 percent. If we did nothing, the
9 increase in Medicare and Medicaid over the next five years
10 would be 67 percent, by far the largest increase of any part
11 of the budget. We have reduced that to a 64 percent
12 increase. Obviously, more must be done, but that awaits
13 health care reform because that is the part of entitlements
14 that is growing out of control.

15 Mr. Chairman, this package is, I think, an
16 extraordinarily good one, a dramatic improvement over what we
17 were sent, and is in no small part a reflection of the
18 exceptional leadership that you have provided.

19 The Chairman. You are very generous, Senator Conrad.
20 And your striking point about the growth in Medicare outlays
21 in just the normal course of events, I think, supports and
22 reinforces the remarks of the Senator from Missouri that this
23 is something we are going to have to get to. And we will get
24 into health care. When this bill passes, that is the
25 beginning of the great collaborative inquiry on health care.

1 And no one has been more interested on that side of the aisle
2 on this subject than the Senator from Minnesota, Senator
3 Durenberger.

4 Senator Durenberger. Mr. Chairman, I appreciate the
5 compliment a great deal. Yesterday was not one of my better
6 days. I found myself with a group of seven Republicans
7 without any friends trying to do campaign finance reform. I
8 found that the Democrats did not like what they were doing in
9 trying to be helpful to us, and the Republicans hated us for
10 what we did.

11 So, I would like to begin my comments with a compliment
12 to the gentleman from Oklahoma, and the gentleman from
13 Missouri, and a couple of their colleagues who had the guts,
14 in the middle of all of us, to say there is a better way of
15 doing this. That is the best way I think I can summarize the
16 way I feel about this process. Jack Danforth, for one, was
17 still fighting the battle 48 hours ago, trying to find a way
18 that would bring us together where the Democrats, the
19 Republicans, no matter how you believe them on this issue,
20 trying to find that middle ground. And I hope, from the
21 tenor of the Chairman's comments, that as soon as this is
22 disposed of, that will become the tenor of this committee.

23 The Chairman. Exactly.

24 Senator Durenberger. My second comment is with regard to
25 my colleagues across the aisle. My colleague from Louisiana

1 said we got the job done, and, by way of a compliment, let me
2 say to my Democratic colleagues, that you probably did the
3 best that you could with what you were handed.

4 I, too, agree with my colleague, John Chafee, that this
5 is not the Pat Moynihan that we have seen, but it is Pat
6 Moynihan. Pat Moynihan was handed Bill Clinton. I think Pat
7 Moynihan and his colleagues did the best they could with what
8 they were handed by the President, and by the Democrats on
9 the House side, and I intend that as a compliment. If that
10 is statesmanship, it is a new definition of statesmanship.
11 But the reality is, I believe, because I know you all, that
12 you did the very, very best that you could with what you were
13 handed.

14 The Democratic Leader said it just before he left, that I
15 hope all of those of you who have been giving speeches on the
16 deficit are going to do something about this. I wish he were
17 here so I can tell him I made my first speech on debt to a
18 college graduation audience in 1984. And the people who were
19 at that graduation still come up to me and remember exactly
20 what I was talking about, why I talked about it, not because
21 I have been repeating this speech since then so much, but
22 because it has become so much more an important part of that
23 person's life. We do not need to be lectured by the Majority
24 Leader on the need to cut the deficit, or to get the debt
25 down, or any of that sort of thing. People on both sides of

1 this aisle, I believe, have been trying to do that for a
2 whale of a long time.

3 What do the American people want from us? They want
4 change. What are they getting? The debt is going up, taxes
5 are going up, spending is going up. We hope and pray
6 inflation and interest rates do not follow it.

7 Another thing that has not changed, Mr. Chairman, just by
8 way of a question that somebody might answer, last night in
9 the draft that we saw of the recommendations on the
10 Transportation Fuel Tax, there was an ethanol and methanol
11 exemption from 1.7 cents of the 4.3 cent a gallon tax. This
12 morning, when the sun came up, that exemption was gone, which
13 loses about \$187 million. I hope that is not accurate. But,
14 if in fact it is, there are some things around this place
15 that never seem to change.

16 My final comments, Mr. Chairman, are with regard to
17 health care. I smiled when my colleague from North Dakota
18 talks about the fact, we are not cutting anything, we are
19 just reducing the growth. That is what we have been talking
20 about for the last 10-12 years I have made all those
21 speeches. The reality is, we are merely shifting the burden
22 to somebody else. If you think you are not putting a burden
23 on small towns, and small hospitals, and small doctors in
24 North Dakota, you are kidding yourself. We have to get at
25 health care reform. This is not the way to do it. We went

1 to the floor on reconciliation, again, I think, with the
2 leadership of the Senator from Missouri. We recommended we
3 put a lid on Medicare spending of CPI plus three, and then
4 CPI plus two, then one, then get about the job of reform. We
5 were told not to do that because the administration was going
6 to have an alternative way to approach it. I certainly hope
7 that they do.

8 There are other parts of this legislation, the
9 immunization struggle we went through, other things, that I
10 think, Mr. Chairman, you and your staff have done a very,
11 very good job of trying to help us work out the details of
12 the implementation of these, and I compliment you for it.

13 The Chairman. Thank you, Senator. And we do have a
14 major reform of the immunization system, as you know. Thanks
15 very much to you. The ethanol matter, we have, by
16 arrangement on our side, agreed to put this over to be
17 resolved in conference in the manner that we contemplated.
18 We will do it, and you will be a part of that consultation as
19 well.

20 We are just following in our normal order. So, Senator
21 Hatch. Good morning, sir.

22 Senator Hatch. Well, good morning, Mr. Chairman.

23 The Chairman. Senator Hatch is speaking, so we will all
24 be able to listen.

25 Senator Hatch. I want to compliment you, Mr. Chairman.

1 Anybody who has been a chairman of a committee knows how
2 difficult it is under these kind of fractious circumstances
3 to pull one side or the other together. So, I compliment
4 you. I do have to endorse what Senator Durenberger said,
5 that \$69 billion cut in Medicare, those costs are going to be
6 shifted, as you know. And, I might add, right now there are
7 a lot of health care providers who do not even want Medicare
8 people to come in because of the reimbursement approaches
9 that are taken. So, it is going to cause even more problems
10 than we have had today. This is probably the most important
11 bill of this particular session of Congress, and I think all
12 of us are very concerned about it. Most all of us are
13 concerned about the ramifications.

14 One of the major problems with the heavy reliance on tax
15 increases in this bill, Mr. Chairman, is the negative effect
16 they will have on jobs and on job-creating capabilities of
17 our economy. By throwing hundreds of billions of dollars of
18 new taxes on America's employers, we are making it almost
19 impossible for the engine of job growth to run on all of its
20 cylinders, and the engine has been sputtering for months
21 already, in anticipation of these tax hikes.

22 I might add, I found it ironic yesterday that the same
23 time that the Democrats have come up with this tax bill, that
24 the Labor and Human Resources Committee was passing a new \$4-
25 \$7 billion new agency and new program. That is if we are

1 lucky, that is all it will cost. That is only one of their
2 programs. The Labor and Human Resources Committee has never
3 been known for restraint. I suspect you are going to see
4 billions and billions of dollars more in spending before the
5 next five years are up. Frankly, I am getting a little weary
6 of this worn out, let's tax the rich mantra. Under this
7 bill, if you drive a car, you are rich. Now, you must be
8 rich. If you are a senior citizen who has saved for your
9 retirement, you are rich. If you are a sub-S corporation,
10 meaning, generally, a small business corporation, you are
11 going to pay more than General Motors as a percentage of your
12 income. You are rich.

13 Mr. Chairman, it is time we were honest with the American
14 people. This bill is going to tax everyone. High marginal
15 tax rates discourage work, savings, investment, and risk-
16 taking. Taxes aimed at the so called wealthy always end up
17 hitting the working men and women. Having been one, I
18 understand that pretty well.

19 Moreover, Mr. Chairman, it is highly unlikely that the
20 revenue expected from these tax rate increases will ever
21 materialize. Some noted economists have warned us that
22 individuals facing these higher taxes will take action to
23 avoid paying more taxes by shifting investments and by
24 working and risking less, like with the ill-fated Treasury,
25 or, should I say, luxury taxes of 1990. The Treasury will

1 realize far less revenue in the real world than on the paper
2 estimates that lie before us. And, I fear that the infamous
3 1990 budget deal, like that, we will look back on this
4 legislation with regret because it just plain will not be
5 effective in cutting the deficit. If any of my Majority
6 colleagues doubt this, they should recall that George Bush
7 said that the 1990 agreement was one of his worst, if not his
8 worst, mistakes.

9 I do not think it is too late, Mr. Chairman, for us to
10 return to the path that will lead us to an effective deficit
11 cutting plan, but we cannot do it alone on this committee,
12 and you cannot do it alone just as Democrats. We are going
13 to have to have goodwill and work by all of us. I have a lot
14 more to say on all of this, but I think I will end it there.
15 Thank you, Mr. Chairman, for allowing me to make a statement.

16 The Chairman. Thank you, Senator Hatch. May I just
17 record that, in testimony before us on this matter, Martin
18 Feldstein shared your views quite emphatically. That is good
19 company. Senator Rockefeller.

20 Senator Rockefeller. Thank you, Mr. Chairman. I want to
21 join everybody in complimenting you. You have been, in my
22 judgement, extraordinary in the way you have lead what has to
23 be described as one of the most difficult processes that most
24 of us have ever been through. I mean, I hope the American
25 people understand that Chairman Moynihan was told that there

1 would be no Republican votes, all the Republicans would vote
2 against this bill. This bill, whatever bill, whatever we
3 did.

4 Senator Dole. No, no. We did not say that. No, no.

5 Senator Chafee. That is not true.

6 Senator Rockefeller. The message came through that the
7 Republicans would vote no. And it became very difficult,
8 therefore, for 11 Democrats to sit day after day, under the
9 able leadership of Chairman Moynihan, and fashion a program
10 as best we could. And, because we could not lose a single
11 vote on the 11, we had to have all 11, because we knew that
12 there would be nine Republican votes going no, that if there
13 was one Democratic vote that went no, the package would lose.
14 So, it was a new level of constraint that we were operating
15 under. I think Chairman Moynihan really led us through that.
16 I also want to say that this is the largest deficit reduction
17 package in history, and I want people to understand that.
18 The appropriations, the budget authorization and
19 appropriations cuts that come down the road in the regular
20 process are required. I mean, there is no question that we
21 will not meet those, we will meet those. That is law, so to
22 speak. We can fiddle around with the way we meet those, but
23 we can't not meet them, so we are going to have \$508 billion
24 of deficit reduction. Extraordinary. We had a lot of
25 conversations around the table, as I recall, Chairman

1 Moynihan, about this or that program which we would like to
2 be able to cut. Super collider, or others were brought up;
3 SDI, whatever. And it was constantly said, reminded by
4 Chairman Moynihan, we cannot do those cuts. We do not have
5 the jurisdiction to do that. But, in any event, we went
6 ahead and made more cuts than we did increase taxes and the
7 result is the largest deficit reduction package in history.
8 I think that is something to be proud about.

9 Now, I opened with a comment about my Republican
10 colleagues, and I want to say that, in the same spirit as
11 Dave Durenberger, I look across the aisle and I see friends.
12 I see people that I have worked with, starting from Malcolm
13 Wallop. We know what subject we worked together on. Orrin
14 Hatch, John Chafee, Jack Danforth, right on through. And
15 nobody wants this to be a bipartisan process more than I do
16 because of the need for the success of our country, for our
17 people to get out of this downward trend that we appear to be
18 in economically. And, with health care coming up, I think it
19 is particularly important.

20 So, I am hopeful that, as we proceed from this point
21 forward in the committee, that we will, once again, become
22 bipartisan, that we will have some Republican help, that the
23 Democrats will not have to do this all by themselves. I
24 thank the Chairman.

25 The Chairman. I thank you, sir. And, most emphatically

1 want to endorse that sentiment. We go to health care
2 directly when we bring this bill back from conference.

3 May I note, as we get toward the end of our opening
4 statements, Senator Boren is on the floor managing the
5 Campaign Finance Reform Measure and he will not be able to be
6 here until final passage, but I have his proxy for any votes
7 that come along.

8 Senator Dole. Is he for the bill?

9 The Chairman. He is for the bill.

10 Senator Dole. But there is still time. One defection
11 can save the country here.

12 The Chairman. And that may be why, a certain sense of
13 prudence, he stayed away, because he might be swayed by the
14 arguments here if he heard from the likes of Senator Wallop,
15 who is next.

16 Senator Wallop. Thanks, Mr. Chairman. I guess I join my
17 Republican colleagues in sort of a quizzical venture as to
18 why we are here at all. I mean, inasmuch as you all have
19 decided to do what you are going to do, and if you choose to
20 be lemmings, you are clearly going to be lemmings. The sea
21 is open and you are marching toward it, not in a bipartisan
22 way, but in a strictly exclusive way. The excuse having been
23 that there was no possibility of Republican cooperation in
24 this, and I think that has been battered by the events that
25 have taken place in the process, which you, yourselves, have

1 conducted, Mr. Chairman, and the Senator from Oklahoma,
2 Senator from Missouri, and others who have welcomed that
3 initiative.

4 I want to begin by saying how much I regret what the
5 President of the United States has done, and that is to
6 indulge in the politics of envy. He promised to bring us
7 together. Instead, daily, he harps on the enemies amongst us
8 and those who profited unfairly: the special interests, the
9 doctors, the insurance companies. We are daily confronted by
10 a new enemy. And, instead of bringing Americans behind a
11 program to go somewhere, he is getting everybody to circle
12 the wagons to shoot somewhere. And this bill demonstrates it
13 absolutely categorically.

14 First enemy: families. The family penalties contained in
15 this are absolutely catastrophic. To be married -- I mean,
16 most people will be better off, if they are in anything, will
17 be better off, as retired couples or as working couples,
18 getting divorced and living in sin because of the tax rates
19 individually will be so much more lenient than they are if
20 you are a couple.

21 Second enemy: small business. They were astonished to
22 find themselves among President Clinton's, the rich. I mean,
23 Wyoming is the largest per capita small business State in
24 America, Mr. Chairman. It is not a rich State. The people
25 who may have substantial gross incomes because they file it

1 as their own, their drug store, their shoe store, their other
2 store --

3 The Chairman. Yes. The Chapter S.

4 Senator Wallop. Chapter S, or, as sole proprietor.
5 Suddenly they are finding their gross catapulting them into
6 the category of the rich and paying the Democratic super tax
7 on their income, as well as the higher rate of taxes.

8 Secondly, and this is not the fault of any party, but all
9 of us, this whole budget process is absolutely devoid of any
10 economic accounting rationale. I mean, I will start with the
11 able panel here, or any member, and ask them how they can
12 tell what is going to be going on five years out. So, it is
13 a question of juggling things. We have never met any one of
14 the forecasts, and we will not meet any one of these.

15 But the worst part of it is that it guides us back to the
16 politics of envy so that we can decide how much corporations
17 ought to pay their executives; so that we can tell people
18 from Wyoming, as we take care of one of the enemies, the
19 special interests, the lobbyists, that they cannot deduct
20 their expenses for coming here and telling me what it is that
21 we are about to do and how it will affect them. This is
22 unbelievable arrogance somehow or another that we can, or
23 common cause can tell us what the ordinary people of America
24 will not be entitled to tell us, or to have that as an
25 ordinary business expense. Incredible, Mr. Chairman.

1 Lastly, I am not surprised that the Secretary found favor
2 with the bill, and he found favor with the House passed bill.
3 They are nothing like the same, but he easily is appeased in
4 all of this.

5 Greenspan, in testimony to this committee, gave a
6 statement as to why employment was not matching economic
7 growth. It was because people were worried about this
8 process, and because people were worried about the rest of
9 what we are doing, as adding incredible complications and
10 obligations to the employment of Americans.

11 And, lastly, let me just say that our friends on the
12 other side have forgotten that the engine of revenue is not
13 the tax rate, but the growth rate. This bill kills the
14 growth rate. How is that for timing, Mr. Chairman?

15 The Chairman. That was beautifully done. And that gong
16 reminds me that yesterday, according to a New York writer,
17 when the bell rang to close the session, blue chip stock shot
18 higher in the final minutes of trading Wednesday, spurred by
19 moves of the Senate Finance Committee, had worked on a
20 tentative deal on President Clinton's economic plan. Dow-
21 Jones industrial average rose 19 points in -- close at 31556.

22 Senator Dole. That was yesterday.

23 The Chairman. That was yesterday.

24 Senator Wallop. Mr. Chairman, if I may say so, that is
25 one of the other automatically idiotic things that occurs

1 daily, is that there is always some way to explain why the
2 stock market rose 25 points or fell 25 points when the day
3 before it was just like the day that succeeded it.

4 The Chairman. But this day is different.

5 (Laughter)

6 The Chairman. Senator Wallop, I want to agree with you
7 very much. As you know, well, you have to have gone through
8 one of these processes to realize that the budget scoring
9 arrangements are incomprehensible. They are in the hands of
10 a cleric at the CBO that tells us, hands down decisions --

11 (Laughter)

12 The Chairman. And you can only obey. You are not
13 supposed to comprehend. And, if you would like to join me on
14 a couple of sessions on that matter -- I would not recommend
15 it to other members. I think anybody who penetrates those
16 secrets, I do not know if you return with your faculties
17 altogether intact. But, Mr. Greenspan did testify that he
18 wanted to see some action. I think it was the most emphatic
19 testimony we have heard from a Chairman of the Federal
20 Reserve Board. And, in any event, we are not going to --

21 Mr. Daschle, you are next, sir.

22 Senator Daschle. Thank you very much, Mr. Chairman.
23 Like all of my predecessors, I, too, want to compliment you
24 on your leadership. I know several months ago there was a
25 good deal of discussion about the leadership in this

1 committee and what will occur with the loss of our former
2 Chairman. I do not think there ought to be any questions any
3 longer. Your diplomatic skills, your sense of humor, all of
4 the skills that it takes to lead as complicated an effort as
5 this has been, were demonstrated in remarkable fashion over
6 the last several days, and I salute you.

7 They say that misery loves company. And, if that is the
8 case on this bill, there is plenty of room. And I am
9 delighted to know that there are colleagues on the other side
10 that share that determination to deal with this miserable
11 task that we have in a way that will allow us to accomplish
12 what we know must be accomplished. If we do nothing, in the
13 next eight years the debt is going to grow to \$7.5 trillion.
14 That is what we face. Indebtedness almost twice what it is
15 today in a matter of less than a decade. So, it is a luxury,
16 really, to talk about how we would like it to be. It is a
17 luxury to talk about the need for more cuts. But, in the
18 same setting, I have heard concern for the increases on cuts
19 on Medicare, and the effect it will have on rural hospitals.
20 At the same time, I have heard concerns expressed about the
21 impact that Medicare, or, I should say, about the fact that
22 we do not have enough cuts. So, I think just that simple
23 dilemma describes the problems that we face in this
24 committee. We recognize the impact that cuts will have in
25 rural America. We recognize the cuts that we have got in

1 this bill will have devastating results if we do nothing with
2 health care reform. But we also recognize that that \$7.5
3 trillion debt is hanging out there and we have got to address
4 it. This bill has three qualities that I feel very strongly
5 about, and the reasons I support it. It is progressive. For
6 anyone making less than \$20,000, this bill represents a tax
7 cut, not a tax increase.

8 The Chairman. Yes, it does.

9 Senator Daschle. Eighty percent of the responsibility in
10 taxes fall on those with incomes of more than \$100,000. It
11 is fair geographically and industrially. Many of us were
12 concerned and we made no secret about the concern that we
13 shared about the BTU tax, and its impact in large rural areas
14 like ours, its impact on agriculture. The BTU tax is gone,
15 and, in its place, we have a very palatable transportation
16 tax that I believe is really representative of the concerns
17 that we have expressed.

18 And, finally, it is real. There is no doubt about the
19 fact that \$260 billion in this bill is very real. And,
20 obviously, there are many of us who would even further if we
21 had a means by which to accomplish that in the parameters and
22 the constraints with which we are working. But the fact is,
23 that \$260 billion was a painful illustration of the misery
24 that we have had to experience over the last several days.

25 So, again, Mr. Chairman, I end where I began, by

1 complimenting you and the tremendous leadership you have
2 shown, by recognizing the miserable process that we have been
3 subjected to, and recognize that, out of this process, must
4 come a product, and I feel very good about the product that
5 we present this morning.

6 The Chairman. Senator Daschle, you know we would not be
7 here without your huge contribution to the process. I thank
8 you very much. And another representative of the great
9 Middle West who is on this committee, Senator Grassley.

10 Senator Grassley. Thank you, Mr. Chairman. I did not
11 get a name tag, so I am glad to find out who I am.

12 Senator Dole. I saw you in Iowa. Yes.

13 (Laughter)

14 Senator Grassley. Mr. Chairman, in 1988 I used to travel
15 with him, but now he is so well known in Iowa that when they
16 ask him about Chuck Grassley he says, Chuck who?

17 As a member of this committee and the Budget Committee--I
18 am a member of both--I have been involved in the current
19 budget reconciliation process from the beginning. I have to
20 say to you, though, Mr. Chairman, and members of the
21 Majority, this has been one of the most disappointing and
22 aggravating budget processes that I have dealt with as a
23 member of Congress.

24 This President's budget package has been a constantly
25 moving target of ups and downs, and of indecision, and one

1 deal right after another. First, the President campaigned on
2 the theme of a middle class tax cut and spending reductions.
3 He attacked those who advocated tax hikes, including, in his
4 words, a backbreaking gas tax. That helped, of course, to
5 get him elected, although by less than an impressive margin.
6 Once in office, his promises were abandoned, and now we have
7 what will be one of the largest tax increases in the history
8 of the country, along with an historical spending increase.
9 It is no wonder, Mr. Chairman, that the President's approval
10 ratings are at historical lows.

11 Last year I happened to be on the ballot as well, at the
12 same time President Clinton was running for President. In my
13 campaign, among other issues, I ran against deficit spending
14 and against tax increases. My opponent attacked me over and
15 over on what my positions were, and she was against those. I
16 was reelected by 72 percent to come back to Washington to
17 carry out a mandate that I got in the November election to
18 cut down spending and to hold down taxes. And that is what
19 the people back home are still telling me in overwhelming
20 numbers. And, unlike some, I feel like I have an obligation
21 to do what I promised the people I was going to do in the
22 last election.

23 The Majority may complain about how they had to produce a
24 bill of their own. Well, we Republicans have been offering
25 suggestions and alternatives throughout the process, and even

1 talking with the President up to a day or so ago on how to
2 make this process work. It is very clear to me that if the
3 President's budget reflected the promises that he ran on, we
4 Republicans would be strongly supporting his package.
5 Because this bill was put together in secret behind closed
6 doors, we, on this side, have only recently seen the language
7 before us. All too often, this has become a dangerous way of
8 legislating that, quite frankly, leads us to problems down
9 the road.

10 To the Chairman's credit, there have been some very
11 important changes and improvements made by him and others on
12 the other side of the aisle in this bill. The onerous barge
13 tax has been dropped and more spending cuts have been made;
14 the Social Security tax in the bill has been improved, but is
15 still a tax on middle income retirees, and I am going to try
16 to address that.

17 But, here we are, still with more tax increases and
18 spending cuts, and remember that most of the overall cuts do
19 not even come until after the President's term is over. Now,
20 contrary to what the President pledged in his campaign, we
21 have another backbreaking gas tax before us, as the President
22 put it. This is a consumer tax that will be especially hard
23 on rural America. Many of us still have not learned the
24 lesson from the disastrous 1990 tax compromise, as I have
25 said before. If Reagan/Bush economics were called voodoo,

1 this package ought to be called deja voodoo.

2 (Laughter)

3 Senator Grassley. It is my hope that Congress will
4 finally listen to the people who elected them by starting
5 over and cutting spending first, not some time in the distant
6 future, if even then. I hope that eventually we are all able
7 to work together towards this goal, which goal is not any
8 different than what the President spelled out in his
9 campaign.

10 The Chairman. Deja voodoo. She was a great gal.

11 (Laughter)

12 The Chairman. Senator Riegle.

13 Senator Riegle. Mr. Chairman, let me start by saluting
14 and thank you for your very important and exceptional
15 leadership in this case. I think, to try to make sense out
16 of this, especially for people who are not members of this
17 committee, we took what the House did and what the President
18 had proposed and we made a number of adjustments. I think,
19 by any reasonable yardstick, it is a much better package.

20 It is certainly much better for the middle class. If you
21 look at the impact on middle class families, on working
22 families, the adjustments we have made, I think, will be very
23 helpful there. We have also put things in here that will
24 help the manufacturing sector. A very important part of our
25 job base comes from that part of the economy, and that part

1 will be helped and lifted by the changes that are in this
2 bill if it becomes law in the form it is in now. We have
3 also helped the senior citizens buy some important changes in
4 this package also from where we had to start.

5 I think people ought to take a look at the distribution
6 tables. I realize my friends on the other side of the aisle
7 have a little heartburn because of the way the distribution
8 tables look, but the distribution tables are good for the
9 country. They may not be good for the Republican Party, but
10 they are good for the country. The BTU tax is gone. In its
11 place we have a 4.3 cent a gallon gas tax. I wish we did not
12 have to have that. According to the studies that have been
13 done, that is about \$2 a week for a family of four across the
14 country, and I will say something more about that in a
15 minute.

16 Ross Perot has been quoted by many people on this
17 committee on both sides of the aisle, and his proposal
18 proposed a gasoline tax of 10 cents a gallon each year for
19 five years. So, at the end of five years--and our plan
20 covers the next five years--Ross Perot has recommended a 50
21 cent a gallon gas tax coming in these 10 cent a gallon per
22 year increments. We have a 4.3 cent a gallon increase, one
23 time, that extends out over the five-year period of time and
24 meets our goals. Let me just -- no, I do not yield.

25 But let me just go ahead and finish and say, we have \$510

1 billion worth of deficit reduction over the five-year period
2 of time in this bill. This committee had to get \$307 billion
3 of that. That is an extraordinary task to do because we
4 cannot reach most of the things that are in the budget. We
5 cannot, for example, reach the super collider. I hope our
6 friends on the other side that talk about more spending cuts
7 will be with us when we move to do that, because that will
8 save another \$8 billion. But we cannot credit that here,
9 because we do not have the jurisdictional reach to get it.

10 Now, everybody has been talking--I would say there are
11 speeches from every member of this committee--about shared
12 sacrifice. Everybody said we have got to have shared
13 sacrifice if we are going to get the deficit down. We have
14 added \$3 trillion to the national debt since 1980. This is a
15 package that applies the concept of shared sacrifice as
16 fairly as one can do, given the range of this committee. And
17 I want to just say this to my Republican friends on the other
18 side, and I used to serve on that side of the aisle with some
19 of the members who are sitting there right now. In fact,
20 Bill Roth and I came to the Congress together 28 years ago as
21 Republicans and served on that side. I served with Senator
22 Dole as a Republican in the House. So, I know a little bit
23 about what it feels like to sit on that side of the aisle.

24 I have served under seven presidents, as some of you also
25 on this committee have as well. This President needs to

1 succeed. You may not like him. You may not like his
2 politics. That does not have anything to do with the fact
3 that the country needs to have a successful presidency at
4 this point. And, if anybody will think back to the first
5 year of Ronald Reagan, or the first year of George Bush, he
6 got a lot of cooperation from the Democrats in the Congress.
7 Both men did. And I can cite the examples here. It did not
8 just last for the first year, it lasted longer than that. It
9 was not true at the end of the Bush period. At the end of
10 four years there was a lot of partisan criticism because we
11 were in an election period. And, unfortunately, that seems
12 to have carried over into the early days of the Clinton
13 Administration. I think it is really time to sort of back
14 that out of the puzzle. I realize there is a race going on
15 for the Republican nomination in 1996.

16 Senator Dole. Where?

17 Senator Riegle. Up in New Hampshire, for one place.

18 Senator Dole. Where is that?

19 Senator Riegle. You cannot get a hotel room up in New
20 Hampshire over the last 60 days because everybody under the
21 living sun that wants to be in that race in 1996 has been up
22 there.

23 Senator Dole. It is a tourist spot.

24 Senator Riegle. Some in the Senate.

25 Senator Dole. It is a tourist attraction.

1 Senator Riegle. It sure is. And I know the Senator is
2 on his way up there, and many others. I understand that.
3 But let us keep the politics in 1996, in terms of who is
4 going to get the Presidential nomination, out of the issue of
5 trying to come up with a package of shared sacrifice that can
6 help the economy, that is good for working families, and that
7 lets this president have his fair chance to succeed as he
8 starts out. The same chance we gave Ronald Reagan, the same
9 chance we gave George Bush is the same chance we ought to
10 give Bill Clinton. And there will be plenty of time for the
11 politics later. He is in there for four years. You want to
12 beat his brains out in the last year, the last two years,
13 that is one thing. But I think we ought to try to work
14 together at this point for the good of the country, because
15 the country wants a balanced package. And I think we have
16 provided one as best we could within the constraints we have.

17 The Chairman. Senator Riegle, I absolutely agree with
18 you on all but one point, and I have to demur. This
19 committee can only have one candidate for the Republican
20 nomination in New Hampshire. I mean --

21 Senator Dole. I have been thinking about going to
22 Michigan more, lately.

23 (Laughter)

24 The Chairman. We are united in that view. Other matters
25 divide us, but Senator Dole, we wish you a wonderful spring.

1 (Laughter)

2 The Chairman. Cut him off the committee. Yes. One less
3 Republican if we could get him up to the White House.

4 Senator Roth.

5 Senator Roth. Thank you, Mr. Chairman. The message I am
6 getting from home is considerably different from what I am
7 hearing this morning. What people are interested in, at
8 least in my little State of Delaware, is jobs and growth.
9 They are dispirited because they do not see their children
10 graduating from college getting the kind of opportunity that
11 they had. And they want to see this Congress adopt the kind
12 of policies that will mean real growth and jobs in the
13 private sector.

14 Do not talk to me about cutting the deficit when the
15 package we are considering is raising spending. If you look
16 at this proposal, the only thing that addresses the deficit
17 is taxes. We are proposing to put the largest tax increase
18 on this weak economy that has ever happened in the history of
19 this country. That makes no sense. That makes no sense when
20 the recovery is just begun. Let me point out, as I listen to
21 this program, this budget proposal, it strikes me that we
22 might as well be back in 1990. Remember the 1990 bipartisan
23 Budget Agreement? It was going to result in a \$500 billion
24 reduction in deficit between 1990 and 1995. Well, we did not
25 have to wait to see what happened. Instead of the \$29

1 billion deficit projected by CBO in 1995, CBO now tells us
2 that revenue will be \$138 billion lower and spending will be
3 \$117 billion higher in 1995 than they projected in 1990. And
4 the 1995 deficit will be \$284 billion, rather than the \$29
5 billion originally projected by CBO. Well, here we go again.
6 We propose another budget agreement. The Democrats claim
7 that it amounts to \$508 billion reduction when, in fact, this
8 reconciliation bill only amounts to \$344 billion. Of that,
9 \$245 billion is a tax increase, the largest tax increase in
10 the history of the country.

11 Now, let us look on the spending side. What do they do
12 there? By 1996, the next Presidential election, when we
13 elect Bob Dole our next president, we will only see a \$15
14 billion cut in spending.

15 But that is not the point I am trying to make here so
16 much, Mr. Chairman, as the fact that we have no policies in
17 this proposal that will create growth and jobs. Nothing is
18 done about savings. Last year, the Chairman, Lloyd Bentsen,
19 and myself had IRAs to promote savings on the part of the
20 American people. We find that, in this proposal, we are
21 penalizing small business. Small business is the greatest
22 creator of jobs. Does it make sense to put a large tax
23 burden on them at this time? I am disturbed, Mr. Chairman,
24 that we have gotten so caught up in this question of deficit
25 reduction, which is important, and can be only addressed, as

1 Jack Danforth says, by spending cuts, but we are doing
2 nothing in this proposal to create real jobs and growth in
3 the private sector.

4 The Chairman. Thank you, Senator Roth. I regret to have
5 to make this ruling, but, Senator Brown, you are welcome at
6 this committee at all times, but you may not vote, sir.

7 (Laughter)

8 The Chairman. It is just the rules we have.

9 Senator Brown. It seemed like you needed my help.

10 The Chairman. We are coming, now, to the end of our --
11 we have two Senators waiting. Senator Pryor has been very
12 patient. Senator Pryor, we welcome you, sir.

13 Senator Pryor. Mr. Chairman, I join in saluting you. I
14 am ready to start marking up the bill, and I yield back the
15 balance of my time.

16 The Chairman. Very generous of you, Senator. Thank you
17 very much, sir. Senator Bradley has been here all morning.
18 Senator Bradley, you have the distinction of being the wind-
19 up orator for our side.

20 Senator Bradley. Mr. Chairman, maybe I ought to give the
21 committee a treat and just say I do not really have a
22 statement I would like to make at this time, other than to
23 say that --

24 (Laughter)

25 Senator Bradley. I think you have done some very good

1 work here. I think that the President had two very clear
2 principles that we were to follow, and that was the number on
3 deficit reduction, and that the package be progressive in the
4 raising of taxes. We have achieved that. We also have cut
5 the Energy Tax significantly and we have paid for that by
6 eliminating a lot of special interest spending in order to
7 get that Energy Tax at the low level that it is now. And,
8 Mr. Chairman, I hope that we will be able to move this
9 package quickly and get on with the main business of
10 government, which is getting the deficit down and getting the
11 economy growing again.

12 The Chairman. Thank you very much, Senator Bradley. Now
13 we come to the important part of our morning's proceedings.
14 Mr. Gutman is Director of the Joint Committee on Finance. He
15 will walk the committee through the bill. We would like to
16 welcome, in particular, Mr. Cobb, who is the Associate
17 Director; our very own Joe Gale, who is Chief Tax Counsel to
18 the Committee on Finance; Mr. Leslie Samuels, who is
19 Assistant Secretary at the Treasury for Tax Policy; and his
20 very distinguished associates, Mr. Sam Sessions, formerly
21 associated with this committee. We welcome you all. Mr.
22 Gutman, would you proceed?

23 Senator Danforth. Mr. Chairman?

24 The Chairman. Yes.

25 Senator Danforth. Could I just add an inquiry about how

1 we are proceeding? Is it your intention that the floor not
2 be offered open for amendments until after Mr. Gutman
3 completes his presentation?

4 The Chairman. That would be our wish, if it is agreeable
5 to you. I think it is the ordinary -- Mr. Packwood.

6 Senator Packwood. Yes. That is fine.

7 The Chairman. Yes. Mr. Gutman, please proceed.

8 Mr. Gutman. Thank you, Mr. Chairman, members of the
9 committee. You have before you, I believe, two documents.
10 One, is a mark-up description of the Chairman's mark on the
11 Revenue Reconciliation proposals. It has a number at the
12 bottom of the page: JCX6-93. And, in addition to that, you
13 should have a Revenue Table, which is marked JCX7-93 in the
14 upper right-hand corner.

15 In terms of proceeding through the Chairman's mark, I
16 will go in the order in which the provisions are described in
17 the Revenue Table. The first provision in the Revenue Table
18 involves individual income tax rates. The bill adds two new
19 marginal tax rates that primarily affect higher income
20 taxpayers, a 36 percent rate that would apply to taxpayers
21 with taxable incomes in excess of \$140,000, if married;
22 \$127,500 unmarried individuals filing as heads of household;
23 and \$115,000 for single taxpayers.

24 There is a second 39.6 percent rate that will apply to
25 all individual taxpayers with taxable incomes in excess of

1 \$250,000. That is a 10 percent surtax stated as a rate on
2 the 36 percent bracket, and capital gain income would be
3 included in that surtax.

4 The bill also permanently extends both the present law of
5 limitation on itemized deductions, and the phase-out of
6 personal exemptions. It establishes a two-tiered alternative
7 minimum tax system for individuals, with a 26 percent rate
8 applying to the first \$175,000 of AMTI in excess of the
9 exemption amount, and then a 28 percent rate applying to AMTI
10 more than \$175,000 in excess of the exemption amount. These
11 increased rates are, in effect, effective on July 1, 1993.

12 For the year 1993, a blended rate would apply. That
13 assumes that the current rates are in effect until July 1st,
14 and the new rates are in effect thereafter. So, the
15 taxpayers will not have to sort out whether income was
16 received in the first part or the second part of the year,
17 nor will it make any difference when capital gain was
18 realized and recognized during this taxable year.

19 So, the blended rate would end up being 33.5 percent at
20 the 36 percent bracket, and 35.3 percent for the 39.6 percent
21 bracket. And the surcharge that would otherwise be
22 applicable to capital gain of 2.8 percent would, for this
23 year, be 1.4 percent.

24 Also, it is important to point out that, with respect to
25 withholding tables and also estimated tax payments, that it

1 is not anticipated that withholding tables for 1993 would be
2 revised to reflect the changes in the tax rate, but penalties
3 for the underpayment of estimated taxes would be waived for
4 underpayments of 1993 taxes attributable to those changes in
5 the tax rates. Indexing, with respect to these new rate
6 brackets, would begin in 1995.

7 Senator Danforth. Mr. Chairman.

8 The Chairman. Yes.

9 Senator Danforth. I do not want to interrupt if we are
10 not supposed to interrupt. On the other hand, I do have a
11 question about what has just been described.

12 The Chairman. I think you should ask the question.

13 Senator Danforth. Mr. Gutman, in the chart that we have
14 there are projections as to revenue that are produced by this
15 proposal, but there is no breakdown of that. Could you tell
16 us the revenue that the Joint Committee believes will be
17 produced by the surtax on capital gains?

18 Mr. Gutman. It is roughly \$600 million, Senator.

19 Senator Danforth. So, it is the position of the Joint
20 Committee, and, I take it, the position of the Majority, that
21 increasing capital gains taxes will produce \$600 million in
22 additional revenue.

23 Mr. Gutman. At this level, applicable to these
24 taxpayers. Yes.

25 Senator Danforth. And does the Joint Committee, looking

1 historically at capital gains rates, use that as the basis
2 for deducing that, by increasing the tax on capital gains,
3 revenue is produced?

4 Mr. Gutman. Senator Danforth, every situation is
5 different and has to be looked at in its individual case.
6 So, there will be situations in which, if capital gains rates
7 were increased above certain amounts, that, at least through
8 the budget window, there would be a decrease in receipts. It
9 is going to depend on a relationship, at least in part,
10 between the capital gains rate and the individual rate.
11 There is no cut and dried answer to that question.

12 Senator Danforth. Thank you.

13 The Chairman. Thank you, Senator.

14 Senator Dole. Mr. Chairman, could I ask a question about
15 indexing?

16 The Chairman. Of course.

17 Senator Dole. I had to step out of the room. What has
18 happened to indexing, has that been modified?

19 Mr. Gutman. Indexing of these top two brackets, the new
20 two brackets, Senator, will take effect in 1995. There is a
21 blended rate that is in effect for 1993. The full rate goes
22 into effect in 1994, and then that full rate will be indexed
23 in 1995.

24 Senator Dole. So, what, do you pick up revenue there?
25 How much revenue do you pick up with that change?

1 Mr. Gutman. I do not have that figure here. I can get
2 it for you.

3 The Chairman. Indexing would lose revenue.

4 Senator Dole. No, no.

5 Mr. Gutman. No. The postponement of indexing from 1994,
6 if that would have been the proposal, to 1995, has a revenue
7 effect.

8 Senator Dole. This is the same as the House provision.

9 Mr. Gutman. The postponement of indexing is the same as
10 the House provision, but this provision differs from the
11 House provision in that there is a blended rate in effect for
12 this year. Effectively, what the Chairman's mark provides is
13 that these rates go into effect, in substance, in the middle
14 of the year. And that is a difference from the House bill
15 that amounts to about \$8.9 billion in lost revenue, as
16 compared to the House bill.

17 The Chairman. We did not wish to have a retroactive.

18 Senator Dole. And then on PEP and Ps; are they extended
19 permanently, or --

20 Mr. Gutman. They are, Senator.

21 The Chairman. Thank you, Senator. Mr. Gutman.

22 Mr. Gutman. Thank you, Mr. Chairman. There are a number
23 of provisions that have been added to the rate increase
24 provisions designed to alleviate, or designed to stop
25 opportunities to convert ordinary income into capital gain.

1 These provisions are substantively the same as those that are
2 in the House bill and essentially deal with abuse situations
3 in which individuals have been able to, in the past, convert
4 what is, in substance, ordinary income into capital gain
5 income.

6 The second item on the revenue chart involves the health
7 insurance wage cap. And, under the Chairman's mark, the bill
8 would repeal the dollar limit on wages and self-employment
9 income subject to health insurance taxes, effective for wages
10 and self-employment income paid after December 31, 1993. The
11 mark reinstates the top State and gift tax rate at 53 percent
12 and 55 percent.

13 Senator Durenberger. Mr. Chairman. Mr. Chairman, may I
14 ask a question on these? I did not realize he was going on
15 that quickly.

16 The Chairman. Yes. Sure.

17 Senator Durenberger. Maybe John and I want to ask the
18 same or similar questions. Do I understand that the cap is
19 off entirely and that the Medicare tax now falls on all wage
20 or self-employment income? Is that the way I understood the
21 presentation?

22 Mr. Gutman. That is correct, Senator.

23 Senator Durenberger. Can you help me understand, Mr.
24 Gutman, then what is the new marginal tax rate then for these
25 people, is it, in effect, 36 percent at the top, plus 2.3

1 percent?

2 Mr. Gutman. Well, it would be 39.6 percent.

3 Senator Durenberger. 39 of the top rate.

4 Mr. Gutman. That is right. Plus the 2.9 percent that is
5 attributable to this increase, plus, also, the effect of the
6 phase-out of the personal exemptions, which is roughly
7 another percentage point.

8 Senator Durenberger. Though, at the top rate then, what
9 is the new marginal tax rate under this bill?

10 Senator Packwood. It is 43.7, is it not, Hank?

11 Mr. Gutman. The one thing I did not do, Senator
12 Packwood, is add those numbers, but that sounds about right
13 to me.

14 Senator Dole. Does that apply to subchapter S
15 corporations?

16 Senator Packwood. You bet it does. Especially so.

17 Mr. Gutman. 43.6.

18 Senator Packwood. 43.6. And, if you live in Manhattan,
19 or Oregon, or California, with the State of income tax, you
20 are giving over half of all your money to the government.

21 Senator Durenberger. Mr. Chairman, may I ask Mr. Samuels
22 a question that relates to this with regard to
23 administration?

24 The Chairman. Yes.

25 Senator Durenberger. Is it to be understood to be the

1 policy, then, of the administration that we want to increase
2 the financing for Medicare by taxing wage income, but not
3 taxing what we commonly call unearned, or non-wage, or
4 employment-related income? That, in effect, we have
5 effectively converted the Medicare tax, in lieu of premium
6 contribution, to just a tax on income but only wage or
7 employment income?

8 Mr. Samuels. Senator, the purpose is to impose the tax
9 on all earned income. The benefits are available to
10 beneficiaries without regard to their income, and we thought
11 that it was appropriate, especially given the status of the
12 HI Fund, that the cap be taken off.

13 Senator Durenberger. Is there a reason why a similar
14 amount of tax would not be applied to unearned income, to
15 interest income, dividend income?

16 Mr. Samuels. I think we felt that it was appropriate
17 just to take the wage cap off and not to basically change the
18 system that was in place.

19 Senator Durenberger. Thank you, Mr. Chairman.

20 The Chairman. Thank you, sir.

21 Senator Dole. I wonder if somebody could tell us how
22 this does affect subchapter S corporations partnerships and
23 sole proprietors. There are millions of small businessmen
24 and women out there who are not "rich." How will this HI,
25 taking the lid off, affect them, are they going to be --

1 The Chairman. Would Mr. Gale answer that question?

2 Senator Hatch. Well, how does that relate also to large
3 corporations and what they are paying?

4 The Chairman. Well, now one corporation at a time. We
5 have small.

6 Senator Hatch. GM. General Motors.

7 The Chairman. We will go small corporations first, large
8 corporations.

9 Senator Dole. Is it based on gross income?

10 Mr. Gale. Well, it would be based on wage income if they
11 pay themselves a salary, sub-S corporations, partnerships.
12 The salary portion would be subject to the SICA.

13 Senator Dole. If you had dividends that would not apply?

14 Mr. Gale. And trade or business people, it would be
15 their self-employment income.

16 Senator Packwood. Subchapter S, whether they leave it in
17 the business or not, it would not make any difference.

18 Mr. Gale. No, it would not, Senator. That is right.

19 Senator Packwood. Ad they do not pay any dividends in
20 the chapter S, do they?

21 Mr. Gale. No. That is right.

22 Mr. Gutman. Senator Packwood, with subchapter S
23 corporations, the portion that would be subject to this tax
24 would be the wages that are going to be paid by S corporation
25 to the employee. If you are a partner or a self-employed,

1 all of your self-employment income would be the base against
2 which this is assessed.

3 Senator Packwood. How much revenue did you get from sole
4 proprietors, partnerships, and subchapter S corporations, how
5 much of the total?

6 Mr. Gutman. I do not have that figure, Senator.

7 Senator Packwood. That is very important.

8 Mr. Gutman. We will get that figure for you if we can.

9 The Chairman. We cannot promise it this morning, but we
10 will have it by the time we are on the floor.

11 Senator Hatch, you had a question about large
12 corporations.

13 Senator Hatch. Well, how are sub-S corporations, which
14 are generally sole proprietorships or treated as
15 partnerships, how are they treated vis-a-vis, say, the large
16 corporation tax?

17 Senator Dole. They could be paying a higher tax rate.

18 Senator Hatch. Yes. As I read this, they are paying a
19 considerably higher tax rate. Yet, these are generally small
20 business people in sub-S corporations.

21 Mr. Gutman. In which context, Senator Hatch, are you
22 asking the question, the context of the removal of the HI
23 wage cap, or just in general under the proposal?

24 Senator Hatch. General and both. Both contexts.

25 Mr. Gutman. Under the HI wage cap removal, S corporation

1 employees are treated the same as employees of any other
2 corporation.

3 Senator Hatch. Right.

4 Mr. Gutman. So, they are subject to the tax to the
5 extent of their wages. With respect to the earnings or the
6 net income, if you will, of an S corporation that is not paid
7 out in wages to an S corporation shareholder, that amount of
8 income is subject to tax at the individual rates. And that
9 is in comparison to the rate that would be applied if you
10 were the owner of a similar situation, a C corporation--that
11 is, a corporation taxed as a corporation--would, on its net
12 income, be taxed at a maximum corporate rate, which, under
13 this proposal, will be at 35 percent.

14 Senator Hatch. Which is 35 percent, vis-a-vis 36
15 percent.

16 Mr. Gutman. Correct. But, the accumulated earnings that
17 are in that corporation cannot be removed by the shareholder
18 without paying an additional tax as a dividend, whereas, if
19 you are an S corporation, the fact that you have paid the tax
20 at the highest rate, thereby, means that you can then bring
21 the money out. So, that in order to get the same dollars out
22 of an S corporation, there is a similar level of tax that is
23 applied. But, if you are in a C corporation similarly
24 situated, you will pay a 34 percent tax on the earnings but
25 then you would pay an individual income tax of up to 39.6

1 percent under these rates when you take the money out. So,
2 there is a double tax for doing business in C corporation
3 form, and only a single tax level in S corporation form.

4 Senator Hatch. However, if they both stay at the single
5 tax level, then the S corporation person will pay more money
6 and more taxes than the --

7 Mr. Gutman. If the earnings are retained at the
8 corporate level and never taken out, that is true. But, in
9 order to realize the earnings, either the shareholder is
10 going to have to sell the stock, which would be subject to a
11 gains tax of 28 percent or 30.8, or take a divided
12 distribution.

13 Senator Hatch. Sure.

14 Senator Chafee. Mr. Chairman.

15 The Chairman. Yes, Senator Chafee.

16 Senator Chafee. A quick question of Mr. Gutman. The
17 funds that come in from this extension of the tax, do they go
18 into a trust fund?

19 The Chairman. Yes. The answer is yes.

20 Mr. Gutman. The Chairman is right, they go under the HI
21 trust fund, Mr. Chafee.

22 Senator Chafee. Secondly, is it not accurate to just
23 describe this as an increase in the income tax on earned
24 income? That is the effect.

25 The Chairman. It is not inaccurate.

1 Mr. Gutman. It is certainly a tax increase on it. It is
2 a tax increase on wage income.

3 Senator Chafee. It is an increase in the income tax. It
4 is an income tax, that is what it is. Unearned income. It
5 is not only not inaccurate to describe it that way, it is
6 accurate to describe it.

7 Mr. Gutman. It is a tax on income.

8 Senator Chafee. All right. Thank you very much.

9 Mr. Gutman. On wage income, Senator Chafee.

10 The Chairman. May I make the point to my friend from
11 Rhode Island that the Health Insurance Trust fund is due to,
12 well, what is it Dave, about five years we have before
13 revenue ceases to cover outlays. That is why we are doing
14 this.

15 Senator Chafee. Well, that is if we do not look on the
16 spending side at all.

17 The Chairman. That is very true. Senator Roth.

18 Senator Roth. Mr. Chairman, I have a letter from the
19 Secretary of Treasury who points out that the maximum
20 marginal tax rate due to the HI tax for employees and to
21 Federal income taxes are a -- and that the maximum combined
22 marginal Federal income tax plus HI tax rate for a worker in
23 the 39.6 percent income tax bracket will be 45.22 percent.
24 45.22 percent. So, that is even higher than the figure you
25 were quoting.

1 The Chairman. Thank you. Senator Dole, did you have a
2 question?

3 Senator Dole. Hank, this is just money in the HI Trust
4 Fund. How does this reduce the deficit? It is \$30 billion
5 more we should take off the deficit reduction package.

6 Mr. Gutman. It is on budget, Senator Dole.

7 Senator Dole. But, I think, as has been pointed out
8 here, it is another tax on income. I do not know what the
9 extent of this comment is here, but I think we do have a
10 problem. We need to find out--which you can provide later--
11 how much of this is going to be paid by sole proprietors,
12 partnerships, and subchapter S corporations.

13 The Chairman. May I suggest that the Joint Committee be
14 asked to produce a paper on the specific questions, and when
15 we finished up today we can get more precise on what you
16 would like to have?

17 Mr. Gutman. We will be happy to do that, Mr. Chairman.

18 The Chairman. Thank you, Mr. Gutman. Would you proceed?
19 We do not want to be here all day, but we will be here as
20 long as we have to.

21 Mr. Gutman. I had described, briefly, the change in the
22 estate tax rates, reinstating the maximum estate tax rates
23 that otherwise expired at the end of last calendar year. The
24 next provision is item number --

25 Senator Durenberger. Mr. Chairman, I do not want to

1 delay, but this is --

2 The Chairman. No, no. You are not delaying. If you
3 have a question, we want to get you an answer.

4 Senator Durenberger. Right. To clarify, on this one, I
5 have been given to understand, is this retroactive to January
6 1st?

7 Mr. Gutman. This is retroactive to January 1st. That is
8 right, Senator.

9 Senator Durenberger. And, do you have some idea, if it
10 were effective today rather than being retroactive, how many
11 dollars might be involved, approximately?

12 Mr. Gutman. I do, and I just lost the piece of paper on
13 which I had it. There it is. \$230 million is the estimate
14 if it were effective today.

15 Senator Durenberger. \$230 million. Is it inappropriate
16 to say that retroactivity in an estate tax creates some
17 problems for an estate, particularly administrators of an
18 estate in making decisions about what property, what assets
19 can be appropriately disposed of?

20 Mr. Gutman. That would not be inaccurate.

21 Senator Durenberger. Would not be inaccurate. We are
22 coining a new phrase.

23 Senator Dole. Well, there is a different standard for
24 the living and the dead here, too.

25 The Chairman. Alas, there has ever been.

1 (Laughter)

2 Senator Dole. They are not around to complain, so you do
3 not move it up to July.

4 The Chairman. Mr. Gutman, would you proceed?

5 Mr. Gutman. The next item involves reducing the
6 deductible portion of otherwise allowable meal and
7 entertainment expenses from 80 percent to 50 percent. The
8 bill also reduces the meal substantiation requirements in
9 order to claim the deduction from \$25 to \$20.

10 Moving on to item number five --

11 Senator Hatch. Mr. Chairman, could I ask a question on
12 that?

13 The Chairman. Of course, Senator.

14 Senator Hatch. Have you estimated how many jobs will be
15 lost with that? As I understand it, the restaurant industry
16 has been treading water since we have reduced it from a 100
17 percent deduction to 80 percent. Now you are reducing it
18 down to 50 percent. How many jobs do you anticipate will be
19 lost? Because these are jobs for women, minorities, and
20 people in the lower end of the pay scale, it seems to me.
21 And I know that the National Restaurant Association indicates
22 that they believe that over 165,000 jobs would be lost
23 nationwide by that provision, and that they feel that
24 business meal sales would drop by almost \$3.8 billion.

25 The Chairman. Senator Hatch, I do not want to, in any

1 way, limit your inquiries.

2 Senator Hatch. Yes.

3 The Chairman. But, to ask that of the Joint Tax
4 Committee, they do not have that information.

5 Senator Hatch. Is that asking too much? You would not
6 have that information?

7 Mr. Gutman. No, we do not, Senator.

8 The Chairman. They just do not. That is something I
9 would say you could get on your own and make a perfectly
10 respectable judgment.

11 Senator Dole. We will be able to move to strike that
12 later on?

13 The Chairman. On the floor?

14 Senator Dole. Here.

15 The Chairman. Here? Yes, of course. You can move to
16 strike anything you wish. Mr. Gutman just does not have
17 that.

18 Senator Hatch. I will withdraw my question.

19 Mr. Gutman. Senator Hatch, one thing. There had been
20 some studies that had been done by CRS on this of which I am
21 aware, but they are not our studies.

22 Senator Hatch. Do they estimate how many jobs will be
23 lost?

24 Mr. Gutman. I believe that that is part of the study
25 that was done by Jane Gravel.

1 Senator Hatch. Well, I am concerned about loss of jobs
2 that will occur because of the tax.

3 Mr. Gutman. The next provision in the bill would deny a
4 deduction for club dues, and the rule would apply to all
5 types of clubs. Specific business expenses, such as meals
6 that are incurred at a club, would be deductible only to the
7 extent that they otherwise satisfy the standards for
8 deductibility.

9 The next provision involves a denial of deduction for
10 executive compensation in excess of \$1 million. And, for
11 purposes of the regular income tax and the alternative
12 minimum tax, the otherwise allowable deduction for
13 compensation with respect to a covered employee of a publicly
14 held corporation is limited to no more than \$1 million a
15 year. There are a number of forms of compensation that are
16 not taken into account, however, in determining this
17 disallowance: remuneration is paid on a commission basis;
18 remuneration is paid on account of the attainment of
19 performance goals if independent director and shareholder
20 approval requirements are met; payments to tax qualified
21 plans are not included; employer-provided fringe employments
22 that are otherwise excluded from gross income are not
23 included; and remuneration that is payable under written
24 contracts that were binding and in effect on February 17th,
25 1993, and at all times, thereafter, are exempt from this

1 rule.

2 Senator Chafee. Mr. Chairman. Mr. Chairman.

3 The Chairman. Senator Chafee.

4 Senator Chafee. I would like the rationale of this
5 explained to me. I am missing a beat here somewhere. I take
6 it that if you are a professional athlete and receiving a
7 million dollars, that that would be totally deductible by the
8 company that is paying you that.

9 Mr. Gutman. I am sorry, Senator Chafee. I was --

10 The Chairman. I think that is correct, Senator.

11 Senator Chafee. If you were a professional athlete --

12 Mr. Gutman. The answer is yes.

13 Senator Chafee. Let us take Glenn Davis, who is hitting
14 177. Or, you can take Danny Tarabo, who is batting 213.
15 Now, his salary --

16 Senator Danforth. Senator Chafee --

17 Senator Chafee. Let me just finish.

18 Senator Danforth. He is demoted to the minor leagues.

19 Senator Chafee. I know, but he is still getting \$1
20 million. When he went down to the minors, that did not cut
21 his salary. Yet, if you are the President of General
22 Electric and doing a very good job, or the President of Ford,
23 both of whom have been outstanding, there is something evil
24 about you being paid \$1 million? Mr. Gutman, could you
25 explain the philosophy behind this?

1 The Chairman. May I say that, again --

2 Senator Chafee. If not the philosophy, just explain how
3 it works.

4 Senator Danforth. What is the reason for this?

5 The Chairman. The reason is to raise revenue.

6 (Laughter)

7 Senator Danforth. It does not raise revenue. \$335
8 million over a period of five years --

9 The Chairman. This measure would put together \$335
10 million at a time, I have to tell you. But it was not easy.
11 And there is no rationale.

12 (Laughter)

13 Senator Danforth. There is a rationale. The rationale
14 is just for the fun of doing it. Just because ordinary and
15 necessary business deductions are things to be contrived by
16 Congress, that we have the judgment as to what is ordinary
17 and what is necessary, and that businesses do not have that
18 judgment.

19 The Chairman. It is meant to provide a discipline on
20 corporations that provide more executive compensation than
21 would be justified by the actual productivity of the
22 individuals involved. If the corporation thinks it is
23 important to have that, they simply have to pay a slightly
24 higher corporation tax, very shoddily higher tax.

25 Senator Chafee. Well, Mr. Chairman, yet, it does not

1 apply, as I mentioned before, to others, such as the athletes
2 that I listed. I am not taking Michael Jordan. I guess he
3 would qualify because his performance is outstanding.

4 Senator Dole. Last night. Yes.

5 Senator Chafee. Excellent last night. But a Glenn
6 Davis, you can still deduct it off.

7 The Chairman. Can I make the point that if shareholders
8 approve a salary compensation schedule, then this does not
9 apply?

10 Senator Chafee. But I think it is a bizarre provision
11 you have got in here, Mr. Chairman. Who conceived this, was
12 this your product? Whose fingerprints are on it?

13 Mr. Samuels. No. This was an administration proposal,
14 and we believe that it addresses the problem of public
15 companies paying their chief executive officers, and, under
16 the proposal, the next four highest paid officers, amounts in
17 excess of \$1 million without having the board of directors
18 and the shareholders be involved in the process. There
19 were --

20 Senator Chafee. Well, of course the board of directors
21 are involved in any salary. You know that.

22 Mr. Samuels. Senator Chafee, I think that there were
23 well-known examples of payments of substantial compensation
24 to chief executive officers of public companies where the
25 decisions were made, not by outside directors, but by inside

1 directors.

2 Senator Chafee. Now, let me ask you. The Boston Celtics
3 are a public company.

4 Mr. Samuels. Right.

5 Senator Chafee. They are traded. The securities are
6 traded. The stock is traded. Now --

7 Mr. Samuels. But we do not think that the players -- I
8 am sorry. Excuse me.

9 Senator Chafee. If they are paying Robert Parris a
10 million dollars, over a million dollars, does that require
11 stockholder approval?

12 Mr. Samuels. No, sir. And the reason is, is that the
13 players and management negotiate those salary terms on an
14 arm's length basis. When a chief executive officer can
15 effectively set his own salary, that is not a negotiation at
16 arm's length --

17 Senator Chafee. Well, that is a reflection on the board
18 of directors of the corporation. I think it is a bizarre
19 provision.

20 Senator Danforth. Well, Mr. Chairman, can I ask, as I
21 understand it, this was not put in to raise revenue, this was
22 put in because it was viewed as good social policy. I mean,
23 the view of the administration and the view of the Majority
24 on this committee is it is just wrong to pay these high
25 salaries, and, regardless of whether or not revenue is being

1 raised, we do not like it. Congress does not like it, your
2 government does not like these salaries to be paid. So, as a
3 matter of social policy, it is put in. Is that not what you
4 just told us?

5 Mr. Samuels. No. I do not think I would describe it
6 that way. I think what we have said is that if there is, in
7 effect, a public process, that is, outside directors approve
8 the performance standards and those standards are then, in
9 turn, approved by the shareholders that compensation in
10 excess of \$1 million will be deductible.

11 Senator Danforth. Well, can you just tell me what that
12 has to do with budget reconciliation? I mean, what
13 conceivable relationship is there between budget
14 reconciliation and the kind of policy fine tuning with
15 respect to executive compensation you have just described.

16 Senator Breaux. Well, would the Senator yield? We were
17 talking about a subsidy that taxpayers are paying for a
18 policy that is not good social policy. I mean, it is all
19 right to do it but it should not be subsidized by the
20 American taxpayer. How does it relate to budget
21 reconciliation? It is a revenue raiser. I mean, that is how
22 it relates. We can continue to do it, just taxpayers should
23 not subsidize it.

24 Senator Danforth. Well, let me just ask the question of
25 the experts. How long has the deduction for ordinary and

1 necessary business expenses been in the Internal Revenue
2 Code?

3 Mr. Gutman. Since there was an Internal Revenue Code.

4 Senator Danforth. Since there was an Internal Revenue
5 Code. Now we decide, on June the 17th, 1993, that the
6 deduction for ordinary and necessary business expenses is a
7 subsidy by the government for businesses.

8 Senator Breaux. Better late than never.

9 Senator Danforth. But, I mean, that is a basic
10 philosophical point, that what the government does not take
11 from people is a subsidy. I mean, I respect the Senator for
12 making that argument. It is a fundamental argument. It is
13 not an argument that this Senator shares. I mean, this is
14 patently not an effort to raise revenue.

15 Senator Hatch. Mr. Chairman.

16 Senator Danforth. Just a second, please. This is
17 patently, admittedly, not an effort to raise revenue. This
18 is simply social engineering, populist stuff that is being
19 turned out now, not in the name of raising revenue, but
20 simply in the name of manipulating business decisions. Is
21 that not correct?

22 The Chairman. Senator, can I just ask, if we can let Mr.
23 Gutman get through his presentation.

24 Senator Danforth. Well, I thought we could ask questions
25 along the way.

1 The Chairman. You can, and you have.

2 Senator Danforth. Well, am I correct in what I have
3 said?

4 Mr. Samuels. Senator, the proposal has two objectives.
5 One, is the raise revenues, and the other is to deal with a
6 problem that people have perceived. It has been publicly
7 discussed. And, I would also mention that there are a number
8 of restrictions in the Internal Revenue Code on the
9 deductibility of ordinary and necessary expenses. There are
10 restrictions on deductions of penalties, there are deductions
11 on other types of expenses that have been put into the code
12 over the years. And I think that this departs in a material
13 way in the types of things --

14 Senator Packwood. Could I ask a question, because it
15 seems like you have it topsy-turvy.

16 The Chairman. Senator Packwood.

17 Senator Packwood. You limit it to publicly-held
18 corporations where at least there is some accountability. If
19 this is good social policy, why not private corporations
20 where there is no board of directors, and there is no
21 shareholders, and the compensation is set by the private
22 parties?

23 Mr. Samuels. Senator Packwood, the Internal Revenue Code
24 already has restrictions on unreasonable compensation that
25 basically applies in the context of private companies, and we

1 did not think that it was necessary to adjust those rules.

2 Senator Packwood. And does the IRS very often look at \$5
3 or \$10 million salaries in private corporations and say that
4 is unjustifiable?

5 Mr. Samuels. I believe that they do in private
6 corporations. I do not have any details of that.

7 Senator Dole. They are Hollywood exemptions. Hollywood
8 is exempt, then. Right?

9 Mr. Samuels. I do not believe that most of Hollywood is
10 a private corporation. Those are public companies, as are --

11 The Chairman. And when persons negotiate a salary with a
12 corporation, that is a different thing from when individuals
13 set their own salary. Is that not the point?

14 Mr. Samuels. Correct.

15 Senator Chafee. Well, Mr. Chairman, since I brought this
16 up originally, I know we are going on, but to suggest that
17 the president of a major corporation sets his own salary, I
18 do not think that the president of Ford Motor Company sets
19 his own salary. I do not know where you are getting that
20 from. He deals with a board of directors, and all too often
21 there have been cozy arrangements, which we are aware of.

22 But, to apply this solely to those people who are running
23 our major corporations with tremendous responsibilities, and,
24 in many instances, great success and benefits for our country
25 in large employment and not apply them to baseball players

1 hitting 177, something is crazy here.

2 The Chairman. Senator Chafee, if you would like to offer
3 an amendment to include the Boston Celtics --

4 Senator Chafee. No, no, no. The Orioles, I am
5 suggesting. I will broaden it.

6 The Chairman. No.

7 Senator Chafee. Smiley has got three wins and seven
8 losses for the Reds. Not looking too good. So, we will get
9 to him.

10 The Chairman. Mr. Gutman, would you please go forward,
11 sir?

12 Mr. Gutman. Thank you, Mr. Chairman. The next provision
13 reduces the compensation that can be taken into account under
14 qualified retirement plans to \$150,000 from its current level
15 of \$235,840.

16 The next provision would exclude from the definition of
17 otherwise deductible moving expenses cost of meals consumed
18 while --

19 Senator Danforth. Not so fast. Now, what was the last
20 one?

21 Mr. Gutman. The last one would reduce the amount of
22 compensation that can be taken into account in computing the
23 amount that can be placed in a qualified plan for retirement
24 purposes. The current level is \$235,840, and this would
25 reduce that amount to \$150,000.

1 Senator Danforth. So, you are saying that for these
2 high-priced executives, not only do you want to do with the
3 deduction over \$1 million, but you want to limit what can be
4 put into qualified retirement plans. Is that it?

5 Mr. Gutman. Excluded from income. The amount that can
6 be excluded from income and placed into a qualified plan.

7 Senator Danforth. So, the idea here is, again, to get at
8 these fat cat business executives, these people who are
9 walking around with top hats, and so on. Is that right? The
10 rich. The rich business executives. Sock it to them.
11 Right? We do not want successful business people. We do not
12 like successful business people. Why have successful
13 business people? Let government do it all. They are evil.

14 Mr. Gale. I think, Senator, it is an effort to put a
15 modest limit on the tax expenditure for private pension.

16 Senator Danforth. Well, why do that?

17 Mr. Gale. Well, it is the largest tax expenditure
18 currently in the Federal budget, about \$60 billion per year.
19 This proposal would reduce it by about \$500 million a year,
20 or less than one percent.

21 Senator Roth. But does it not have an impact on all
22 employees? If you tap it substantially lower, as you are
23 proposing here, that is going to have an effect all through
24 the program. Is that not correct?

25 Mr. Gale. A modest effect. Yes.

1 Senator Roth. It may not be so modest if it impacts on
2 you. But, nevertheless, you are not just talking about those
3 at the top side, it will have an effect all the way through
4 the organization.

5 The Chairman. We will get that table for you, Senator
6 Roth. Mr. Gutman.

7 Senator Hatch. Mr. Chairman. Mr. Chairman.

8 The Chairman. Senator.

9 Senator Hatch. Could I ask a question on this next one,
10 disallow moving expenses, deduction for meals, and real
11 estate expenses --

12 The Chairman. Yes. Sure.

13 Senator Hatch. -- and impose a \$10,000 cap. Does the
14 \$10,000 limit apply in the case of employer reimbursement?
15 What if a company moves an employee and it costs \$25,000?

16 Mr. Gutman. It would apply, Senator.

17 Senator Hatch. So, the employee would have to pick up
18 that \$25,000 in income, but he could only deduct about
19 \$10,000. Is that correct?

20 Mr. Gutman. Yes, that is correct.

21 Senator Hatch. It seems to me that that would be pretty
22 unfair.

23 Mr. Gale. Senator, the average moving expense last year
24 was about \$5,000. So, the impact --

25 Senator Dole. That is from State to State.

1 Mr. Gale. Yes.

2 Senator Dole. Not overseas.

3 Mr. Gale. No. Nationwide average, I believe.

4 Nationwide.

5 Senator Dole. What is the average for overseas move?

6 Mr. Gale. We could get that for you.

7 Senator Dole. It applies to both. It is not fair to
8 those who are in the business of moving people.

9 Senator Packwood. But let us understand how it works. I
10 had dinner the other night with a General Electric executive
11 who is moving to Singapore with his family and his expenses
12 are significantly in excess of \$10,000. GE will reimburse
13 him. He will be able to deduct only the \$10,000 and must pay
14 a tax on the rest of his expenses?

15 Mr. Gutman. The balance would be included in income.
16 That is correct, Senator.

17 Senator Packwood. Oh. Well, he will never see it. I
18 mean, they just pay his expenses to move. It is like a
19 taxable fringe benefit at this stage.

20 Mr. Gutman. Well, it is as if he received the money and
21 paid the tax himself.

22 Senator Packwood. Right. I understand. He has to
23 move. Assuming he wants to stay with the company, he is
24 going to have to go. And he is going to go to Singapore, and
25 he is going to move his family, and it is an expensive move.

1 Substantially above \$10,000. And he will now pay a tax on
2 the excess above \$10,000.

3 Mr. Gutman. Right. That is correct.

4 Senator Hatch. Well, your average move is across town,
5 so, naturally, you are going to bring the average down. An
6 awful lot of moves are across town, but what about those that
7 have to move across the country? It is going to be more than
8 \$10,000. How is that fair to the average employee who has to
9 move? That is very unfair.

10 Senator Roth. Could I ask --

11 Senator Hatch. Then to say an average of \$5,000 applies.

12 The Chairman. Senator Hatch, Senator Dole, Senator Roth.

13 Senator Hatch. Yes. To say that an average \$5,000
14 applies when we all know that there are moves across
15 counties, and there are moves across country, and there are
16 moves overseas, I mean, it seems to me that is just lame-
17 brained.

18 Mr. Gale. Well, the average, Senator, is no moving
19 expense deduction would be available unless the move is for
20 60 miles or greater.

21 Senator Hatch. Well, let us say across counties. Yes.

22 Senator Dole. Hank, or Mr. Gale, I wonder if we might
23 just check into the overseas.

24 Mr. Gale. Yes, Senator. We will get that for you.

25 Senator Dole. I just happen to have somebody in my State

1 who raised this with me. I do not know. They may be wrong.
2 But it seemed to me that there should be a little different
3 rule apply if you have got to move, as Senator Packwood said,
4 if you are going to Singapore, it is certainly going to cost
5 a great deal more.

6 Mr. Gale. Yes. The other option in that case that would
7 be available is for the employer to, in effect, gross up
8 wages to take into account the additional tax paid. But we
9 will get the data on that.

10 Senator Roth. But the question I ask, Mr. Chairman, is
11 that sound policy in these days where we are trying to become
12 competitive in trade? We want to make it more difficult to
13 transfer people as needed. And the other question I would
14 like to ask is, what is our practice with respect to Federal
15 employees? How do we reimburse them as they are transferred
16 from place to place? What impact would this proposal have on
17 them?

18 Mr. Gutman. This proposal would apply the same rules to
19 Federal employees.

20 Senator Roth. So, if we want to move a Federal employee,
21 and I understand many times it is far in excess of \$5,000,
22 the employee would have to pay a tax. Or \$10,000, I guess it
23 is. Is that true?

24 Mr. Gutman. If the employee were reimbursed for the
25 amount, there would be tax on the reimbursement.

1 Alternatively, the amount in excess of \$10,000 would not be
2 deductible.

3 Senator Roth. How many Federal employees will this
4 affect, on average, per year?

5 Mr. Gutman. We would have to find that out, Senator
6 Roth. I do not have that.

7 The Chairman. We can find out.

8 Senator Roth. Would this apply to military as well?

9 Senator Dole. You have to go to Somalia, you know.

10 Mr. Gutman. This would likely be excluded as a military
11 fringe benefit, Senator.

12 Senator Roth. Is it now? You say it would likely.

13 Mr. Gutman. Yes, it is.

14 The Chairman. It will be. It is.

15 Senator Roth. And it applies to movement of diplomats.

16 The Chairman. Diplomats do not move. They are
17 unbudgeable.

18 Senator Roth. I find this incomprehensible.

19 The Chairman. Senator, we will get the specifics and the
20 numbers, and the Federal service, and such like. And we will
21 give an example of grossing up income, as Mr. Gale mentioned.
22 Mr. Gutman, would you proceed?

23 Mr. Gutman. The next provision involves estimated tax
24 requirements for individuals and the provision would restore
25 to the law basically what was prior law before last year's

1 amendments to individual estimated tax rules. And it would
2 provide individuals who have preceding years adjusted gross
3 income of \$150,000 or less with a safe harbor upon the
4 payment currently of 100 percent of last year's tax
5 liability, and if the individual has last year's AGI in
6 excess of \$150,000, the safe harbor would be available upon a
7 payment of 110 percent of last year's liability. And this
8 replaces a rather complicated rule that was put into the code
9 last year in connection with unemployment compensation
10 legislation.

11 The next provision involves taxation of Social Security
12 and retirement benefits, and the provision would place a
13 second tier of taxability on Social Security benefits for
14 taxpayers with adjusted incomes in excess of \$32,000 if
15 single, \$40,000 if married, of 85 percent of Social Security
16 benefits would be included in income.

17 Senator Dole. Now, where does that money go?

18 Mr. Gutman. Into the HI Trust Fund, Senator.

19 The Chairman. Again, Senator Dole, we have to look out
20 at a perspective exhaustion of the Hospital Insurance Fund.

21 Senator Dole. But that would be a change in law then.
22 Right? Because normally it would go into the Social Security
23 Trust Fund.

24 The Chairman. Yes. Yes.

25 Mr. Gutman. That is correct. Under current law, the

1 amount that is attributable to the current law taxation
2 amount goes into the Social Security Trust Fund.

3 Senator Dole. Both tiers go into HI?

4 Mr. Gutman. No. I believe it is only the increase that
5 is going into HI, Senator.

6 Senator Dole. The 35 percent for those --

7 Mr. Gutman. The amount attributable to the increase.

8 Senator Dole. How much money does that raise?

9 Mr. Gutman. That raises \$26 billion over the budget
10 period.

11 Senator Dole. Is that permanent, or does that continue
12 to go into HI?

13 Mr. Gutman. Yes. Yes, Senator. It does.

14 Senator Dole. It is what?

15 Mr. Gutman. It is a permanent dedication of that access
16 to the HI Fund.

17 Senator Dole. Permanent.

18 Senator Chafee. Mr. Gutman.

19 The Chairman. Senator Dole, are you finished?

20 Senator Chafee. I am sorry. Go ahead.

21 Senator Dole. Yes. Well, it would seem to me that the
22 fairer way to do it would be to allocate it to all workers.
23 Why would you just pick out elderly? In the past when we
24 have had that problem--we have had that problem under both
25 administrations--we have done it by raising the tax,

1 reallocating. This is sort of a rifle shot aimed at senior
2 citizens. Is there some policy reason it was done this way?

3 The Chairman. Well, may I say, though, Senator, we held
4 hearings on this, of course, and Bob Wall, the former
5 administrator, and Bob Myers, who was director of our
6 commission, testified that this, in their view, is sound
7 social insurance policy. These are earned benefits, and we
8 are now going to tax them as any other earned benefit is.
9 And we allocate the monies to Hospital Insurance simply
10 because at the moment the Social Security Trust Fund has an
11 ample surplus, thanks to the 1983 legislation. But Hospital
12 Insurance just keeps going up, and we are looking at an empty
13 fund.

14 Senator Hatch. However, Mr. Chairman, these tax rates go
15 up, the marginal rates for these senior citizens go up five
16 to 30 percent under this, and some seniors will face rates in
17 excess of 100 percent. It does not seem fair to me.

18 The Chairman. There is a spike in there that needs to be
19 addressed.

20 Senator Hatch. Yes. It is terrible. I mean, I just
21 cannot --

22 The Chairman. Otherwise, they are being treated as any
23 other pension benefit. They are paying taxes on that portion
24 of their pension which has not been taxed.

25 Senator Hatch. But it really socks it to them. As I

1 understand this two-tier approach, you are not getting rid of
2 the 50 percent for those individuals between 25 and 32,000.
3 They will still pay 50 percent. And 50 percent is --

4 The Chairman. Pay on 50 percent.

5 Senator Hatch. Pay on 50 percent. Then, over \$32,000,
6 they will pay on 85 percent. Then, for a couple between 32
7 and 40, they will still pay on 50 percent of the benefits,
8 and then over 40,000 on 85 percent.

9 Mr. Gutman. That is correct.

10 Senator Hatch. Well, they are marginal rates. Am I
11 incorrect that the marginal rates for these senior citizens
12 go up five to 30 percent, and some of them will have to pay
13 over 100 percent?

14 Mr. Gutman. I have not done the calculations, Senator,
15 but certainly conceptually that sounds right. And it would
16 be the rate applicable to the next dollar that is earned that
17 takes you from one category to the other that could be a
18 marginal rate in excess of 100 percent. That is correct.

19 Senator Chafee. Mr. Gutman, what was the difference in
20 revenue under this proposal as compared to the provision that
21 came over from the House that was 85 percent on the \$25,000,
22 50 percent of the Social Security?

23 Mr. Gutman. \$5.725 billion, Senator Chafee.

24 Senator Chafee. Could you say that again?

25 Mr. Gutman. \$5.725 billion.

1 Senator Chafee. \$5.725. There would have been that much
2 for the five years.

3 Mr. Gutman. That is correct.

4 Senator Chafee. There would have been that much more if
5 you had stuck with the 85 percent.

6 Mr. Gutman. That is correct.

7 Senator Chafee. Thank you.

8 Senator Conrad. Mr. Chairman, might I ask a question?

9 The Chairman. Of course, Senator Conrad.

10 Senator Conrad. What percentage of Social Security
11 recipients would pay no more under this provision?

12 Mr. Gutman. Senator, we do not have it. We will get it
13 for you. 75 percent.

14 Senator Conrad. So, 75 percent of Social Security
15 recipients would pay nothing more under this provision.

16 Mr. Gutman. That is correct.

17 Senator Breaux. Let me ask another question. No one who
18 is not paying tax now would be paying tax under this
19 proposal.

20 Mr. Gutman. That is correct, Senator.

21 Senator Breaux. Why is that? Why is that?

22 Mr. Gutman. Well, because this threshold is applicable
23 to people who are already paying the 50 percent. So, each
24 individual who is now paying tax on Social Security benefits,
25 with respect to those individuals, it is a subset of those

1 individuals who will be paying tax on higher amounts. This
2 does not increase the coverage of income tax.

3 Senator Breaux. So, those who are not paying tax now
4 would not pay tax --

5 Mr. Gutman. Those who are not paying tax now will not
6 pay tax under this proposal.

7 Senator Breaux. All right. Let me ask another question.
8 How does this compare to the situation with private pensions?

9 Mr. Gutman. Well, if an individual receives a private
10 pension, he or she will pay tax on the income element of that
11 private pension, or will be included in gross income no
12 matter what his or her income level is. So, the includable
13 portion of a private pension will result in gross income.

14 Senator Breaux. In English, which I need here, are we
15 telling Social Security retirees they are going to pay about
16 the same as people with private pensions are paying with
17 regard to the benefits?

18 Mr. Gale. Even less, I think.

19 Mr. Gutman. Less. Less.

20 Senator Breaux. I mean, that is an important point. I
21 need to understand it. So, under this proposal, they would
22 still be paying less than people with private pensions.

23 Mr. Gutman. Yes.

24 Senator Breaux. All right.

25 Senator Dole. Could I just ask one question?

1 The Chairman. Yes. Senator Breaux, are you -- Senator
2 Dole.

3 Senator Dole. If only 25 percent of recipients pay this
4 increased amount, how many people? Is that about nine
5 million? I mean, 75 percent does not sound like many, but
6 how many million beneficiaries are going to have their Social
7 Security taxes increased so we can spend it somewhere else?
8 It is one thing to reduce the deficit, but this is going to
9 be used for social investments by the President.

10 The Chairman. The number is whatever the number is now.
11 The number does not change.

12 Mr. Gutman. Senator, I do not have it now. We will have
13 to get it to you.

14 Senator Dole. I think it is about probably eight
15 million. It is a good thing to say only 75 percent, but that
16 is eight million. That is one out of four people on Social
17 Security are going to pay more taxes, not to reduce the
18 deficit, but so we can spend it somewhere else. So, the
19 seniors ought to know that we are not doing this to reduce
20 the deficit and protect their children and grandchildren, we
21 are doing it so we can spend money somewhere else.

22 Mr. Gutman. Senator, the actual answer to the question
23 of how many people are covered is 25 percent of the number
24 who are currently subject to tax will be subject to tax under
25 this proposal. I will just have to get that number for you.

1 Senator Conrad. Might I, Mr. Chairman, just make the
2 comment that, in fact, all of this goes for deficit
3 reduction. With respect to this money, it is going into the
4 HI Trust Fund, so it is going to cover the very people who
5 are being asked to pay on this pension what they would be
6 expected to pay on any other pension income.

7 The Chairman. Exactly. Well, Mr. Gutman, would you
8 proceed.

9 Senator Dole. If you did not have to spend all the other
10 money, you would not have to do this. That is the point.
11 Now, if you did not spend all that new money for all these
12 "investment programs" that nobody really cares much about,
13 you would not be doing this to senior citizens.

14 Senator Conrad. Well, the HI Fund is going to go broke
15 in five years, and the folks who are being asked to pay are
16 the very beneficiaries of that program. So, they are being
17 asked to pay -- could I finish?

18 Senator Dole. Sure.

19 The Chairman. Yes. Senator Conrad.

20 Senator Conrad. I mean, some of us listen to others and
21 we do not interrupt. It would be nice if the same courtesy
22 were extended to us.

23 Senator Dole. We have not listened here for four or five
24 days. So --

25 Senator Conrad. Well, we have had a chance here to

1 listen to others and we have been polite and allowed them to
2 complete their words. It would be nice if the same courtesy
3 were extended to us.

4 Senator Dole. I apologize for interrupting you, Senator.
5 But the point I wanted to make is, I do not disagree with
6 what you are trying to do here. I know the HI Trust Fund is
7 in trouble. It was, as I said earlier, in past
8 administrations. But, in the past, we have raised the HI
9 rate. That is the only point I would make.

10 The Chairman. Senator Conrad.

11 Senator Conrad. That is fine.

12 The Chairman. Well, Senator Conrad did make the
13 important point that the persons who are going to pay this
14 tax are beneficiaries of Medicare hospital insurance. Thank
15 you all, gentlemen. Thank you all. We want to move along
16 now. Mr. Gutman. Would it be useful, since we have gone
17 through the most technical parts of this, just to have Mr.
18 Gutman go through the rest of the paper, then we ask our
19 questions?

20 Senator Danforth. Well, can we ask them as we go along?

21 The Chairman. Yes, you can, if that is your wish.

22 Senator Danforth. Thank you, Mr. Chairman.

23 The Chairman. Mr. Gutman.

24 Mr. Gutman. The next provision. We are now at Part B on
25 page two. This is affecting business. The first provision

1 would increase the corporate tax rate to 35 percent for
2 corporations with taxable income above the \$10 million level
3 with a phase-out of the benefit of the 34 percent rate that
4 begins at \$15 million. That would be taxable income of \$15
5 million. That is effective on January 1st of 1993, and
6 penalties would be waived with respect to estimated taxes.

7 The second provision would deny deductions for certain
8 lobbying expenses.

9 Senator Hatch. Could I ask a question on that? Would
10 that stop a constituent from Utah flying back here to talk to
11 me about legislation?

12 Mr. Gutman. If the expense would have been deductible in
13 the first place, it might be non-deductible now.

14 Senator Hatch. Even individual constituents or people in
15 my State, or any of our States, who have great concerns about
16 particular problems?

17 Mr. Gutman. If the action by the constituent constituted
18 an attempt to influence legislation, then it would be subject
19 to the disallowance.

20 Senator Hatch. Well, let us take a banker. Let us say
21 that a banker from my State comes back, and they fly back, or
22 a farmer, or somebody representing the Utah Jazz, to get back
23 to athletics, because that is very important here.

24 Mr. Gutman. This would explicitly disallow that
25 deduction, although the precedent question is whether those

1 activities would have been deductible in the first instance.
2 But, if those activities would have been deductible in the
3 first instance, then this provision would clearly make them
4 non-deductible.

5 Senator Hatch. But they are currently allowed to deduct
6 those types of -- a banker would be allowed to deduct the
7 transportation.

8 Mr. Gutman. If the legislation is of direct interest to
9 them or their business, then they would be permitted a
10 deduction.

11 Senator Packwood. Well, Hank, that is all they come for.

12 Mr. Gutman. I am sorry, Senator.

13 Senator Packwood. That is all they come for. I mean,
14 the bankers do not come back and say, we are really
15 interested in Bosnia.

16 Mr. Gutman. Well, I have had some who have been.

17 (Laughter)

18 The Chairman. The Chair rules that is not fair to
19 bankers.

20 Senator Hatch. In effect, you are saying that my
21 constituents cannot come back here and help me to do my job.
22 That is what you are saying.

23 Senator Packwood. And deduct the expense.

24 Senator Hatch. And deduct the expense.

25 Senator Hatch. They can do it altruistically, which, of

1 course, is always important in this town.

2 Senator Danforth. Mr. Chairman.

3 The Chairman. Senator Danforth.

4 Senator Danforth. Let me follow up on this. If, let us
5 say, the members of the Missouri Farm Bureau come here before
6 we pass this, they do annually, and their purpose is to visit
7 with members of Congress, they go from office to office, they
8 have meetings with us, they have dinner with us, and so on.
9 I take it right now that is a deductible expense. Is it not?

10 Mr. Gutman. Yes. Again, it is subject to the caveat
11 that the legislation be affecting their interest. And if we
12 assume that --

13 Senator Danforth. Right. But, I mean, that is why they
14 come, because they are interested in matters relating to
15 agriculture. So, every year the Missouri Farm Bureau comes
16 here and meets with members of Congress, and I take it that
17 under current law that is deductible. Now, under this, we
18 are saying that next year when the members of the Missouri
19 Farm Bureau come here they will not be able to deduct that.
20 Right?

21 Mr. Gutman. If they are paying for these expenses
22 themselves, that is correct.

23 Senator Danforth. Now, let me ask one other question
24 relating to trade associations. Right now, if I am in
25 business, whatever the business is, let us say that I am a

1 dairyman, and there is a dairyman's association, if I pay
2 annual dues to that association, they are deductible?

3 Mr. Gutman. Yes.

4 Senator Danforth. Now, let us say that 25 percent of the
5 work of the dairyman's association is lobbying, does this
6 mean that, therefore 25 percent of my dues are not
7 deductible?

8 Mr. Gutman. There would be a flow-through of the
9 disallowance, but it would not be on a straight pro rata
10 basis. In other words, some portion of your dues would be
11 treated as non-deductible in those circumstances.

12 Senator Danforth. Now, we are raising by this a total of
13 \$1,236,000,000. In order to raise that, can you give us
14 judgment as to the complications that would be created for
15 trade associations? How would a trade association handle
16 this matter, and what would the trade association have to do
17 by way of informing its members?

18 Mr. Gutman. They would have to inform their members
19 annually of the portion of the dues that would be disallowed.

20 Senator Danforth. Therefore, each member of the
21 dairyman's association would receive an annual statement
22 which would say that X amount of your dues this year relate
23 to lobbying, and, therefore, let us say you are able to
24 deduct 62 percent of your dues, but not that part related to
25 lobbying.

1 Mr. Gutman. That is correct.

2 Senator Danforth. And, again, the rationale for doing
3 this is that, while trade associations do a lot of good
4 things, lobbying is not one of those good things, and,
5 therefore, there is a policy decision that trade
6 associations, insofar as they communicate with members of
7 Congress or with the government, their expenses should not be
8 deductible?

9 Mr. Gutman. Well, I think the rationale for the
10 application insofar as it applies to trade associations is
11 that one would not want to permit the use of a conduit to
12 avoid what would otherwise be a limitation on the deduction
13 if you did it yourself.

14 So, the core issue is the limitation on the deduction.
15 If one decides that the deduction ought to be limited, then
16 one has to deal with the question of ways of avoiding that
17 limitation. Therefore, when you get into dues that are paid
18 to organizations that do the activity that would not be
19 deductible, then you have to come up with a set of rules to
20 avoid abuse.

21 Senator Danforth. This, obviously, would be a matter
22 that the IRS would have to audit, would it not?

23 Mr. Gutman. Yes.

24 Senator Danforth. So, would this be a cost to the IRS,
25 would it cost money for the IRS to police that part of the

1 trade associations' work that constitutes lobbying?

2 Mr. Gutman. Well, they would have to devote manpower to
3 it, certainly.

4 Senator Danforth. How would they go about doing that?
5 You are, Hank, an expert on tax matters, a tax lawyer. How
6 would the IRS go about monitoring the activities of trade
7 associations to determine what part of their activities
8 constitutes lobbying?

9 Mr. Gutman. There are already provisions in current law
10 involving grass roots lobbying that the IRS has to
11 administer. This would involve a more detailed examination
12 of the same types of issues, Senator.

13 Senator Danforth. For example, let us take the Missouri
14 Farm Bureau. The IRS would have to investigate how much of
15 the Farm Bureau's activities are in communications between
16 Farm Bureau officials and members of Congress, would they
17 not?

18 Mr. Gutman. That is correct.

19 Senator Danforth. There is an expense to doing that.

20 Mr. Gutman. Yes.

21 Senator Danforth. Thank you.

22 Senator Packwood. And it also applies to State and local
23 governments, does it not?

24 Mr. Gutman. Yes. The lobbying of State and local
25 officials. Yes. With respect to legislation.

1 Senator Packwood. Legislation or regulations also? The
2 Missouri Farm Bureau appears before the Missouri Zoning
3 Commission on zoning.

4 Mr. Gutman. Just legislation at the State and local
5 level.

6 Senator Packwood. Just legislation.

7 Mr. Gutman. At the State and local level.

8 Senator Breaux. Mr. Chairman.

9 The Chairman. Senator Breaux.

10 Senator Breaux. I just want to ask a couple of question.
11 Senator Breaux had asked for recognition. You will be next,
12 Senator Roth. Senator Breaux.

13 Senator Breaux. This is only my second thing to get
14 involved. The first one was with people getting over \$1
15 million in salaries, and now it is a question of defending
16 lobbyists. I mean, are individuals affected by this?
17 Individuals do not get to deduct their -- if somebody wants
18 to come up from Louisiana to talk to me about this tax bill
19 or the health bill, they cannot deduct their travel to come
20 up here now, can they?

21 Mr. Gutman. Not unless it concerns a business activity
22 of theirs, Senator.

23 The Chairman. That is right.

24 Senator Breaux. I mean, if an individual says, this is
25 going to raise my taxes and, therefore, I want you to vote

1 against it, or it is going to make the Tax Code more fair and
2 I want you to support it, we are treating that individual
3 citizen the same way. The only ones we are talking about are
4 professional lobbyists.

5 Mr. Gutman. Well, you are talking about individuals who
6 have a business nexus with their communications with members
7 of the Legislature. That applies both to professional
8 lobbyists and others who attempt to influence legislation.

9 Senator Breaux. So, how about the individual who is just
10 Joe Citizen out there who thinks this is good public policy,
11 or bad public policy, and flies to Washington, spends a night
12 in a hotel to tell me to vote for it or against it. Is he
13 treated the same today as he was before the bill?

14 Mr. Gutman. There is no change in his treatment and his
15 expenses are not deductible.

16 Senator Breaux. What is the policy recommendation from
17 the administration on behalf of this?

18 Mr. Samuels. Our view is that lobbying expenses that are
19 associated with business activities should not be subsidized
20 by the Internal Revenue Code. And I would remind the
21 committee that prior to 1963, lobbying expenses were not
22 deductible. So, we are basically going back to a rule that
23 had been in the code for a long time, and the reason we think
24 it is now appropriate to re-institute that rule is that I
25 think that people have seen the effect of the growth of

1 lobbying activities in the last 30 years, and it is now
2 appropriate to take away the tax subsidy from lobbying
3 expenses.

4 Senator Breaux. Let me ask a final question and I will
5 get out of this. Does the recommendation in the bill now
6 move to treat businesses and individuals the same with regard
7 to their lobbying activities?

8 Mr. Gutman. Yes.

9 Senator Danforth. Mr. Chairman.

10 The Chairman. The Chairman would like to comment and ask
11 Mr. Samuels, do you think that this might mean that Gucci
12 Gulch might be a little less crowded on mornings that we
13 address the Internal Revenue Code? You do not have to answer
14 that.

15 (Laughter)

16 The Chairman. Senator Roth was next, but then you.

17 (Continued on page 104)

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1 Senator Roth. Mr. Chairman?

2 The Chairman. Senator Roth.

3 Senator Roth. What affect would this have on church
4 organizations, for example, if they come? Would there
5 have to be an investigation made of the contributions made
6 to the church and determine what percentage of that were
7 involved in the lobbying?

8 Mr. Gutman. The question you asked is: Does there
9 have to be an examination of the profile of donors?

10 Senator Roth. First of all, how does they lobbying
11 apply to church organizations?

12 Mr. Gutman. The nexus has to do with the profile of
13 the donors, Senator Roth. So if a charity in general has
14 large business contributors and the charity engages in
15 lobbying, then a connection can be drawn between the size
16 of the business contribution and the activity of the
17 charity and lobbying, some portion of the deduction for
18 the business contributor would be disallowed.

19 Senator Roth. My question is: How would that apply
20 to church organizations who sometimes get involved in
21 lobbying, too?

22 Mr. Gutman. In most cases with respect to churches
23 it would not apply because the lobbying by the exempt
24 organization would have to be of direct interest to the
25 donor business and I cannot think of a lot of situations

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1 in which that would happen with respect to churches. But
2 I suppose there are some.

3 Senator Packwood. A university lobbies us on the
4 donation of appreciated property, which is of great
5 interest to their donors.

6 Mr. Gutman. Well, the question, Senator, would be:
7 Is it of interest to the donor's trade or business?
8 Because the exempt organization has to undertake lobbying
9 activity which is of interest to the donor.

10 Senator Packwood. And the donation of appreciated
11 property is not of interest to the donor?

12 Mr. Gutman. In connection with the donor's business?

13 Senator Packwood. No.

14 Mr. Gutman. That would be the inquiry. The inquiry
15 would be in connection with the donor's business.

16 Senator Packwood. But not his personal taxes?

17 Mr. Gutman. Not his personal taxes.

18 The Chairman. Senator Dole? I am sorry. Senator
19 Roth still and then Senator Danforth and then Senator
20 Dole. We have got to keep track here.

21 Senator Roth. Now lobbying, is that limited to
22 lobbying Congress or how does that apply to the Executive
23 Branch?

24 Mr. Gutman. There are certain federal officials in
25 the Executive Branch as to whom the same restrictions

1 apply.

2 Senator Roth. And what are they?

3 Mr. Gutman. There are the individuals who are
4 covered in the Lobbying Disclosure Act. They are listed
5 at page 32 of your mark-up document.

6 Senator Roth. Can you lobby the President?

7 Mr. Gutman. No.

8 Senator Roth. Those that would lobby the White House
9 would be covered by this?

10 Mr. Gutman. Well, if you lobbied the President or
11 the Vice-President, yes; and then other officials as well.
12 In general, that would be right.

13 Senator Roth. What about the Secretary of the
14 Treasury?

15 Mr. Gutman. The Secretary of the Treasury would be
16 covered, yes.

17 Senator Roth. Who is not covered then?

18 Mr. Gutman. Basically, low-level federal employees,
19 Senator.

20 Senator Danforth. People who do not make decisions.

21 (Laughter.)

22 The Chairman. Thank you.

23 Senator Danforth?

24 Senator Danforth. I want to follow up on what I
25 think was an erroneous impression given by the questions

1 and answers that were offered by Senator Breaux.

2 This provision is not triggered by somebody being a
3 professional lobbyist, is it?

4 Mr. Gutman. No, that is correct.

5 Senator Danforth. And a professional lobbyist or a
6 registered lobbyist, somebody who is paid to lobby, that
7 is not a matter that is relevant to the question that is
8 put before us?

9 Mr. Gutman. Well, it is relevant in the sense that
10 there is a broader class of non-deductibility with respect
11 to "professional" lobbyists. But, in general,
12 individuals who are not lobbyists are also subject to
13 restrictions. That is correct.

14 Senator Danforth. So, therefore, if, let us say, an
15 independent oil producer were to fly to Washington for the
16 purpose of visiting with a member of Congress, that cost
17 of visiting with a member of Congress about oil
18 legislation would not be a deductible expense?

19 Mr. Gutman. That is correct.

20 Senator Danforth. And if a person were an
21 independent trucker and this person was very concerned
22 about, let us say, fuel taxes and came to Washington with
23 a group of truckers and this person had never been to
24 Washington before, and had never met with a member of
25 Congress before, came here because this person was

1 concerned about the fuel tax, that expense of coming here
2 to meet with Congress would no longer be deductible under
3 this provision?

4 Mr. Gutman. That is correct.

5 Senator Danforth. And if this person were a farmer
6 and had never before left his own community and never
7 communicated with anybody in government, but was concerned
8 about farm legislation and came up with an Association,
9 the Soybean Association or something, to visit with
10 members of Congress for the purpose of talking about
11 legislation, that expense which is now deductible would no
12 longer be deductible?

13 Mr. Gutman. That's correct.

14 Senator Danforth. Thank you.

15 The Chairman. Senator Dole?

16 Senator Dole. We do not eliminate that provision in
17 the Constitution though that says you have a right to
18 petition Congress, right?

19 Mr. Gutman. That is also correct.

20 Senator Dole. It is not changing the Constitution.

21 Senator Danforth. Bad policy.

22 Senator Dole. Yes. Because people do have a right
23 to petition Congress and I think Senator Danforth just
24 clarified it. We have a lot of farmers come in from my
25 state. They may or may not belong to any one group. They

1 may or may not come up with some ``professional``
2 lobbyist. Most farmers cannot afford that.

3 But if five or six come together and fly back to
4 Washington and talk about farm legislation, then that is
5 not deductible; is that correct? If they talk to me about
6 farm legislation.

7 Mr. Gutman. That is correct.

8 Senator Dole. And then secondly, how many times can
9 we count this provision? Because I understand it is
10 already spent or could be spent. It is not certain. I
11 will ask Senator Durenberger who offered the amendment, in
12 the Campaign Finance Bill that we discussed yesterday,
13 that I understand there is still a back-up provision that
14 if federal funding kicks in that it comes from this
15 provision.

16 Senator Durenberger. Mr. Chairman?

17 The Chairman. Senator Durenberger.

18 Senator Durenberger. I was going to ask that same
19 question because I do not know the answer to it either.
20 Yesterday we or at 2 o'clock this afternoon we are going
21 to pass out a provision in the Campaign Finance Reform
22 Bill that has a back-up funding in the form of a penalty,
23 if you will, or reward, out of something called a good
24 government trust fund.

25 I know I was told by the author, who is not here, a

1 member of this Committee, Senator Boren, that fund will be
2 funded by this lobbying expense deduction. Could you tell
3 us the degree to which there is a provision for that in
4 the Campaign Finance Reform Bill right now?

5 Mr. Gutman. My understanding, Senator Durenberger,
6 is that at the moment the funds that are raised by this
7 provision are undedicated in this particular piece of
8 legislation and it is in the Chairman's mark. And,
9 therefore, I suppose could be made available if
10 appropriate action were taken by the members.

11 Senator Durenberger. It would still be deficit
12 reduction though to pay for campaigns.

13 The Chairman. The answer to that would be yes if
14 that is what the Congress wishes.

15 Senator Hatch. Mr. Chairman?

16 Senator Chafee. Mr. Chairman?

17 The Chairman. Senator Chafee?

18 Senator Chafee. Mr. Chairman, just a brief question
19 because I am a little confused over this. I thought
20 originally on this lobbying deduction that the lobbyists
21 had to spend a certain amount per year on such activities.
22 Am I right or wrong on that? There was some threshold.

23 Mr. Gutman. To be a registered lobbyist, there is a
24 threshold that you spend 10 percent of your time lobbying,
25 as I understand it.

1 Senator Chafee. Okay, but suppose you are not. Let
2 me just give you a little illustration that has occurred
3 in my situation. The President of Yale used to come down
4 every year and there were three or four things he would
5 talk about -- the alternative minimum tax of gifts.
6 Clearly he was lobbying. He was concerned about these
7 matters. The tax-exempt bonds for educational
8 institutions, some taxation for graduate student
9 scholarships.

10 Now, just take his situation. He flew down here and
11 had \$500 of expenses. Now, what happens? And Yale
12 reimburses him for the trip. What happens? Why don't we
13 bring up your pinch hitter there?

14 Mr. Gutman. I would like to let him sit here for a
15 minute.

16 (Pause.)

17 Mr. Gutman. I would think it would have no
18 consequences to the President of Yale. These rules
19 trigger off in that kind of situation where an employee is
20 doing the activity. The organization itself would be
21 disallowed the deduction for the cost of the activity. In
22 the case of an exempt organization, that would not have a
23 consequence.

24 Senator Chafee. Thank you.

25 The Chairman. Senator Hatch?

1 Senator Hatch. Just one last thing to clarify for
2 me. Let us say that the Carpenter's Union has hired --
3 well, let us use the AFL-CIO. That they have hired 500
4 political activists to come up, 10 or 20, whatever the
5 number is. Whatever is attributed to those union members
6 who come up here or any other business or any other
7 organization attributable to lobbying, they will have to
8 notify all of their members who have paid dues into that
9 organization? That applies to all these organizations,
10 including the AFL-CIO, other unions as well?

11 Mr. Gutman. There is regulatory authority that would
12 be granted under the proposed draft to provide an
13 alternative way of dealing with that situation so that
14 they would not have to pass through in all of those
15 situations.

16 Senator Hatch. Would it apply to everybody or would
17 you give specific treatment through regulatory authority
18 to different entities? Would unions be treated the same
19 as business? Would they be treated the same as --

20 The Chairman. The answer is yes.

21 Mr. Gale. They would be treated generally the same.
22 But the difference would be --

23 Senator Hatch. What do you mean generally?

24 Mr. Gale. Union dues are generally not deductible
25 right now unless they exceed 2 percent of the --

1 Senator Hatch. But would they not have to notify
2 those who pay dues?

3 Mr. Gutman. The only authority that is granted would
4 be to allow the Secretary to exempt those situations in
5 which the disallowed portion of the expenditures would not
6 affect the tax liability of the dues-paying members.

7 Senator Hatch. So in other words, unions would
8 probably be excluded from this provision?

9 Senator Roth. Mr. Chairman?

10 The Chairman. Now just a second. Senator Hatch?

11 Senator Hatch. Can I answer for that? Unions would
12 be excluded while all businesses would be included?

13 Mr. Gale. Well, because largely those dues are not
14 deductible now.

15 Mr. Gutman. They are not deductible in the first
16 instance.

17 Senator Hatch. That is the only reason? So they
18 could lobby all they want to while the farmer cannot?
19 They are not getting a deduction in the first instance.

20 The Chairman. Their dues are not deductible now. A
21 great deal of effort was made to say that union dues not
22 be deducted and it did not happen on this side of the
23 isle.

24 Senator Hatch. I understand. I am just making a
25 point, Mr. Chairman, I think which is worth mentioning.

1 The Chairman. All right. Now, was Senator Hatch
2 through? Senator Hatch are you through?

3 Senator Hatch. Yes, I am sorry. Thank you.

4 The Chairman. Senator Roth?

5 Senator Roth. I would like to go back again to the
6 church situation. I am not clear on that. Let us assume
7 that you have a church group that are either pro-abortion
8 or pro-life and a large group of them come down here to
9 lobby and it costs in excess of 10 percent. How would
10 that be impacted by this legislation?

11 Mr. Gutman. With respect to the donors to the
12 church, under this particular legislation, I cannot see
13 that there would be any affect. Because the tie is that
14 the exempt organization has to be engaging in a lobbying
15 activity which is of direct business interest to the
16 donor. Direct business interest.

17 Senator Roth. Business interest?

18 Mr. Gutman. Yes.

19 Senator Roth. That would exclude, say, pro-abortion
20 or anti-abortion?

21 Mr. Gutman. Well, I suppose there are situations in
22 which you can imagine the business enterprise, but that is
23 what it would have to be.

24 The Chairman. Thank you.

25 Senator Baucus?

1 Senator Baucus. Thank you.

2 Mr. Chairman, I would like to ask Mr. Gutman, is
3 anybody running numbers as to what the tax expenditure
4 would be, what the loophole would be, if everyone came to
5 Washington and talked about legislation where it courted
6 this deduction?

7 Mr. Gutman. We had not done a number on that,
8 Senator.

9 Senator Baucus. Would it be safe to say that it
10 would be a pretty big number?

11 Mr. Gutman. I think so, yes.

12 Senator Baucus. And it would include all the buses
13 of tourists. I am not saying it is necessarily wrong, but
14 if each person that came to Washington -- each business
15 person, each union person, anybody that came to
16 Washington, D.C. -- were courted a full deduction for
17 expenses, would that not be a pretty big number?

18 Mr. Gutman. Yes.

19 Senator Baucus. Would it not also be safe to say it
20 is probably better to treat everybody fairly evenly? That
21 is to say the farmer, the banker, the union member or the
22 corporate executive, either one of them should have an
23 advantage compared with the other, in terms of their
24 access or denial of access to petition the government?

25 Mr. Gutman. That is the theory of this legislation.

1 Mr. Gale. That is exactly the theory.

2 Senator Baucus. Thank you.

3 Senator Durenberger. Mr. Chairman?

4 The Chairman. Senator Durenberger?

5 Senator Durenberger. This is my last question and
6 was prompted by Senator Baucus' question. This goes to
7 what happened. Maybe Mr. Samuels or Mr. Gutman can
8 respond to this. That is, how much money did we recover
9 pre-1963? I mean, maybe you could describe for us the way
10 the system worked prior to 1963.

11 Somehow I have the impression that there was actually
12 a Supreme Court decision on this issue in 1963 which
13 prompted the Congress to act and to institute the law
14 under which we are currently operated.

15 Mr. Samuels gave us the impression this is the way it
16 was and we have had 30 years without. And now Republicans
17 are asking questions that do not make any sense relative
18 to past practice.

19 Mr. Samuels. Pursuant to Treasury regulations,
20 lobbying expenses were nondeductible prior to 1963. That
21 was upheld by the Supreme Court and then the law was
22 changed to permit lobbying expenses that were incurred as
23 an ordinary and necessary business expense to be deducted.

24 Senator Durenberger. Do you recall why the Supreme
25 Court acted in this particular case and what the impact of

1 that was?

2 Mr. Samuels. Somebody challenged the regulations and
3 the Supreme Court upheld the regulations. The regulations
4 denied the lobbying expense so that all people who came to
5 Washington were treated the same way prior to 1963. It
6 was nondeductible. The Supreme Court confirmed the
7 Treasury regulations and at that point Congress decided to
8 allow businesses to deduct their lobbying expenses.

9 Senator Durenberger. Well, maybe we can clarify this
10 at some other time. But my impression was, this is a
11 little bit of a Zoe Baird kind of a case in which nobody
12 really knew what the situation was until the Supreme Court
13 all of a sudden raised the same kind of red flag that the
14 Baird appointment raised. And then Congress rushed to
15 clarify the law by instituting the --

16 The Chairman. Would Mr. Samuels want to speak to
17 that?

18 Mr. Samuels. I believe that the regulations were
19 quite clear and someone challenged the regulations and it
20 went to the Supreme Court. I do not believe this was a
21 case where people did not understand what the rules were.

22 Mr. Gale. That is right. They were challenged.

23 The Chairman. Thank you.

24 Mr. Gale. It is a 1959 Supreme Court case upholding
25 the validity of the regulations, denying a deduction for

1 lobbying so that the rationale was so that government
2 petitions ``can influence the fate of legislation or
3 agency actions which will affect directly or indirectly
4 all in the community. Everyone in the community should
5 stand on the same footing so far as the Treasury of U.S.
6 is concerned.''

7 The Chairman. Thank you, Mr. Gale.

8 Mr. Gutman?

9 Mr. Gutman. Mr. Chairman, the next provision would
10 require certain securities dealers who have securities in
11 their inventory to mark those securities to market at the
12 end of every taxable year for purposes of determining
13 their taxable income.

14 The next provision involves the tax treatment of
15 assistance to troubled thrifts. The bill says that
16 assistance that reimburses a person who has acquired a
17 troubled thrift for a loss on that individual's
18 disposition of an asset would not be allowed a deduction
19 for the same loss.

20 In other words, if one is compensated for the loss,
21 then no deduction for the loss would be allowed. This
22 provision had its genesis in a report published by the
23 Treasury in March of 1991; and this provision is effective
24 for FSLIC assistance that is credited on or after March 4,
25 1991.

1 The next provision involves a modification to the
2 corporate estimated tax rules and provides that
3 corporations essentially have to be on a current basis
4 with respect to the payment of their estimated taxes for a
5 current year. And there are liberalization of
6 annualization income rules to permit that calculation to
7 be made with more ease.

8 Senator Dole. Mr. Chairman?

9 The Chairman. Yes, Senator Dole?

10 Senator Dole. That is not a tax increase, is it?

11 Mr. Gutman. Well, that is a provision that
12 accelerates receipts from one year into another, Senator.

13 Senator Dole. Thank you.

14 Mr. Gutman. The next provision involves the repeal
15 of a current law provision that allows an exception from
16 the discharge of indebtedness rules when certain
17 corporations exchange stock for debt. And if the
18 provision that is associated with it also would -- this is
19 in connection with cancellation of indebtedness income
20 also -- there are situations in which taxpayers who have
21 cancellation of indebtedness income are not required to
22 recognize that income immediately, but rather they have to
23 reduce certain tax attributes, the effect is to defer the
24 recognition of the cancellation of indebtedness income.

25 The Chairman's mark provides that several other tax

1 attributes would be added to the list of tax attributes to
2 be reduced -- passive losses and AMT credits would be
3 added.

4 Senator Durenberger. Mr. Chairman?

5 The Chairman. Yes, Senator Durenberger?

6 Senator Durenberger. May I ask a question about
7 this? First, Mr. Gutman, I do not understand it and so
8 you will have to help me a little bit with the rational.

9 Mr. Gutman. Certainly, Senator.

10 Senator Durenberger. But let me tell you where I am
11 coming from. People who are in bankruptcy or the
12 potential of going into bankruptcy, would the repeal hurt
13 people who are about to go into bankruptcy or would it
14 keep those in bankruptcy Chapter 11 from coming out? And
15 do you know what the view of bankruptcy bar is with regard
16 to this provision?

17 Mr. Gutman. Well, I can answer the second question
18 first. The bankruptcy bar would not favor this particular
19 provision. There is a conflict here between essentially
20 tax policy and bankruptcy policy.

21 What this issue is about is whether -- when a party
22 who is troubled financially is permitted to essentially
23 refinance and be relieved of an obligation that that
24 troubled party had, whether there should be income tax
25 consequences associated with that debt forgiveness.

1 The general rule is that if I am relieved of an
2 obligation, I have immediate income. If I am insolvent or
3 bankrupt because I do not have any money, I do not have
4 immediate income. But other attributes that I do have,
5 such as property that I own, will have its basis reduced.
6 So that ultimately that income tax can be recovered by the
7 government. But you do not have to pay it immediately
8 because you are in straightened financial situations.

9 Under this provision, if I am bankrupt and I exchange
10 stock for that debt, I never have to pay it back. So the
11 tax policy argument for this provision is that individuals
12 who are in the situation of being able to exchange stock
13 for debt should not get pure income forgiveness.

14 Senator Durenberger. May I, Mr. Chairman, ask Mr.
15 Samuels if this is an administration position?

16 The Chairman. Please.

17 Mr. Samuels. No, sir. This is part of the
18 Chairman's mark.

19 Senator Durenberger. Do we know how Treasury or
20 Commerce or Justice or Transportation or some of the other
21 Departments that might share the same concerns that the
22 bankruptcy bar would share what they think about this?

23 Mr. Samuels. No, we just found out about this late
24 last night. So we have not had a chance to discuss it
25 with other agencies or to evaluate it in detail.

1 Senator Durenberger. I would really appreciate it,
2 Mr. Chairman, if we can get an opinion from the various --

3 The Chairman. Oh, sure.

4 Mr. Gutman. This provision was in H.R.11 last year,
5 Senator Durenberger.

6 The Chairman. We passed this before. But we, Mr.
7 Samuels, will you give us a statement of Administration
8 policy in this regard and canvas the Administration on the
9 thought that you are not just the only party.

10 Mr. Samuels. Right.

11 The Chairman. We will do that.

12 Mr. Gutman. The next provision involves Section 936.
13 The proposal would be to limit current 936 benefits, the
14 benefits allowed to possessions corporations under one of
15 two alternatives that the taxpayer could elect.

16 Under one alternative the current law benefit would
17 be limited to a certain percentage of the credit allowable
18 under present law. In other words, there would be a
19 straight reduction of the credit.

20 And under the second alternative, the credit would be
21 cut back based on three factors that take place in the
22 possession, compensation paid for employees in the
23 possession, depreciation deductions which would represent
24 the investment component and also possession income taxes
25 that have been paid. So that current law benefits would

1 be scaled back with respect to business income. But the
2 proposal would not limit the present law benefits for
3 qualified possession source income.

4 Senator Pryor. Mr. Chairman?

5 The Chairman. Senator Pryor?

6 Senator Pryor. Mr. Chairman, Mr. Gutman, I think,
7 has raised two or three possible new elements or factors
8 into this. Perhaps I am wrong. But I would like to
9 state, Mr. Chairman, that I am going to continue being in
10 consultation with Senator Bradley of New Jersey and the
11 Chairman and his staff --

12 The Chairman. Yes, sir.

13 Senator Pryor -- about this during the course of the
14 day to see how we are going to ultimately resolve any
15 change in the formula or perhaps even a change in the
16 ultimate monetary figure here of \$3.8 billion.

17 The Chairman. I would like to suggest that after the
18 Committee acts, until we go to conference, or go to the
19 floor, the number is set, but the range we are trying to
20 do the best thing by Puerto Rico.

21 Senator Hatch. Then the point should be made that
22 the Finance Committee will not have voted on this
23 particular provision.

24 Senator Pryor. I have no idea when the Finance
25 Committee is going to vote this bill out of the Committee.

1 But I just want to assure my colleagues that I think there
2 is still some degree of uncertainty as to the ultimate
3 formula that we will --

4 The Chairman. That will be decided in conference,
5 sir, of course, because the House has a very different
6 proposal. You will, sir, vote.

7 Senator Hatch. That makes my point then.

8 The Chairman. Yes, sir. No, you will have voted.

9 Senator Hatch. You will not know.

10 The Chairman. You have voted on a specific measure
11 here. But when we go to conference, we will see how we
12 may merge from conference.

13 Senator Hatch. All my point is, there are no
14 specifics here. So we do not know what we are voting on.

15 The Chairman. No, there are specifics here, but they
16 are different from the House.

17 Senator Hatch. They are \$3.7 and \$3.8 billion.

18 The Chairman. Yes.

19 Senator Hatch. So I take that what you are saying is
20 that the formula is going to be formulated to arrive at
21 \$3.8 approximately.

22 The Chairman. Sir, it is on page 51 of the
23 description and the amount is there. Thank you, Senator
24 Pryor.

25 Mr. Gutman?

1 Senator Hatch. What is says, Mr. Chairman, it says
2 that ``under one alternative, limitation, Section 936
3 credit, allowed to a possession and corporation against
4 U.S. tax on business income for a taxable year,`` and this
5 is important, ``would be limited to a fixed percentage of
6 the amount allowable under present law.``

7 It is just that we do not know what that fixed
8 percentage is is my point.

9 The Chairman. Mr. Gutman?

10 Mr. Gutman. The next provision involves earnings
11 stripping and basically would prohibit thinly capitalized
12 corporations from taking current deductions for excessive
13 interest that is paid to a related party. The interest
14 income is exempt from tax.

15 This is designed to prohibit companies from being
16 able to avoid U.S. tax on what are basically dividend
17 payments that are made abroad.

18 Senator Durenberger. Mr. Chairman, may I ask a
19 question?

20 The Chairman. You may, indeed, Senator Durenberger.

21 Senator Durenberger. This is one of those what is an
22 abuse. Then I think Hank has pretty well laid out the
23 definition of earnings stripping, which is the process by
24 which dividends get converted into deductible interest
25 payments to a related party.

1 Let me give you my problem, like the Pillsbury Dough
2 Boy is owned by Graham-Met which is a British company.
3 But they borrow from, let's say, NorWest Bank which is in
4 Minneapolis to finance the operation of the Pillsbury or
5 they get their money in the public market here in the
6 United States, which seems to me to be a fairly legitimate
7 way to generate debt and fairly legitimate interest
8 payment.

9 I am sure there are other companies in this country
10 similarly situated. As I understand it, this particular
11 earnings stripping provision will catch them, even though
12 they are doing a very legitimate piece of business here in
13 the United States and money is staying here and so forth.

14 I am informed that my staff has met with the staff of
15 the Joint Committee and they have gone through a set of
16 sort of common rules that might give some definition to
17 what is a normal or nonabusive situation. And a lot of
18 these savings, the so-called savings, here disappear when
19 you come up with some of these very logical rules.

20 I wonder if that is true if there might be some
21 effort here in the next few days to see if we cannot craft
22 a different definition of what it is we are trying to
23 define when we define earnings stripping, so as to make it
24 clear that legitimate borrowing and interest payments in
25 this country are not disqualified.

1 The Chairman. Mr. Gutman, Mr. Samuels, that seems a
2 more than reasonable request.

3 Mr. Samuels. Senator Durenberger, I think the one
4 thing I would add though to your description of the
5 proposal is that the proposal applies when the U.S.
6 subsidies of foreign companies in this particular case
7 borrow not on their own credit but with the guarantee of
8 the foreign parent.

9 So they are getting access to capital with the
10 foreign parent guarantee, not on their own credit. That
11 is what is of concern. It is very difficult to decide in
12 our view --

13 Senator Durenberger. What is the concern as long as
14 they are borrowing in this country?

15 Mr. Samuels. Because the parent could borrow and
16 then lend the money to the U.S. subsidiary and that is
17 prohibited under the current earnings stripping rules.
18 And money is fungible and the parent can either decide to
19 borrow itself and lend the money into the U.S. or it can
20 cause its U.S. subsidiary to borrow with the parent
21 guarantee.

22 There is really no economic difference between those
23 two transactions and that is what is of concern and that
24 is what the proposal addresses.

25 The Chairman. Well, how can we satisfy you in this

1 regard, sir?

2 Senator Durenberger. Well, I am sure if I can sit
3 down between the two of these gentlemen and see if there
4 is not a way to satisfy both my concern and that of --

5 The Chairman. Could that be done in colloquy?

6 Senator Durenberger. Well, I would certainly hope
7 so.

8 The Chairman. Mr. Samuels, could that be dealt with
9 in a colloquy to your satisfaction?

10 Mr. Samuels. I think that the existing earnings
11 stripping rules there was a contemplation that certain
12 guaranteed transactions would be treated as loans by the
13 foreign parent in that particular case to the U.S.
14 subsidiary.

15 The Treasury was working very hard to try to define
16 what is an ordinary guaranteed transaction and what is
17 not. We have discovered, which is not really surprising,
18 that it is very difficult to arrive at a reasonable line.
19 That is one of the reasons. And also because money is
20 fungible and the parent can either borrow it itself or
21 cause a subsidiary to borrow it, that we decided this
22 approach is appropriate.

23 Senator Durenberger. But the problem here is simply,
24 I think the problem is whether the money is leaving the
25 country or the money is not leaving the country. That is

1 at least part of the area where you can draw a line here.

2 The Chairman. Let us undertake to consult very
3 intensively before this measure goes to the floor. I
4 guess I am delinquent in this regard. Is this measure in
5 the House bill?

6 Mr. Gutman. Yes, it is, sir.

7 The Chairman. So it is income, friends.

8 Senator Dole. The same provision?

9 The Chairman. Well, that has been known to --
10 Senator Durenberger. The same provision?

11 The Chairman. Yes. We can work it out.

12 Senator Durenberger. Okay.

13 The Chairman. Thank you, Senator Durenberger.

14 Mr. Gutman, would you continue?

15 Mr. Gutman. The next provision involves deferral of
16 foreign earnings. There are a number of regimes that are
17 currently --

18 The Chairman. This is on foreign taxes.

19 Mr. Gutman. I am sorry. We are now at Subsection C,
20 Foreign Tax Provisions. There are a number of provisions
21 which require the payment of current tax on earnings of
22 controlled foreign corporations.

23 This provision would add another regime that would
24 require certain foreign subsidiaries to pay tax currently
25 on their earnings. If the subsidiary's passive assets

1 exceed 25 percent of their total assets, then there would
2 be a tax that would be imposed on the excess of the
3 earnings that would become subject to tax currently.

4 In other words, pre-existing earnings would be
5 grandfathered under this provision.

6 Senator Dole. Right.

7 The Chairman. I am sorry. Senator Dole?

8 Senator Dole. This is no longer retroactive; is that
9 it?

10 Mr. Gutman. This is no longer retroactive, Senator
11 Dole. That is correct.

12 Senator Dole. I think you also have softened it some
13 other ways. I think originally there was a view by the
14 Administration that created some encouragement to hold
15 passive assets offshore and not reinvest it. But some of
16 the people we talked to thought it had just the reverse,
17 could have just the reverse, better off to vest the
18 passive assets abroad and void the tax.

19 So I assume that is why you took out the retroactive
20 provision. There is something else I think you did.

21 Mr. Gutman. Yes. It has to do with measuring the
22 value of the assets of the foreign subsidiary and there
23 has been a change in the rule from the House bill that
24 would allow looking to a combination of the basis of
25 assets, plus expenditures for the foreign subsidiary's

1 research and development so that intangible assets would
2 be taken into account favorably in connection with the
3 determination.

4 Senator Durenberger. Mr. Chairman?

5 The Chairman. Senator Durenberger?

6 Senator Durenberger. Mr. Chairman, may I ask you a
7 question? The rather narrow part of the passive assets
8 provision, but from experience I know that a lot of
9 American companies doing business abroad engage in certain
10 risk management strategies.

11 Particularly, I am thinking from my own experience
12 about countries that deal in hyperinflationary economies.
13 For example, a company I used to be employed by was in all
14 of the Central American countries, a lot of South American
15 countries.

16 And as part of their sort of risk management
17 strategy, they would try to manage their currency and
18 their interest rate risk in a way which in effect would
19 qualify them to come up with a purview of this particular
20 provision. I just wondered if it would not be practical
21 if you assume that is a legitimate -- Mr. Samuels would
22 accept that as sort of a legitimate practice in certain
23 kinds of businesses -- that there is not a way for us to
24 craft an exemption that deals with offset transactions in
25 hyperinflationary economies.

1 Mr. Gutman. Basically, I think, Senator Durenberger,
2 what you are asking is whether assets that would generally
3 be classified as passive assets and subject to this test
4 could be treated as other than passive assets because they
5 are being used essentially in an active business.

6 Senator Durenberger. You say it much better than I
7 do.

8 Mr. Gutman. Thank you.

9 I think the answer to that is, if one could figure
10 out how to do that, that would be a useful thing to do,
11 but it is a very difficult task.

12 Senator Durenberger. I am up to the task, if I might
13 at least make the effort, Mr. Chairman.

14 The Chairman. Yes, please. If you are up to that
15 task, you have a future in this role. I could not follow
16 it, I must say.

17 Mr. Gutman, let us go right forth.

18 Senator Chafee. Mr. Chairman?

19 The Chairman. Yes, Senator.

20 Senator Chafee. Is Mr. Gutman through the provision
21 he was on?

22 The Chairman. Yes.

23 Mr. Gutman. Yes.

24 Senator Chafee. Mr. Chairman, might I go back to --
25 I apologize I was out -- B(7), the 936 credit.

1 The Chairman. Yes.

2 Senator Chafee. I am not sure that I understand what
3 the provision is. As I understand, when it came over from
4 the House it capped the credit at 60 percent of wages.

5 Mr. Gutman. That is correct.

6 Senator Chafee. And wages did not include health
7 benefits, and Social Security and so forth.

8 Mr. Gutman. That is correct.

9 Senator Chafee. Now, what have you done here?

10 Mr. Gutman. Well, basically, what has been done here
11 is to say that taxpayers will have an alternative
12 limitation on their ability to be able to exclude from
13 income tax earnings business income from a possessions
14 corporation.

15 One of them would just simply be some percentage
16 of the credit allowed under present law. A second would
17 be --

18 Senator Chafee. Now, it is a 100 percent credit now;
19 is it not?

20 Mr. Gutman. It is a 100 percent credit now. So it
21 would just be a straight haircut of a specified
22 percentage.

23 Senator Chafee. But when you came up with this
24 figure that you show -- by the way, what does TYBA mean?

25 Mr. Gutman. Taxable years beginning after.

1 Senator Chafee. Okay. I get it.

2 Mr. Gutman. That is one I could answer.

3 Senator Chafee. And what is TYEO?

4 Mr. Gutman. Taxable years ending on.

5 Senator Chafee. You are being coached. That is not
6 fair.

7 Mr. Gutman. No, I was not.

8 (Laughter.)

9 Senator Chafee. Okay. You have to know all of them.

10 Mr. Gutman. Taxable year ending on.

11 Senator Chafee. Taxable year ending on. I get it.

12 And EA?

13 Mr. Gutman. Ending after. There, I did have to be
14 coached.

15 Senator Chafee. All right. Fine.

16 Now, let me ask you this here, when you say that you
17 are not sure what the percentage of the credit is that
18 will be allowed, if that is true, if I understood you
19 correctly, then how do you arrive at this figure of \$3.751
20 billion?

21 Mr. Gutman. The percentages will be adjusted to
22 reach that revenue target.

23 Senator Chafee. So you start with a revenue figure
24 and then work backwards as to what the credit will be?

25 Mr. Gutman. We have been operating under the

1 assumption. I mean, we try to hit that revenue target,
2 yet.

3 Senator Chafee. That is an off way to do business.
4 But, I mean, do you have any idea what it is? What is it
5 close to?

6 Mr. Gutman. Well, first of all, Senator, there are
7 two pieces to this. I have just given you the first of
8 two alternatives. The first alternative was the straight
9 percentage disallowance of some portion of the credit.

10 The second is a limitation that would depend upon
11 factors involving activity in the possession. In
12 particular, wages, depreciation deductions and income
13 taxes paid. And one can come up with various mixes of
14 those two limitations in order to be able to reach the
15 appropriate target.

16 Senator Chafee. Well, I will not pursue this
17 further, Mr. Chairman. Obviously, we are going to get to
18 this.

19 I do not know what your plans are, Mr. Chairman. I
20 presume it is to finish going through these and then we
21 will go back at some point. Is it tomorrow? Go back
22 through these.

23 The Chairman. We are going to try to get through
24 this today, Senator.

25 Senator Chafee. Finish everything?

1 The Chairman. Yes.

2 I was going to ask you a question. On page 53 in the
3 last line it says that the proposal would not limit the
4 present law, Section 936 credit, against U.S. tax on
5 QPSII. That is Q-P-S-I-I. What is QPSII, Senator Chafee?

6 Senator Chafee. Well, I did not even know what TYBA
7 meant. So --

8 (Laughter.)

9 The Chairman. All right. Would you like a display
10 of mastery of the code? Qualified possession, something
11 investment income.

12 (Laughter.)

13 The Chairman. QPSII.

14 Senator Chafee. Now, tell me what TYEO means.

15 The Chairman. The year after next.

16 Senator Chafee. Okay. Well, thank you on this. We
17 will spend more time on it.

18 The Chairman. Thank you, Senator.

19 Mr. Gutman?

20 Mr. Gutman. The next provision involves the source
21 rules involving the allocation of research and
22 experimentation expenses in the foreign area. There is a
23 temporary rule in effect now that tells taxpayers how to
24 allocate and apportion research expenses.

25 This current rule in general allocates 64 percent of

1 U.S. incurred research expenses to U.S. source income; a
2 similar proportion to foreign source income; and the
3 balance is a portion on the basis of sales and gross
4 income. This provision would change those 64 percent
5 numbers to 50 percent; and it would be, in effect, for 12
6 months.

7 The next provision involves the treatment of the
8 foreign tax credit for certain types of interest on
9 working capital. The provision would limit the taxpayer's
10 ability to cross-credit foreign taxes on foreign gas
11 extraction income, foreign oil related income, and
12 shipping income. So that the interest on working capital
13 in those areas would be treated as passive, rather than
14 active income which is consistent with the rules that
15 apply with respect to all other working capital pools.

16 The next provision involves the transfer of pricing
17 compliance initiative. The bill strengthens the penalties
18 for substantial and gross valuation misstatements in
19 connection with transactions that are subject to Section
20 482.

21 It does this by lowering the threshold amount of any
22 adjustments that trigger the penalties that currently
23 apply and also by imposing documentation requirements on
24 affected taxpayers that essentially require those
25 taxpayers to have current documentation that shows how the

1 transfer prices that they have placed on their returns
2 have been determined.

3 The next provision is a proposal that takes four
4 export subsidies that are now in the Code and repeals them
5 insofar as they relate to unprocessed softwood timber
6 exports. The subsidies that are referred to are the title
7 passage rule, deferral, foreign sales corporation
8 benefits, and certain DIS benefits.

9 Senator Packwood. Mr. Chairman?

10 The Chairman. Senator Packwood?

11 Senator Packwood. I assume that provision is put in
12 because of the argument that logs are in short supply and
13 we should not be encouraging export.

14 The Chairman. Well, it is in there because we get
15 \$393 million.

16 Senator Packwood. I understand. That is a good
17 policy reason for everything that is in here. Is there
18 anything else besides that to justify it?

19 Mr. Gutman. I guess the question is whether as a tax
20 policy matter there should be subsidies for products that
21 are being sent abroad as compared to no subsidies. That
22 is the issue.

23 Senator Packwood. Now wait a minute. You lost me
24 there. Because these provisions that you are taking away
25 from log exports still apply to all other exports.

1 Mr. Gutman. That is correct.

2 Senator Packwood. So I am trying to find the
3 justification for differentiating among the kinds of
4 exports that get these and do not.

5 The Chairman. Senator Baucus might want to speak to
6 that.

7 Senator Baucus. As I understand it, Mr. Chairman,
8 and Mr. Gutman, not all exports qualify for foreign sales
9 corporation favorable treatment. That is, there are
10 certain categories of products that are listed. Some
11 products that are not listed. That is, some products get
12 beneficial treatment and some do not.

13 The point here is, and I must say I authored this
14 amendment, Senator, is because I believe that we should
15 not be giving a tax subsidy to the export of raw logs
16 because that subsidy in my opinion has encouraged U.S.
17 companies to export too many raw logs as opposed to
18 sending those logs to U.S. mills; and, therefore,
19 increasing the number of employees in U.S. mills in the
20 United States.

21 As you well know, in the Pacific Northwest -- I do
22 not have the exact figure -- but a very large percentage
23 of the logs harvested in the Pacific Northwest forests are
24 exported and do not go to mills in the United States.

25 You have to make choices here. Many of the

1 provisions in this Code do affect social policy in one way
2 or another. It is my opinion that because up to half of
3 the timber harvested in the Pacific Northwest is exported
4 as raw logs, a very large percentage, we have an
5 obligation from the environmental perspective and from a
6 jobs perspective in the United States to not continue to
7 give this taxpayer subsidy to the exportation of raw logs.

8 Essentially what is happening is, we are allowing
9 jobs that would otherwise be in the United States be
10 exported along with the raw logs to go to Japan or go to
11 other countries. I do not think that is a policy we want
12 to perpetuate or encourage.

13 I do also think that this -- although not a great
14 part -- it would certainly be a partial part of the
15 problems faced in the Pacific Northwest with respect to
16 old growth forests, the spotted owl, et cetera. I just
17 think it is very good policy.

18 I must say, too, that when we talked to the timber
19 industry about this provision, they do not object very
20 strenuously. They see it coming. They know it is going
21 to happen and it is not something that has turned up their
22 decimal level of their opposition as some might expect.

23 Senator Packwood. Mr. Chairman, I would make two
24 comments.

25 The Chairman. Senator Packwood?

1 Senator Packwood. One, I would place in the record a
2 letter I have from the Forest Service, although it is last
3 October now, indicating that the number of jobs is de
4 minimis involving this.

5 The Chairman. Without objection.

6 (The letter appears in the appendix.)

7 Senator Packwood. So separate the issue of jobs from
8 whether or not we should be exporting logs when they are
9 in short supply.

10 The reason -- I am somewhat familiar with this.
11 There was an effort by former Senator Adams to make this
12 amendment on the floor of the Senate last year. It was
13 stopped. There are a number of raw materials in short
14 supply in this country. Most of them are metals, rather
15 than logs.

16 But we do not apply the provision that Senator Baucus
17 is going to apply to logs to any of these other raw
18 materials. Although from time to time there has been an
19 argument we should in the past, we should not be exporting
20 certain of these metals when we do not have enough of them
21 here.

22 But having said that, you have two classes of
23 exporters. Frankly, one is Weirhauser and it is the
24 largest exporter. Then scores and scores, hundreds and
25 hundreds. That is thousands and thousands, as a matter of

1 fact, of small wood lot owners who like to sell their
2 timber for the highest price they can get.

3 And if they can get a higher price overseas, just as
4 anybody who grows wheat or grows or corn or cherries or
5 anything else, they would like to sell it overseas. What
6 we're going to say to them is we are going to take away
7 part of your income by prohibiting a tax incentive that we
8 give to all other exporters who choose to qualify.
9 Senator Baucus is right. Some people choose not to
10 qualify and you have to establish yourself in a certain
11 way to do so, but it is not hard to do.

12 We are going to take away the benefit of your asset
13 and give that benefit to somebody else as a matter of
14 policy. I am opposed to this.

15 As long as we understand that we are simply taking
16 from Peter and giving it to Paul, and there will be strong
17 opposition from the small wood lot owners. And in the
18 past when efforts have been made in this area, there has
19 often been an exemption written in for small wood lot
20 owners. I do not think it is in this provision. But I
21 only saw it this morning or late last night. So I do not
22 know quite what. You are shaking your head. There is no
23 exemption for the small wood lot owners. I was afraid of
24 that.

25 Thank you, Mr. Chairman.

1 The Chairman. Senator Baucus?

2 Senator Baucus. Mr. Chairman, as always, I want to
3 work with the Senator to try to make Pacific Northwest
4 policy fair and equitable, et cetera. The Senator knows
5 we have joined together to repeal the export of raw logs
6 from public lands because it made sense to be deleted at
7 that time.

8 There may be some small wood lot provisions here,
9 some affects here, that should be addressed. I appreciate
10 the comments.

11 The Chairman. Do you think it is possible that we
12 can do that in conference?

13 Senator Baucus. Very possible.

14 The Chairman. Then I think we should do that in
15 conference.

16 Senator Packwood. I thank the Chair.

17 The Chairman. I have to report that there is a roll
18 call vote, a constitutional point of order has been made
19 with respect to the Mitchell substitute amendment to S.3.
20 I would like to just continue with this. I wonder if my
21 friend, Senator Baucus, might run and vote.

22 Senator Packwood. There is another vote at 2 o'clock
23 also, Mr. Chairman.

24 The Chairman. Fine. Then we will just go right
25 ahead. Mr. Gutman?

1 Senator Chafee. Mr. Chairman, may I also ask a
2 question?

3 The Chairman. Senator Chafee, yes.

4 Senator Chafee. We are making progress through this.
5 As you know, for us, on this side, this is the first time
6 we have seen this.

7 The Chairman. Right.

8 Senator Chafee. My suggestion would be that today we
9 confine ourselves to completing the familiarization, if
10 you would, by pages 2, 3, 4 and 5; and that tomorrow we
11 take up the amendments. I have not discussed this with
12 the ranking member. But I would just like to propose
13 that.

14 The Chairman. Senator Chafee, I would like to
15 accommodate you. But this is Thursday. We are going to
16 complete the Campaign Bill today and tomorrow the Senate
17 will be scattering and we are up against an absolute
18 deadline set by the budget resolution. So it is my
19 proposal that we stay right where we are.

20 Mr. Gutman, if you would continue.

21 Mr. Gutman. Thank you, Mr. Chairman. The next
22 provision involves the transportation and fuels
23 provisions. That is at page 2, item D.

24 Senator Danforth. Mr. Chairman, this is -- and I am
25 sorry to interrupt, but I have questions, and I am sure

1 other people have questions. We do have a vote on. I do
2 not want us to go past the transportation section while I
3 am voting.

4 The Chairman. We will not. If you would go vote and
5 return at a reasonable hour, we will be right there on
6 transportation.

7 Senator Danforth. All right. Thank you.

8 The Chairman. By reasonable hour I do not mean 5
9 o'clock.

10 Mr. Gutman. Should I go on to the next Section or do
11 this?

12 The Chairman. No. No. Let us discuss it and we will
13 keep discussing it until Senator Danforth has returned.

14 Senator Baucus. Well, I have a question, too, on it.

15 The Chairman. And there is a question from Senator
16 Chafee.

17 Mr. Gale. We could skip to the compliance provision
18 right after it and come back to it.

19 The Chairman. All right, we will do that. Is that
20 all right? We will come back to this thing when you
21 return.

22 Would you like to break until 2:00? The proposal has
23 been made -- I am uncertain as to where Senator Packwood
24 is, but I am sure he would agree -- that the Committee
25 will stand in recess until 2:15.

1 (Whereupon, at 1:22 p.m., the hearing recessed, to
2 resume at 2:15 p.m.)

3 The Chairman. Could I just say to our guests, we are
4 waiting until a Republican member arrives to proceed. We
5 are just having a vote on the final passage of the
6 Campaign reform measure and we should have Senators here
7 in just a moment.

8 (Whereupon, at 2:25 p.n., the hearing recessed, to
9 resume at 2:32 p.m.)

10 The Chairman. Again, a very good afternoon to our
11 guests and our able expert panelists here.

12 Senator Packwood, Senator Danforth, I believe, was
13 interested in transportation fuels. I wonder if it would
14 be helpful just to go to Section E compliance provisions
15 and then go back.

16 Senator Packwood. Whatever is your preference, Mr.
17 Chairman, is fine with me.

18 The Chairman. In that case, Mr. Gutman, if you would
19 begin with E(1) Service Industry Noncompliance Initiative.

20 Mr. Gutman. There are a package of compliance
21 provisions that are all described in E, at page 2 and page
22 3.

23 Senator Breaux. Where is that?

24 Mr. Gutman. On the revenue table, it is on page 2 at
25 the bottom of the page, Senator. It starts there. On the

1 big description, it is at page 84.

2 There are four of these compliance provisions that
3 are listed here. The first provides that payments that
4 payments for services purchased in the ordinary course of
5 a payor's trade or business would not be exempt from
6 information reporting requirements merely because the
7 payments are made to a corporation.

8 So a payment for services is \$600 or more that is
9 made to a corporation during the year would require
10 information reporting.

11 The second deals with the standard for accuracy
12 related and preparer penalties. Under current law, a
13 penalty can be avoided if there is disclosure of a
14 position on a tax return. And in addition to that, the
15 position is not a frivolous position. And if those two
16 criteria are met, then there will not be a penalty imposed
17 with respect to substantial underpayments of tax.

18 The proposal would be to replace the not frivolous
19 standard with a standard that says you must have a
20 reasonable basis for the position that is being taken on
21 the return. This standard would then apply with respect
22 to a safe harbor for the accuracy-related and income tax
23 return preparer penalties.

24 There is a third compliance provision that deals with
25 tax shelters. Tax shelters have a special set of rules

1 that apply to them. For purposes of the 20 percent
2 penalty that is applicable to underpayments of income tax,
3 the penalty is reduced only by the portion of an
4 understatement that is attributable to an item for which
5 two tests are presently in effect.

6 The first is that there has to be substantial
7 authority for the position. And second, the taxpayer has
8 to believe that the claimed treatment of the item is more
9 likely than not to proper treatment. The proposal would
10 add a third test, again applicable to tax shelters, and
11 under which the taxpayer would have to demonstrate that
12 the after-tax benefits from the investment do not
13 significantly exceed the reasonably anticipated net pre-
14 tax economic profit.

15 The fourth compliance provision in this section deals
16 with information reporting with respect to discharge of
17 indebtedness income, that is the income that arises when a
18 portion of a debt is forgiven. And the bill would require
19 the FDIC, RTC and certain other financial institutions to
20 file information returns when discharge of indebtedness
21 exceeds \$600. That is the compliance provisions.

22 The Chairman. Thank you, sir.

23 Can we return now? Senator Danforth has arrived and
24 we would like to return to transportation. Sir, would you
25 begin with transportation, D(1)?

1 Mr. Gutman. The provisions involving transportation
2 fuels involve first the position of a 4.3 cents a gallon
3 excise tax on transportation fuels. The tax base is all
4 fuels that are currently subject to the leaking
5 underground storage tank trust fund.

6 In general, the fuels that are subject to this tax
7 are gasoline, diesel fuel, special motor fuels used in
8 highway transportation, diesel fuel used in rail
9 transportation, gasoline inject fuel used in domestic
10 vehicles, and fuels used in water transportation on the
11 inland waterway system. In addition, gasoline and diesel
12 fuel used in motorboats are taxed.

13 There are a number of exemptions. The fuel uses that
14 are generally exempt from the LUST base are, number two,
15 residual fuel oil is used as heating oil, gasoline and
16 diesel fuel used for farming purposes, highway fuels used
17 by state and local governments and non-profit schools,
18 exported fuels, including fuels used in international
19 aviation and international and domestic shipping, and off
20 highway timber operations and fisheries.

21 That is the tax base with respect to this tax. There
22 is a diesel fuel compliance portion of the tax. The
23 proposal would adopt the diesel fuel compliance initiative
24 that provides that the present law diesel fuel tax would
25 be collected at the terminal rack generally using the same

1 rules as the highway gasoline tax.

2 Fuels sold for exempt uses could be sold without
3 payment of tax if the fuel is dye. As under present law,
4 refunds would be allowed to persons who use tax paid fuels
5 and exempt uses and registered dealers selling tax paid
6 undyed diesel fuel to farmers, state and local
7 governments, would claim refunds on behalf of those
8 customers.

9 Senator Danforth. Mr. Chairman?

10 The Chairman. Yes, sir.

11 Senator Danforth. Have you finished tax?

12 Mr. Gutman. I have gone through that part of it,

13 Senator. That is fine.

14 Senator Danforth. Have you broken out the effect of
15 this on various modes of transportation?

16 Mr. Gutman. I have some rough data here. I am
17 trying to get the better data. Have I got it? Yes, I
18 have it here now. Thank you.

19 Senator Danforth. Could you give it to us?

20 Mr. Gutman. Highway gas, at 73.7 percent of the
21 revenues; 14.2 for highway diesel; rail is about 2.2;
22 airline gasoline is .2 percent; airline jet fuel is 9.3
23 percent; and inland waterways fuel is .3 percent.

24 Senator Danforth. Inland waterways is what again?

25 Mr. Gutman. .3 percent.

1 Senator Danforth. Now, have you done the math on
2 that to tell us how much that is? The ones I am
3 interested in is airlines and inland waterways.

4 Mr. Gutman. Well, it is roughly 10 percent of the
5 total if you combine the two of them.

6 Senator Danforth. So on the airlines it is about
7 \$2.5 billion?

8 Mr. Gutman. That is roughly right. It is a little
9 bit less than that. But that is roughly right.

10 Senator Danforth. Now earlier today I think -- I
11 believe Senator Conrad said that there was not any barge
12 tax. But there is an inland waterway tax.

13 Mr. Gutman. There is a tax on fuels that are used
14 for inland waterways. That is right.

15 Senator Danforth. On fuels for inland waterways.
16 And what kind of an increase is that on them compared to
17 what they are paying now; do you know?

18 Mr. Gutman. About 25 percent.

19 Senator Danforth. About a 25 percent increase on the
20 barge systems?

21 Mr. Gutman. Yes, about that.

22 Senator Danforth. Now, today, picking up the
23 Washington Post Business Section here the front page has
24 two articles. One says, ``U.S. Air Expects to Post a Loss
25 in Quarter.'' Then the other articles says, ``Northwest

1 Says Bankruptcy Looms.''

2 I know that as the question of transportation tax was
3 being considered during these negotiations, Secretary
4 Penya expressed concern about the affect on the
5 transportation industry. Does this, Mr. Samuels,
6 represent the Administration's decision? Not decision.
7 But does the Administration support an increase of taxes
8 on airlines of about \$2.5 billion over five years?

9 Mr. Samuels. Senator Danforth, let me answer the
10 question this way. The Administration proposed a broad-
11 based energy tax. That tax would have applied to all
12 forms of transportation, including airlines.

13 The rate of tax that was implicit in the broad-based
14 energy tax proposal of the Administration was more than
15 the tax that is being considered in the Chairman's mark.

16 So we do not have a position on the Chairman's mark.
17 We had a position on our proposal. And implicit as part
18 of that proposal there was a tax on airlines and on rail,
19 et cetera.

20 Senator Danforth. Well, right now there is a special
21 commission that has been established by Congress on the
22 recommendation of the President to deal with the dire
23 problem of the U.S. airline industry. Northwest teetering
24 on bankruptcy. Airlines losing money. Airlines, in fact,
25 losing money very, very dramatically.

1 In the last three years U.S. carriers have lost over
2 \$10 billion. This tax applies whether they have made
3 money or lost money, right? I mean, this is an excise
4 tax. It does not matter if the airlines are making money.
5 We are going to hit the airlines with \$2.5 billion over
6 five years of additional taxes.

7 Does the Administration believe that that is in the
8 best interests of the airline industry or would the
9 Administration rather have us wait until after the
10 commission, which the President requested, has finished
11 its work?

12 Mr. Samuels. I believe the Administration would like
13 to see the reconciliation bill finished according to the
14 schedule, which is that this committee is to report out a
15 bill tomorrow by 12:00 midnight.

16 We believe that if a transportation tax is included
17 in the Chairman's mark that that tax will be included in
18 revenue reconciliation and we do not believe, obviously
19 because we had a proposal in our broad-based energy tax,
20 that an energy tax should wait until the airline
21 commission finishes its work.

22 They are obviously busy at work. They are
23 considering a whole range of problems that affect the
24 industry, including tax issues. There is a long list of
25 tax issues that I am aware they are considering.

1 And I think that the Administration's position is
2 that the commission is to complete its work. And as far
3 as I know there is no view that there should be a --

4 Senator Danforth. But with respect to this tax the
5 Administration really does not care what the commission
6 does. The Administration takes the view that airlines
7 should have their taxes increased by \$2.5 billion when
8 they are losing money.

9 Mr. Samuels. Well, let me just say, I think that
10 when you look at this particular tax, you should look at
11 the whole effort of deficit reduction. And as you know,
12 airlines are heavy users of capital. We hope and expect
13 that when the deficit reduction program is put into
14 affect, there will be a continued lowering of interest
15 rates. We have already seen lower interest rates.

16 My expectation -- I do not have the numbers here --
17 but my guess is that the lowering of interest rates that
18 we have already seen over a five-year period could offset
19 or even be more than this tax. So I think you have to
20 look at the package as a whole.

21 Senator Danforth. But you think, your argument as I
22 understand it then is that in order to accomplish what you
23 hope will be a general reduction in interest rates, we
24 should target airlines for \$2.5 billion of new taxes.

25 Has the Secretary of Transportation examined this?

1 Mr. Samuels. I do not have any information on that.

2 Senator Danforth. Do you not believe that before we
3 pass this legislation we should hear from the Secretary of
4 Transportation if he thinks that it is perfectly fine to
5 impose \$2.5 billion of new taxes on the airline industry,
6 that is at least his judgment.

7 On the other hand, if he thinks this is exactly the
8 wrong medicine for this industry, do you not think we
9 should factor that in to our consideration?

10 Mr. Samuels. I believe, as I said before, that the
11 Administration's proposals, that one be looked at in
12 totality -- and besides as I mentioned, besides lowering
13 interest rates, there is AMT relief which will benefit the
14 airlines.

15 Senator Danforth. That does not affect the airlines,
16 does it? Does AMT help the airlines?

17 Mr. Samuels. Yes.

18 Senator Danforth. Did it help TWA?

19 Mr. Samuels. I do not know which airlines will be
20 helped. But I would expect that there will be airlines
21 that will be helped by AMT relief.

22 In addition, as I said at the beginning, there was in
23 the Administration's broad-based energy tax proposal a tax
24 on fuels that would be used by airlines which was
25 substantially more than this particular tax. That was

1 approved by the Administration.

2 Senator Danforth. So the Administration in that --
3 and I do not want to argue with you perpetually -- but
4 what you are telling me is that the Administration has
5 considered the affect of this on the airline industry and
6 that this is not as onerous as the original proposal was.
7 Therefore, this is something that is supported by the
8 Administration regardless of whatever affect it might have
9 on the airline industry.

10 Mr. Samuels. As I said before, we are not taking a
11 position on the Chairman's mark with respect to the
12 transportation fuels tax. I can tell you what position we
13 have taken on our broad-based energy tax and the affect on
14 that. And you can draw your conclusions from that.

15 Senator Danforth. Well, let me ask Mr. Gutman just
16 one concluding question. I appreciate your patience, Mr.
17 Chairman.

18 Mr. Gutman, if we were concerned about specific modes
19 of transportation, including the airline industry, there
20 are already exemptions in this legislation. It would be
21 doable, would it not, to exempt the airlines from this
22 tax?

23 Mr. Gutman. As a technical matter it could be done,
24 Senator.

25 Senator Danforth. Thank you.

1 The Chairman. Senator Dole?

2 Senator Dole. How much was raised in the House bill,
3 the broad-based energy tax? What was that figure?

4 Mr. Gutman. \$71.5 billion, Senator.

5 Senator Packwood. That was net, was it not?

6 The Chairman. Net, yes.

7 Mr. Gutman. Yes, it was much higher than that, I
8 guess. That was net. And then this is \$24 billion --

9 Senator Dole. I am not sure I understand what you
10 mean by net. But the revenue figure that was in the table
11 was \$71.5 billion. That is what I understood to be the --

12 Mr. Gutman. That was the total tax.

13 Senator Dole. That was the total amount that was
14 raised from the tax. And this is \$24 billion. So I guess
15 you come back from conference with \$50 billion. You may
16 not know that, Hank, but I was just thinking in past
17 conferences how these things work out.

18 (Laughter.)

19 Senator Dole. And 71, 24, subtract, divide by 2.
20 That double the tax on airlines. It would be \$5 billion,
21 \$2.5 billion. And double the tax on everybody else.

22 Now unless as I understand Mr. Samuels, the
23 Administration has written off the BTU tax; is that
24 correct?

25 Mr. Samuels. What the Administration has said is

1 that we had proposed a broad-based energy tax. We think
2 that a broad-based energy tax has benefits in deficit
3 reduction, in conservation, in energy security. We are
4 not, as I believe the President has said, stuck with
5 labels. We do not really care what the labels are.

6 And I think that our position in the budget proposal
7 was for a broad-based tax; and we think that that is
8 something that would be appropriate. The Chairman's mark
9 has a transportation fuels tax.

10 Senator Dole. Do you have any idea what your
11 position in conference will be?

12 Mr. Samuels. It is too early to speculate as to what
13 our position at conference. I think we would like to see
14 the bill reported out of this Committee.

15 Senator Dole. Do you have any idea what Chairman
16 Rostenkowski's position in conference would be?

17 Mr. Samuels. No, sir.

18 Senator Dole. As reported, he feels rather strongly
19 about preserving the BTU tax. That might make a
20 difference on how people voted in the Senate, if they knew
21 not what they were going to get here, which seems to be
22 fairly mild compared to that other awful tax, but most
23 people can understand that it is probably not going to be
24 \$24 billion when it comes back. It is going to be some
25 higher figure.

1 I do not know when you start losing people. It is
2 4.3 cents now. Maybe when it gets to 8 cents or 6 cents
3 or 7 cents, but the Administration does not really care
4 what it is; is that what you are saying?

5 Mr. Samuels. No, sir. I think that if you looked at
6 the broad-based energy tax that the Administration
7 proposed, the implicit --

8 Senator Dole. But you did not insist on it on the
9 Senate side.

10 Mr. Samuels. The bill came from the House. The
11 Senate Finance Committee is considering it right now and
12 the Chairman's mark is not there. We believe that the
13 Chairman's mark is a step forward. Secretary Bentsen has
14 said that we are getting this bill enacted and we are
15 pleased that we are here talking about it.

16 Senator Dole. Well, I am pleased you are here, too.

17 (Laughter.)

18 Senator Dole. I am not certain I will be as pleased
19 when they come back with the conference report.

20 Mr. Samuels. Let me just make one thing. There was
21 a suggestion that if you went to \$50 billion you would be
22 doubling the tax.

23 Senator Dole. Maybe it does not work quite that way.

24 Mr. Samuels. I can tell you it does not work that
25 way.

1 Senator Dole. Does it triple?

2 Mr. Samuels. No. The tax on \$72 billion, broad-
3 based energy tax, was about 7.3 cents or so. So it is
4 less.

5 Senator Dole. But this is a different tax. If a \$24
6 billion tax is 4.3 cents a gallon, would a \$48 billion tax
7 be 8.6?

8 Mr. Samuels. It is exactly the same tax. But you
9 were assuming that --

10 Senator Dole. No, I did not. I was just looking at
11 the numbers. I guess probably that was a mistake having
12 been to conference before.

13 The Chairman. Thank you, Senator Dole.

14 Senator Breaux?

15 Senator Breaux. Thank you, Mr. Chairman. I just
16 want to join the Republican leader in supporting this mild
17 tax provision and I would hope that he would defend my
18 interests in the conference as I will not be there on this
19 issue.

20 Let me ask just a couple of questions, I guess of
21 Hank Gutman on this. The way it is set up, all modes of
22 transportation are treated the same?

23 Mr. Gutman. That is correct.

24 Senator Breaux. Are all companies within a
25 particular mode of transportation also treated the same?

1 Mr. Gutman. Yes, they are.

2 Senator Breaux. So from a tax standpoint no one gets
3 an advantage or a disadvantage over any other form of
4 transportation or any other company within their
5 particular mode of transportation?

6 Mr. Gutman. That is correct.

7 Senator Breaux. Now my other question is, from a tax
8 standpoint, when we had the BTU tax, plus the
9 transportation tax, which it would have been, would not
10 all these forms of transportation that are subject to this
11 broad-based energy tax now also have been touched, hit by
12 the BTU tax for their electricity cost, their heating
13 costs, any other costs that they would have?

14 Mr. Gutman. Yes.

15 Senator Breaux. So this really represents -- and I
16 am not looking for that agreement with the hatchet here --
17 but it results in a substantial reduction in amount of tax
18 that would be levied on these companies and the original
19 proposal that came from the House.

20 Mr. Gutman. That is true.

21 Senator Breaux. Thank you, Mr. Chairman.

22 The Chairman. Thank you, Senator Breaux.

23 Could I just point out again that the gasoline prices
24 today are at the lowest point in history. From the time
25 that Senator Rockefeller's great-grandfather began selling

1 gasoline as a by-product for the production of kerosene
2 they have never been as low.

3 And if there was a time to do this -- I mean, our
4 neighbors to the north who export oil have half again the
5 current price.

6 Senator Chafee?

7 Senator Chafee. Mr. Chairman, a couple of questions.
8 First of you. Where did you come up with this splendid
9 figure of 4.3? That must have been the result of a little
10 salami slicing here, was there not?

11 The Chairman. 4.3 is half of 8.6.

12 Senator Chafee. I got it.

13 (Laughter.)

14 Senator Chafee. Tell me what it is double of.

15 The Chairman. It is double of 2.15.

16 Senator Chafee. How much more revenue would you get,
17 Mr. Gutman, if you went to 5 cents? It is about a penny a
18 billion per year; is that about it?

19 Mr. Gutman. It is a little over a penny a billion
20 per year, yes.

21 Senator Chafee. Now, I am very distressed over this
22 provision that the 2.5 cents going --

23 Mr. Chairman, I would be interested in your reaction
24 to this, too. We were all here in 1990 when we put a 5
25 cent per gallon tax on gasoline and the agreement was, as

1 you recall, that 2.5 cents of that went in the Highway
2 Trust Fund and 2.5 cents went in the general treasury to
3 deal with the deficit problems.

4 Now you have changed that. You have taken the
5 balance, in other words the remaining 2.5 cents, and put
6 them over in the Highway Trust Fund.

7 My first question is, if we change that, that would
8 not do anything to your revenue figures, would it, because
9 it is all revenue?

10 Mr. Gutman. Are you now speaking about the extension
11 of the 2.5 cents a gallon?

12 Senator Chafee. Yes, I am talking about number 2, E-
13 2, the extends 2.5 cents a gallon and transfers it to the
14 Highway Trust Fund.

15 Mr. Gutman. Right.

16 Senator Chafee. That has no scoring difficulty?

17 Mr. Gutman. None, sir.

18 Senator Chafee. Okay. Now, I do not understand the
19 rationale for that. I mean, I know all the truckers and
20 everybody wants everything to go into the Highway Trust
21 Fund. But the difficulty with that is, when it goes in
22 the Highway Trust Fund, then it is in the trust fund and
23 everybody says it is available to be spent and, indeed, is
24 spent.

25 So, therefore, I would very much prefer if it stayed

1 as is -- helping with the general fund to deal with these
2 expenditures of the country and not be allocated solely to
3 highway.

4 The Chairman. Could I say to my friend, Senator
5 Chafee, that that argument can be made on the floor. It
6 can be in conference. But I would beg you to be attentive
7 to the Byrd ruling, named for our former colleague here,
8 Harry Byrd, which requires a balance in the trust fund
9 over a two-year prospect and we are in some jeopardy. We
10 need this money.

11 Senator Chafee. Well, cut back the spending then
12 from it. Every other section of the -- I mean, obviously,
13 I am not in a position to make an amendment now, but I
14 will say, and I suppose this will get all the truckers on
15 the phone quickly --

16 Senator Dole. Plus the contractors.

17 Senator Chafee. -- that I just think that is
18 unfortunate. We are rustling here with deficits in this
19 country and to take something and to put it into a
20 dedicated fund where it hangs as a very, very tempting sum
21 to be spent, I think is unfortunate for the country.

22 Now I also might say that I have very few railroads
23 in my state, but this is a sore point for the railroad
24 industry as we all know. The agreement was that --
25 because they contribute to this.

1 The Chairman. They do.

2 Senator Chafee. And they do not get anything out of
3 it. Whereas, if it goes in the Highway Trust Fund the
4 truckers obviously do. But I do not want to get in a
5 trucker versus railroad thing. I just want to do
6 something about the deficit of the country.

7 Now, let me ask you one more question, Mr. Gutman.
8 What about the 4.3 cents a gallon, where does that go?

9 Mr. Gutman. General revenues.

10 Senator Chafee. That goes in general revenues, okay.
11 Thanks.

12 The Chairman. Senator Chafee, I will undertake to
13 get a statement on our trust fund balances in the context
14 of the Byrd Rule and for whatever it may or may not
15 satisfy you.

16 Senator Roth. Mr. Chairman?

17 The Chairman. Yes, Senator Roth?

18 Senator Roth. Is there a tax on natural gas used in
19 transportation?

20 Mr. Gutman. No, there is not, Senator.

21 Senator Roth. Let me ask you about this diesel fuel
22 compliance. What does that consist exactly of?

23 Mr. Gutman. What that consists of, Senator, is
24 moving the collection point for diesel fuel back to the
25 terminal rack and basically providing for a system of

1 dyeing of fuels, which is presently in effect with other
2 fuels to separate out exempt uses from nonexempt uses.
3 That is the principal purpose, to move the collection
4 point back to a place where the administration of the tax
5 was perceived to be easier.

6 Senator Roth. Well, I understand the farm community
7 is pretty unhappy. Exactly what are they going to have to
8 do to meet the goals? Their concern, as I understand it,
9 is that they are all going to have to buy an extra tank
10 which could cost roughly around \$1400 in order to meet
11 compliance. Is that correct?

12 Mr. Gutman. The farm community -- I cannot
13 generalize about it. I cannot speak specifically about
14 all parts of it. But there was a generalized
15 dissatisfaction with the House bill in particular because
16 there was a fear that there would be a lot of different
17 types of dyeing that would be required to identify
18 different types of exempt fuels.

19 The Chairman's proposed mark gives an option for
20 vendors to be able to apply for refunds which would
21 eliminate the need to dye and would eliminate the need to
22 have an additional tank. At least the thought is that
23 that should alleviate some of those concerns.

24 Senator Breaux. Would the Senator yield?

25 Senator Roth. I would be happy to.

1 Senator Breaux. It is intended to work just like the
2 current exemptions right now. That is why it is to the --
3 the way we handle it in the amendment to the so-called LUS
4 program is the same way it is handled right now. So it
5 would be handled the same way.

6 I mean, the fuel they would buy would be dyed like it
7 is right now and it would be exempt fuel, no additional
8 requirements in that area.

9 Senator Roth. Thank you, Mr. Chairman.

10 The Chairman. Senator Dole, did you have another
11 question?

12 Senator Chafee. He has left. Mr. Chairman, could I
13 ask one quick other question?

14 The Chairman. Yes, of course you can.

15 Senator Chafee. Mr. Samuels, when the bill was
16 originally submitted by the Administration, how did you
17 handle that 2.5 cents that I was discussing previously?
18 Did that go in the general fund or was that earmarked to
19 the Highway Trust Fund?

20 Mr. Samuels. I believe that in the final submission
21 of the budget it was in the Highway Trust Fund, except for
22 trains and motorboats. It was the same way.

23 Senator Chafee. The same way it is in here.

24 The Chairman. Senator Hatch had a question.

25 Senator Hatch. Thank you, Mr. Chairman.

1 Mr. Gutman, and others, and Mr. Samuels, I noticed
2 where a 1991 study by the Minority Staff of the Joint
3 Economic Committee that that demonstrated that a 5 cent
4 gasoline tax increase -- and that is what this is, it is a
5 gasoline tax -- would eliminate 637,000 jobs over 5 years.
6 This is just from the gasoline part of the proposal alone.

7 Do you consider this type of tax fair? Would you
8 consider this a regressive tax in any way? Because it
9 seems to me that transportation fuels tax would be one of
10 the most regressive taxes imaginable because it hits the
11 people who make less money a lot harder than it does those
12 who are in higher incomes. Because the poor will spend a
13 much higher percentage of their incomes on gasoline than
14 those with higher incomes.

15 In fact, based on 1989 consumption patterns, gasoline
16 and oil purchases amounted to 8.1 percent of before tax
17 income, the lowest fifth of all households, but only 2.1
18 percent of the income of the top fifth of households based
19 on income.

20 In other words, the gasoline share of the household
21 budget is four times as large for the bottom quintal as
22 for the quintal. Some people think you might as well just
23 as well put a tax on food as put it here because it is go
24 regressive. Do you agree it is regressive?

25 Mr. Gutman. I would say two things. First, any

1 consumption-based tax can be viewed as regressive because
2 on lower income people who buy the same amount as upper
3 income people will wind up paying the same tax.

4 I think that that being the case, there are
5 provisions in the Chairman's mark and that were in the
6 Administration's proposal, that were intended to try to
7 ease the burden of the energy tax on lower income
8 families. I think that those provisions, although
9 modified, are still in the Chairman's mark.

10 The other thing that I would say is that, following
11 on the Chairman's comment, that gasoline prices in real
12 terms, if I can repeat what he said, is we are at the
13 lowest levels and at least my experience is that prices at
14 the pump vary significantly over the year and more than
15 these taxes.

16 So there are always a lot of factors that have to be
17 taken into account.

18 The Chairman. If Senator Hatch would allow me.

19 Senator Hatch. Sure.

20 The Chairman. We have the distribution tables which
21 we passed out. If a person is under \$30,000 of income as
22 a group, this proposal will reduce taxes by \$1.5 billion.
23 Taxes go down on them because of the earned income tax
24 credit going up.

25 Senator Hatch. But the earned income tax credit and

1 a number of these other benefits to the lower middle class
2 are cut back drastically by the Chairman's mark.

3 The Chairman. Here, sir, the EITC was to have been
4 at \$28,000; it is now about \$23,000 plus.

5 Senator Hatch. Right.

6 Mr. Samuels. The other thing, as I understand, and
7 Senator Breaux, I think, mentioned this before, that the
8 transportation tax workers out to be about \$29 per year
9 per person.

10 Senator Hatch. That sounds like the estimate of the
11 BTU tax for an average family of four was supposed to be
12 \$204 and when we finally got into it it went up to \$416
13 and that, of course, does not talk about all the
14 expediential add-ons that everybody adds on on top of what
15 was done.

16 But see the reason I consider it regressive is not
17 just that. It is even more regressive when you consider
18 rural states like my own, and especially western states
19 and southern states where there are disproportionately a
20 larger number of low income families that have to drive
21 more miles each and every year. So that is another thing
22 that I find really disturbing about this particular tax.

23 That is not even getting into plucking the
24 railroading, the other transportation costs, that add
25 costs to every manufactured product in America that has to

1 be transported. So I am very concerned about this type of
2 tax being a lot more than \$29 a year per person in our
3 society.

4 I think when you add all the expediential taxes and
5 the add-ons in, you are going to find that it is a very,
6 very expensive tax and it is really tough on those who are
7 in the bottom half of the earnings spectrum and especially
8 in western states and southern states where we have long
9 distances to travel. I just hope you will reconsider
10 because I think it is very detrimental.

11 Thank you, Mr. Chairman.

12 The Chairman. Thank you.

13 Now, I think that is that. So could we go? We went
14 by the compliance provisions. But not all Senators were
15 here. Now we are here at that point. If there are any
16 questions on compliance. Take your time.

17 While you look at it perhaps we can go on to
18 intangibles. Mr. Gutman, would you go on to F(1)?

19 Mr. Gutman. Certainly.

20 The Chairman. This is an important piece of tax
21 policy we have.

22 Mr. Gutman. Page 3, Item F, Intangibles. The bill
23 would provide that with respect to intangible assets
24 purchased or acquired as part of the acquisition of a
25 trade or business that 75 percent of the value of acquired

1 intangible assets would be amortized over a 14-year period
2 on a straight-line basis.

3 There is a special rule that would apply to purchased
4 mortgage servicing rights that would permit the purchase
5 price of those assets to be amortized over a nine-year
6 period; and there is another special rule for amortization
7 with respect to the acquisition of software development
8 companies.

9 The purpose of this provision is to eliminate the
10 uncertainty and the administrative costs and transactions
11 costs that exist under current law, and particularly as a
12 result of a recent Supreme Court decision which has
13 essentially held that intangible assets that have been
14 acquired may be amortized so long as the taxpayer can
15 identify with respect to each of those assets a value
16 attributable to them and a useful life for them.

17 And consequently, taxpayers are essentially invited
18 to determine on a case-by-case basis the amount of
19 amortization that would be applicable to specific
20 intangible assets that have been bought in an acquisition.
21 This provision would eliminate the need to do that by
22 essentially saying the value of all intangible assets is
23 determined; 75 percent of it is amortized over 14 years.

24 The Chairman. Thank you. As I say, this is an
25 important piece of tax policy, which has the attraction, I

1 believe, of putting an end to a regime of litigation that
2 seems endless.

3 Senator Packwood. I have a question.

4 The Chairman. Of course, Senator Packwood.

5 Senator Packwood. Hank, as I understand it, those
6 who wanted the intangible provisions are not going to like
7 this very well and many of them are going to litigate
8 rather than to accept this. Do I understand this right?

9 Mr. Gutman. No, this is not elective, Senator. This
10 is nonelective. I think, if I understand your question, I
11 think what you were referring to is the possibility of
12 having the principals of this legislation apply to
13 existing acquisitions and that is not part of the mark.
14 This is a prospective.

15 Senator Packwood. And they are not going to like it.

16 A second question. In the write-up, in addition
17 there is a special rule for certain acquired businesses
18 that have made certain software expenditures and this is
19 the 50 percent. How many of those are there? One?

20 Mr. Gutman. We do not know how many. But if the
21 question is, is this a very limited number, we think not.

22 Senator Packwood. You think not?

23 Mr. Gutman. We think not. We think that there are -
24 - it is hard to know. But this is not directed at a
25 single target. There will be a number of beneficiaries.

1 Senator Packwood. Would the number be over five?

2 Mr. Gutman. I would think so.

3 The Chairman. If I may say, we never heard any one
4 firm mentioned in this discussion. Mr. Gale, would you
5 want to speak to that?

6 Mr. Gale. Well, it would apply to any large software
7 company that is in the practice of buying up other smaller
8 start-up companies. I mean, that is the general fact
9 pattern.

10 Senator Packwood. Would it apply to any company that
11 might have purchased EDS?

12 Mr. Gale. I would have to look at the specifics of
13 that. But if this applies to "software," the idea is to
14 take care of the situation of software intensive
15 companies. That is defined as, you know, 17 percent, I
16 think, of their assets have to be software. But it is a
17 generic rule.

18 Senator Packwood. Thank you, Mr. Chairman.

19 The Chairman. Thank you, Senator.

20 Senator Danforth?

21 Senator Danforth. How many companies would be
22 covered by this software exception? Do you know?

23 Mr. Gutman. We really do not know, Senator. It is,
24 I think, as Mr. Gale described it, for companies that are
25 in the business of acquiring software companies.

1 Senator Danforth. Would this be fairly described as
2 a rifle shot legislation?

3 Mr. Gutman. No, I do not think that that is a fair
4 description of it.

5 Senator Danforth. We have worked for some time on
6 this whole question of intangibles. We came up with the
7 14-year period because we thought that this was sort of a
8 just amount and that 14 years was revenue neutral. It was
9 the sound, rational, fair way to come up with a number.

10 Now you say that 75 percent of assets would be
11 amortized over 14 years and then the rest would not be
12 amortized. So what started out as being a kind of an
13 equitable rule of 14 years has not been scuttled for the
14 purpose of this legislation, right?

15 Mr. Gutman. Well, there are a number of aspects to
16 that that I think require a little explanation. You are
17 entirely correct that the 14-year period applied to all
18 assets was revenue neutral within the budget window.
19 There were certainly concerns that were expressed that
20 outside the budget window the 14-year period would result
21 in revenue loss.

22 That is the direct committee were asked about that
23 last year in connection with H.R. 11. As you know, we do
24 not provide estimates, specific estimates, for revenue
25 consequences outside the window but we did express some

1 concern that in a 14-year period there would be some
2 revenue loss outside the window.

3 By basically cutting back from the 100 percent
4 amortization and 14-year period, that concern is
5 alleviated. The second aspect of it is, of course, that
6 within this provision there are two exceptions from the
7 generalized rule. One for purchased mortgage servicing
8 rights and the other for software companies, and those do
9 result in -- if we did nothing, just had a 14-year rule
10 and these two exceptions, then the provision would, in
11 fact, lose money through the window and would require, at
12 least on last year, would have lost money through the
13 window.

14 The affect of the Supreme Court decision is the third
15 factor that needs to be taken into account here. The 14-
16 year period, actually, in light of the Supreme Court
17 decision ends up making this within the window a revenue
18 raiser. That is why when you saw the bill come over from
19 the House it had a 14-year straight period and there was
20 some revenue that was associated with.

21 There are basically three factors that sort of
22 intertwine here. But certainly your description of the
23 objective of the legislation and what you were trying to
24 do last year is exactly accurate.

25 Senator Danforth. Well, our objective was to come up

1 with what we thought was the fair number of years in the
2 useful life, make it revenue neutral and do what we
3 thought was equitable with respect to taxpayers. Now that
4 is applicable only to 75 percent of the intangible assets.

5
6 The other question I would ask you is that we
7 intended to raise revenue by allowing taxpayers to settle
8 cases. That was a revenue raiser.

9 Mr. Gutman. That was a revenue raiser within the
10 window because of the design of the program. But we
11 thought that -- in fact, there was an immediate revenue
12 loss that was associated with that which we again thought
13 was going to end up losing money outside the window.

14 The way that retroactive provision was structured
15 last year was essentially taxpayers paid a fee to be able
16 to buy into the bill. So that got money immediately and
17 then thereafter they then had the advantages of the bill.
18 So there would be money that would be lost. So that is an
19 explanation for why it was that last year a provision
20 involving retroactivity raised money. It raised money
21 within the window, but we thought would lose money outside
22 the window.

23 Senator Danforth. But now despite the fact that it
24 would raise money within the window we are getting rid of
25 it?

1 Mr. Gutman. We do not believe that after the Supreme
2 Court decision which clarified an awful lot of this, that
3 within the money we can come up with any kind of
4 retroactivity scheme that we feel is a plausible scheme
5 and still raise money.

6 Senator Danforth. Now, have you discussed this with
7 the IRS? Because I am told that these are very expensive
8 matters to litigate. The Commissioner has said that in
9 her opinion the IRS and the courts would be significantly
10 burdened by settling existing cases or litigating those
11 cases. That is her quote, "significantly burdened."

12 Mr. Gutman. I would believe that if all these went
13 to the courts that that would be the case. But I have no
14 reason to believe that that would have to be the outcome.
15 But perhaps Mr. Samuels could express the view of the
16 administrators on this because I cannot speak for them,
17 Senator.

18 Senator Danforth. All right.

19 Mr. Samuels. As Mr. Gutman said, I agree. I do not
20 believe that all these cases would go to the courts. I
21 believe that many of these cases will be settled. And I
22 think that at least in my view, the problem with the
23 retroactivity proposal that was considered last year is
24 that at least one way to look at it is that it rewards
25 aggressive taxpayers who took very aggressive positions

1 when they set up their intangible assets and that from a
2 tax policy and tax administration point of view is not
3 viewed as something to encourage.

4 Senator Danforth. Thank you, Mr. Chairman.

5 The Chairman. Thank you.

6 Very well, miscellaneous revenue raising provisions.

7 Mr. Gutman. There are three provisions in this
8 category. The first would deny a deduction for travel
9 expenses paid or incurred with respect to a spouse or
10 dependent who accompanies someone on business travel,
11 unless that travel companion is, in fact, an employee of
12 the person who is paying the expenses and the travel is
13 for bona fide business purpose.

14 The second increases the withholding rate on bonuses
15 from 20 percent to 28 percent.

16 And the third provides for a permanent extension of
17 the excise taxes on vaccines that expired in December of
18 1992.

19 The Chairman. Senator Packwood?

20 Senator Packwood. No questions, Mr. Chairman.

21 The Chairman. Very well. We now go to the revenue
22 raising provisions. I am sorry, we are done with revenue
23 raising provisions and we go to "Investment and Training
24 Provision." We will leave that term "investment" pass
25 without comment. It is called spending, I believe, but

1 not anymore.

2 Mr. Gutman?

3 Mr. Gutman. The first two categories are extensions
4 of what we have come to know as extenders, the provisions
5 that would otherwise expire. And, in fact, these
6 provisions did expire last June.

7 So the first two provisions in 2(A), extend the
8 employer provided educational assistance program for 24
9 months. That is back to June 30, 1994; rather back to
10 June 30, 1992, and through June 30, 1994. A two-year
11 extension or a provision making those applicable for two
12 years for employer-provided education assistance. The
13 same for the targeted jobs tax credit.

14 Moving on to the investment incentives, the research
15 and experimentation credit is extended for one year from
16 7-1-93, from July 1 of this year, for one year through
17 June 30, 1994.

18 The second provision --

19 Senator Danforth. Wait a second. Mr. Chairman?

20 The Chairman. Please, Senator.

21 Senator Danforth. Just looking at these sheets, the
22 employer-provided educational assistance is extended for
23 24 months, right?

24 Mr. Gutman. Yes, Senator. All of these are extended
25 through June 30, 1994. The difference with the R&E credit

1 is that the expenditures which took place from last July 1
2 through this June 30 will not be eligible for the credit.
3 The rationale for that was that the R&E credit is an
4 incentive and since these expenditures have already
5 occurred there would not be any particular reason to allow
6 the credit for them. There is no incentive affect on
7 previously paid expenses.

8 Senator Danforth. And are not the others for the
9 other provisions, would they not fall in exactly the same
10 boat?

11 Mr. Gutman. I think one can make a distinction among
12 some of them with respect to that. Employer-provided
13 educational assistance essentially could be thought of as
14 simply a subsidy for education.

15 The Chairman. And we think there is an equity issue
16 there.

17 Senator Danforth. But is not the point of having
18 these credits to provide incentives for the private sector
19 to do something?

20 Mr. Gutman. Yes.

21 Senator Danforth. So you are saying for some reason
22 the R&E credit should be a on a different basis than the
23 other credits. For some reason that is an incentive and
24 the others are not incentives?

25 Mr. Gutman. These all provide subsidies and

1 subsidies can be viewed as incentives as well. The R&D
2 credit expired last June as did the others. People
3 continued to make R&D expenditures.

4 The Chairman. R&E.

5 Mr. Gutman. Excuse me, R&E.

6 Senator Danforth. They continued to do the others,
7 too, did they not?

8 Mr. Gutman. They did.

9 Senator Danforth. And for some reason, the majority
10 -- and I take it, Mr. Samuels, the Administration now
11 takes the position that the research and development or
12 research and experimentation credit is on a different
13 footing from the other credits, it should be treated
14 separately, differently, less generous. Is that right?

15 Mr. Samuels. The Administration's position in its
16 proposal was that all of these extenders were going to be
17 made permanent and we thought that that was an important
18 point. And obviously the Chairman's mark does not include
19 permanent extension.

20 We understand that in arriving at the Chairman's mark
21 the various decisions had to be made and they were
22 difficult decisions. And we understand how one would get
23 to this particular point. The only thing I would say in
24 terms of distinguishing the R&E from, for example,
25 employer-provided educational assistance, is that the

1 employer-provided educational assistance rule affects a
2 great number of people and from an administerability point
3 of view, going back on that one makes sense.

4 Senator Danforth. Well, I thought that President
5 Clinton campaigned on making the R&E credit permanent. I
6 seem to recollect that in his State of the Union message
7 he spoke about making the R&E credit permanent.

8 Now we have a provision that extends the R&E credit
9 by 12 months and does not cover last year. And I do not
10 understand the policy justification for doing that. I do
11 not understand why the research credit, if we are so
12 concerned about how America is not doing enough research,
13 I do not see why the research credit is falling behind
14 everything else.

15 I might say the low income housing tax credit, which
16 is something I support -- in fact, along with Senator
17 Mitchell, I am the father of it.

18 The Chairman. You are the author of it.

19 Senator Danforth. I support it being made permanent.
20 But it is being treated in a special way. And in the
21 opposite direction research and development is being
22 treated in a special way.

23 Senator Baucus. Will the Senator yield?

24 Senator Danforth. What do we intend to do about
25 this? I mean, is it the position of the Committee and is

1 it the position of the Administration that this one year
2 of research and development spending should forever be out
3 there in limbo or is it the intention in some future date
4 of somehow picking up this year that has been cast aside
5 and providing retroactively the credit can be taken?

6 The Chairman. Senator Baucus asked if you would
7 yield.

8 Senator Danforth. Of course.

9 Senator Baucus. Mr. Chairman, and I point to the
10 Senator from Missouri, I think he makes a good point
11 frankly. It has been my experience that when we deal with
12 these extenders, you know, they are extended 12 months, 18
13 months, sometimes we extend them after they have expired
14 but we go back and apply them retroactively.

15 Basically, my experience is because we know we are
16 going to probably extend them, and the community, in this
17 case the R&D community, businesses have relied upon it.
18 They are expending money on R&D, I think in large respect,
19 relying upon the Congress to extend the extenders and
20 extend them retroactively in those cases where we extend
21 after they have expired.

22 For years we have been trying to extend them
23 permanently. The Senator from Missouri and I have been
24 working over the last couple of years to try to end the
25 R&D permanently. It kind of balances, obviously, the

1 revenue, which is trying to find out how to fit everything
2 into this box here.

3 But I do think, frankly, the Senator does have a good
4 point. It is my believe that the business community has
5 been relying upon Congress for first extending the
6 extender, the R&D tax credit; and second, applying it
7 retroactively as with other extenders. There is always
8 attention to which ones are permanent and which one is
9 not. As we all know, generally we can regard them as a
10 basket in a group and treat them all basically alike.

11 I hope, Mr. Chairman, that but a flaw in confidence
12 that there is a way to deal with it, the point the Senator
13 raised, because I think it is a good one.

14 The Chairman. Let us work at this. Senator Breaux?

15 Senator Breaux. I wanted to make the point we are
16 making it permanent for two years.

17 The Chairman. That is one way to think of these
18 things.

19 Senator Breaux. I mean, we had the argument earlier
20 this morning about whether the bill, you know, should be -
21 - these cuts or limitations should be for revenue purposes
22 or whether they ought to be for social purposes.

23 Here we have a situation where it is a question of
24 money. If we had enough money, we would make them
25 permanent. If we do not have enough money, we are going

1 to make them permanent for two years. I mean, the
2 argument on this side is do not raise the 4.3 cent gas
3 tax. If it went to 8 cents, we probably could pay to make
4 it permanent.

5 I mean, if the Senator is willing to do that, I think
6 we would be willing, I would be willing to support that.
7 But it is a question of how much money you have and how
8 much you can do with the money you have. It is a very
9 pragmatic answer to the question. We would make it
10 permanent if we had enough money. It is a question of
11 having enough money to do it.

12 What somebody thinks is a good idea, somebody else
13 thinks is a bad idea.

14 Senator Danforth. Mr. Chairman?

15 The Chairman. Senator Danforth?

16 Senator Danforth. Mr. Chairman, this business of
17 short-term extensions of various tax credits is a business
18 we have been in for quite a period of time now. And as
19 Senator Baucus has pointed out, it really is a gimmick, is
20 it not? I mean, we have viewed this over the years as a
21 gimmick. The idea, we have indulged in the fiction that
22 short-term extensions mean short-term extensions in order
23 to come up with artificial numbers for budget purposes.

24 But it truly is a gimmick and it is a gimmick in this
25 legislation; is it not to say we are going to have an

1 extension for a one-year period of time of a tax credit?
2 We all know, do we not, that one-year extension does not
3 mean just one year? We all know that it is done solely
4 for the artificial purpose of coming up with jiggered
5 numbers.

6 Senator Packwood. Not quite. They seem to have
7 dropped employer-provided group legal insurance out of the
8 extension altogether which has been extended from year to
9 year to year to year, but is gone out of this proposal.

10 The Chairman. And we made low income housing
11 permanent because of the considerations I think the
12 Senator from Missouri who is the co-author with Senator
13 Mitchell would agree, that that does take a longer -- that
14 really wants to be something that the people involved know
15 will be there.

16 I do not for a moment deny what the Senator from
17 Missouri has said. But I would plead that the Senator
18 from Louisiana made an admirably open remark -- we did not
19 have anymore money.

20 Senator Danforth. But, Mr. Chairman, for all the
21 time that you and I have served on this Committee, I have
22 so respected your mastery of history and the fact that you
23 have frequently made the point that because of the history
24 of various things that are in the law people have relied
25 on Congress to follow through with commitments that have

1 been made in the past.

2 It seems to me that given the long history that we
3 have had of jiggering numbers by saying that we are only
4 extending for a limited period of time, and given the fact
5 that with most, in most if not all, cases we have followed
6 through and subsequently extended the provisions and then
7 add to that the fact that the President campaigned on the
8 R&D credit, specifically mentioned it in his State of the
9 Union speech, I think that it is a trap now to say to
10 people who have spent money on research and
11 experimentation and development, guess what, we are not
12 going to operate as we have historically operated and we
13 are going to take it out on this sector of the economy
14 that everybody has agreed should be specially held up.

15 How much would it cost to restore that one year for
16 the R&E credit?

17 Mr. Gutman. About \$1.4 billion.

18 The Chairman. Could I say to my friend from Missouri
19 that Senator Baucus has raised the question of the equity
20 of this matter and we will try to get to it. No one would
21 dispute it.

22 We did have one choice in this matter and again it
23 was diverging from the Administration in a way that the
24 Administration understands that the Congress would not do
25 everything just as it had hoped or asked at a given point

1 in time.

2 I have a letter from the Robert Berry who is the
3 Senior Manager of the Corporate Federal Relations for
4 General Electric. It speaks of the fill in the old usage
5 of the R&D credit. He says, "As you know we operate in
6 Schenectady, New York. We are one of the largest
7 privately financed R&D centers in the country and finance
8 a lot of R&D outside of GE. The R&D credit is a useful,
9 but not critical element in our R&D decisions.

10 "We understand the Senate Finance Committee is
11 considering a trade off from the higher corporate taxes,
12 from 35 percent to 36, and a permanent extension, rather
13 than a temporary extension of the R&D credit and the other
14 so-called extender provisions.

15 "In our view, this trade-off is totally
16 inappropriate. The benefits of the one percentage point
17 lower rate would far exceed the benefits of a permanent
18 extension of the R&D credit or any other."

19 It is a judgment. We have the business community, as
20 much as they came in, the testimony we heard on the
21 investor tax credit, what they want is a 35 percent rate.

22 Senator Wallop. Mr. Chairman?

23 The Chairman. Senator Wallop? Senator Wallop, way
24 out there in Wyoming.

25 Senator Wallop. Yes, sir; it is still snowing here.

1 Senator Wallop. It is not surprising that we
2 get letters from GE and others of America's major
3 corporations because they have already manipulated
4 this quite satisfactory to their own best
5 interests.

6 They are, as he quite honestly quotes. And
7 they are more intrigued by the one percent change
8 in their corporate tax rates than they are in
9 sustaining the R&E credit.

10 But that brings to mind that we are still,
11 throughout each of these, including this
12 provision, heralding the small business sector who
13 goes from 31 percent taxes to 42.5 percent taxes.

14 So I hope we do not pay as much attention to
15 letters from great corporations as we do to the
16 effects that we are having on the rest of America,
17 which is really the place where the jobs are
18 created, including a minority.

19 The Chairman. A fair point.

20 And Senator Baucus has agreed with Senator
21 Danforth that we really want to try to address
22 this. And we will.

23 Mr. Gale.

24 Mr. Gale. I just wanted to respond to
25 Senator Packwood's earlier question. You had

1 asked whether the software company provision would
2 apply to EDS. And we have checked. And, yes,
3 they are covered under its provisions.

4 The Chairman. What is EDS?

5 Mr. Gale. EDS?

6 The Chairman. Yes.

7 Mr. Gale. It is a software company that, I
8 think, they have been acquired, right?

9 Electronic Data Systems.

10 Senator Packwood. It used to be Ross Perot's
11 company. And GM has bought it.

12 And my question was, did this by chance
13 happen to apply to any another company?

14 Mr. Gale. Yes. I think we --

15 Senator Packwood. The provision is almost
16 word for word based upon the summation that EDS
17 submitted to us as to what they wanted. It is a
18 very minor, dribbling change.

19 Mr. Gale. I think in the adjustment of both
20 the Joint Committee and the finance staff, it
21 would apply to any number of companies.

22 Senator Packwood. That fit the category?

23 Mr. Gale. That are software-intensive
24 companies. Yes.

25 The Chairman. Perhaps we could get an

1 estimate from you, Mr. Gutman.

2 Mr. Gutman. We will try, Mr. Chairman.

3 The Chairman. Yes. There ought to be no
4 such thing as a one-company provision in our
5 committee. And if it turns out there is, well,
6 that is what conferences are for.

7 Mr. Gutman. And we will let you know in any
8 case.

9 The Chairman. Thank you.

10 And would you now then go on to -- well, keep
11 going.

12 Mr. Gutman. We are now on the AMT
13 depreciation schedule, the elimination of the ace
14 depreciation adjustment. The bill would eliminate
15 the depreciation component of the ace adjustment,
16 the corporate alternative minimum tax.

17 But it would do that by providing that
18 depreciation would be calculated generally using
19 the 150 percent declining balance method over the
20 lives that are generally used for individuals who
21 are depreciating property.

22 That is a provision that was included last
23 year in H.R. 11. And it has the effect of
24 eliminating two different depreciation
25 calculations in the alternative minimum tax.

1 The next provision involves expensing.
2 Section 179 of the code permits the expensing of
3 the acquisition of \$10,000 of assets for certain
4 companies.

5 This provision would increase the \$10,000
6 figure to \$15,000. The next figure --

7 Senator Danforth. As opposed to what in the
8 House bill?

9 Mr. Gutman. \$25,000 in the House bill,
10 Senator.

11 The next provision involves a two-year
12 extension of the small issue manufacturing and
13 agricultural bond provisions.

14 The next provision involves the expansion and
15 simplification of the earned income tax credit.
16 Under current law, the current law earned income
17 tax credit, low income workers can claim a
18 refundable tax credit.

19 The maximum amount of the credit for 1993 for
20 a taxpayer with one child -- for taxpayers with
21 one child is \$1,434. It is \$1,511 for taxpayers
22 with more than one qualifying child.

23 The earned income tax credit phases out under
24 current law for workers with earned income over
25 \$23,050.

1 There is an addition of supplemental young
2 child credit that is available to taxpayers with
3 qualifying children under the age of a year.

4 And then, a supplemental health insurance
5 credit also available for taxpayers who provide
6 health insurance coverage for their qualifying
7 children.

8 Under the proposal, the supplemental young
9 child credit and the supplemental health insurance
10 credit would be repealed.

11 However, both the amount of the benefit --
12 the amount of the credit and the phase-out amount
13 would be increased under the proposal so that with
14 respect to a -- with respect to a family with one
15 child as compared to the current law qualifying
16 maximum amount of \$1,434, the amount would be
17 \$2,015 in 1994, and \$2,098 in 1995.

18 For two children, the figure was \$1,511 in
19 1993. That would go to \$2,550 in 1994. And it is
20 projected that that would become \$2,970 in 1995,
21 and \$3,500 roughly in 1996.

22 In addition, the phase-out ranges would move
23 to \$23,470 for families with one child and from
24 \$23,050 to \$27,000 for families with two children.

25 The Chairman. Fine. And we go up to

1 \$27,000?

2 Mr. Gutman. That's correct.

3 The Chairman. Can I make the point to the
4 Finance Committee that we will now have the
5 equivalent in a certain range of income for a
6 family allowance of \$75 a week for low-income
7 families, which is a large event?

8 Now, sir.

9 Senator Riegle. Mr. Chairman, before you go
10 ahead, might I just make a very brief comment.
11 And like many, I am having to shuffle between
12 meetings here.

13 If I can just back up for a minute and then
14 make a comment or two about what has just been
15 covered.

16 The Chairman. Please.

17 Senator Rockefeller. And make an observation
18 about what is ahead.

19 I know there was a discussion about various
20 of the extenders in here. And I want to make it
21 clear that on things like the research and
22 experimentation tax credit which is extended only
23 for 12 months that many of us are of a mind to
24 want to go further than that if we can.

25 The Chairman. Yes. You were obviously

1 listening to the conversation here.

2 Senator Riegle. Exactly.

3 The Chairman. Where Senator Danforth,
4 Senator Baucus, Senator Wallop, and now you.

5 Senator Riegle. Yes.

6 And in our discussions, in terms of the
7 parameters with which we had to work, things like
8 that, also the A&P, also the expensing for small
9 business, these were all items where many of us
10 wanted to go further than we were able to go at
11 this stage of the game and hope to go further
12 later.

13 And the same is very much true with mortgage
14 revenue bonds. I am keenly interested in that,
15 chairing, as I do, the Senate Banking Committee.

16 The Chairman. Right.

17 Senator Riegle. I very much hope that we can
18 achieve a permanent extension when we go to
19 conference. That would certainly be a goal of
20 mine there.

21 I am also hopeful that, while it does not
22 show up here, we had a discussion about group
23 legal services.

24 The Chairman. That was also mentioned.

25 Senator Riegle. Yes. And I just want to add

1 my voice to those interested in seeing if there is
2 any way that that, too, might be accommodated when
3 we get into the give and take in the conference.

4 But I think it is important to note that with
5 respect to these extension periods, the decision
6 to extend the low-income housing tax credit
7 permanently and whereas we go forward 24 months
8 with the mortgage revenue bonds was not meant to
9 create a discrimination between those two.

10 It was simply a matter of working the very
11 difficult balance that had to be done on the
12 financial summing up of all of these items. But
13 we do have another opportunity with this. And I
14 look forward to that chance as a conferee as well.

15 I thank you, Mr. Chairman.

16 The Chairman. Thank you, Mr. Chairman. You
17 are doubly valued as a conferee and a colleague,
18 as you are the Chairman of the Banking Committee.
19 And you understand these things, which your friend
20 here does not and would really like to do.

21 Senator Wallop. Mr. Chairman.

22 The Chairman. Yes.

23 Senator Wallop. I appreciate Senator Riegle
24 bringing up the AMT. My history of the AMT, you
25 might recall, was of being absolutely opposed to

1 it, as being in the first instance an absolute
2 admission of incompetence.

3 It was, as I say, people at AMT have done all
4 these things they are allowed to do. We now tell
5 you that you were not allowed to do them after
6 all.

7 And it is one of the problems that I have is
8 with really static revenue projections. IF there
9 is a tax running around that costs us jobs, it has
10 got to be the minimum alternative tax where people
11 who earn no money pay taxes.

12 And it is particularly tough on those who are
13 capital-intensive industries. I mean, it is just
14 absolutely politically impossible. And it results
15 in lost jobs.

16 I know that static projection is very
17 comfortable on this thing, but the fact of it is
18 that it costs us jobs all over America.

19 Just for example, on average, a U.S. company,
20 a capital-intensive company paying alternative
21 minimum tax recovers only about a third of its
22 capital over five years while a Brazilian company
23 two-thirds, a German company nearly 90 percent, a
24 Japanese company two-thirds, and a Korean company
25 95 percent.

1 And what we are doing to those industries in
2 America that require heavy capital is just making
3 certain that despite the President's promise that
4 we are going to become a more competitive Nation
5 that we are becoming less competitive.

6 So I hope over the time that we --

7 The Chairman. Those are formidable numbers
8 you just stated.

9 Senator Wallop. Yes, they are. And I do not
10 think in the long run that makes for a wise tax
11 policy. It may make numbers match, but it is not
12 a wise tax policy.

13 The Chairman. Well, thank you, Senator
14 Riegle. Mr. Chairman, you have to be elsewhere.

15 Senator Rockefeller. Yes. Thank you.

16 The Chairman. Mr. Gutman. Please, sir, we
17 have to move now.

18 Mr. Gutman. We move on to the real estate
19 investment provisions. The first would extend the
20 mortgage revenue bonds current through June 30,
21 1994.

22 The second would extend the low-income
23 housing tax credit permanently. The third would
24 provide the passage of laws for relief for real
25 estate professionals in the same manner that it

1 was done last year by the Finance Committee in
2 connection with H.R. 11.

3 The Chairman. But not extending beyond the
4 real estate activity.

5 Mr. Gutman. Exactly, Mr. Chairman. It would
6 permit an eligible taxpayer's losses to offset
7 real estate income and real estate income only.

8 There are a number of provisions that are --
9 a number of provisions that are intended to
10 facilitate pension investments in real estate.

11 And then finally, there is an increase in the
12 recovery period for nonresidential real property
13 to 38 years from its current law of 31 and a half.

14 The next part of the mark contains the repeal
15 of the luxury excise taxes. The luxury excise
16 taxes on boats, aircraft, jewelry, and furs are
17 repealed effective the first of this year.

18 The luxury tax on automobiles is indexed,
19 beginning the first of this year. And an excise
20 tax on diesel fuel, as used in noncommercial motor
21 boats, is imposed effective the first of next
22 year.

23 Moving on to --

24 Senator Chafee. Mr. Chairman.

25 The Chairman. Senator Chafee.

1 Senator Chafee. What would it cost to take
2 that luxury -- repeal the luxury tax back solely
3 on boats back to 1-1-92, which is what we talked
4 about, which the chairman of this committee
5 promised at the time.

6 I appreciate that circumstances have changed.
7 And, indeed, it was provided in the legislation we
8 passed last year, just boats, just repealing it
9 back to 1-1-92.

10 Mr. Gutman. I would have to get the number
11 for you, Senator. I do not have it.

12 Senator Chafee. Because, Mr. Chairman, that
13 is something that we have -- as much as we can
14 promise anything around here, we did.

15 And furthermore, it was -- it is on the boats
16 that the method of paying this comes up, namely
17 the extension of the diesel fuel excise tax to
18 boats is the way you pay for this.

19 And it is gobbled up by all three of these --
20 or five of these items. And I think I bet it does
21 not cost much to go back one year, if you look at
22 these tiny amounts that we are talking about here,
23 if you look at the annual amounts.

24 And by the way, that is for all of these
25 items in it. So boats alone must be relatively

1 modest.

2 Do you think you can get that, Hank, that
3 figure?

4 Mr. Gutman. Yes. I certainly can, Senator.

5 I also might add that the tax on the -- the
6 tax on diesel fuels used in noncommercial motor
7 boats is, as Mr. Gale said -- what date is it?

8 Mr. Gale. 1999, the end of 1999.

9 Mr. Gutman. We will get the number for you.

10 Senator Chafee. Solely for boats.

11 Mr. Gutman. Solely for boats back to 1-1-92.

12 We will get it.

13 Senator Chafee. Thank you.

14 Mr. Gutman. Senator Packwood.

15 Senator Packwood. Yes.

16 Mr. Gutman. We have gotten at least a
17 beginning of an answer to your question about the
18 software.

19 Senator Packwood. Thank you.

20 Mr. Gutman. Our estimator tells us that it
21 is certainly more than 50 companies or less than
22 500. It is not a single-company provision by any
23 means.

24 Senator Packwood. Thank you.

25 Mr. Gutman. Moving on, on page 4, we are now

1 at Item F called Other Provisions. The first of
2 those provisions is a permanent extension of the
3 -- a permanent provision that would relieve gifts
4 of appreciated property to charity from the
5 alternative minimum tax.

6 This would be applicable to gifts of tangible
7 perishable personal property made after June 30,
8 1992 and contributions of all types of appreciated
9 property made after December 31, 1992.

10 The bill also directs the Treasury Department
11 to report to the Congress within a year on the
12 development of a procedure for advanced evaluation
13 determinations.

14 The next provision involves substantiation
15 and disclosure of charitable contributions. And
16 the bill requires taxpayers who claim a
17 contribution of \$250 or more to have a written
18 substantiation from the donee rather than relying
19 on a canceled check solely.

20 And in addition, charities that receive quid
21 pro quo contributions in excess of \$75, that is,
22 payments that are made partly as a gift and partly
23 as consideration for either goods or services that
24 have been furnished by the charity would be
25 required to inform the contributors of the value

1 of the goods or services that have been furnished
2 by the charity, and inform contributors that only
3 the excess of the contribution of the value
4 received back would be deductible.

5 Senator Chafee. Mr. Chairman.

6 The Chairman. Senator Chafee.

7 Senator Chafee. I do not quite understand
8 that, Mr. Gutman. On the -- suppose you send in a
9 check for \$300 to the Red Cross. You have a
10 canceled check. What, is there a suspicion that
11 you have gotten something in return? You have
12 bought lottery tickets or something?

13 Mr. Gutman. Well, the problem is, Senator,
14 that you cannot tell.

15 Senator Chafee. Well, so what are you going
16 to do?

17 Mr. Gutman. Well, here, in order for the
18 taxpayer to claim the deduction and have it
19 sustained, he will have to receive from the
20 charity an acknowledgment of the amount of the
21 contribution.

22 Senator Chafee. For every contribution you
23 make to the Red Cross or whoever it is, they have
24 in excess of -- what did you say, \$250?

25 Mr. Gutman. Yes.

1 Senator Chafee. They have to send you a
2 little slip: your check, your contribution of X
3 dollars has been received?

4 Mr. Gutman. Is acknowledged. That is right.
5 Now, that is not a legal obligation that is placed
6 on them under the law.

7 But as a practical matter, it might amount to
8 that because in order for individuals making
9 contributions in excess of \$250 to be allowed the
10 deduction, they are going to have to have that
11 receipt.

12 On the other hand, it is certainly true with
13 respect to a lot of charities today that you do
14 get an acknowledgment of the receipt -- of the
15 contribution.

16 Senator Chafee. Suppose you get a nice thank
17 you letter, does that qualify, without mentioning
18 the price?

19 Mr. Gutman. I think it would probably -- I
20 think the intention would be that the amount
21 received as a contribution would have to be
22 specified in the letter in order to substantiate
23 the amount of the contribution.

24 Senator Chafee. Dear, sir. Thank you for
25 your generous check of \$300. By the way, \$50 of

1 that covered the dinner you went to the other
2 night.

3 Mr. Gutman. That is what it has to say.

4 Senator Durenberger. Mr. Chairman.

5 The Chairman. Senator Durenberger.

6 Senator Chafee. Is this really a problem?

7 What are we wrestling with here anyway, Mr.

8 Samuels?

9 Mr. Samuels. I think the people would view
10 that there have been problems and that this type
11 of proposal would --

12 Senator Chafee. Could you speak up a little,
13 please?

14 Mr. Samuels. This type of proposal would
15 meet those problems.

16 Senator Baucus. Mr. Chairman, if I might
17 add, it is my understanding that basically, the
18 IRS has regulations currently which cover most of
19 these activities anyway.

20 Essentially, what we are doing here is
21 quantifying a slight change in the current
22 regulations. Now, I could be corrected, but that
23 is my understanding.

24 Mr. Gutman. This does not constitute a
25 change in current law.

1 Senator Baucus. That is my point.

2 Mr. Gutman. A charitable contribution is
3 allowable in any given extent that, in fact, a
4 contribution has been made. And this is an effort
5 to try to police the claiming of deductions that
6 are, in fact, either not made or are made for
7 something that constitutes also the purchase of
8 the good or service from the charity.

9 Senator Wallop. Have you checked this with
10 the Vice President? I mean, it is going to
11 require a rain forest a year for all the paper,
12 Mr. Chairman.

13 [Laughter]

14 Mr. Samuels. But this type of proposal was
15 discussed with the charitable community. And I
16 believe that they were comfortable with it.

17 The Chairman. I think that is the case, Mr.
18 Secretary.

19 Mr. Gale, you were --

20 Mr. Gale. I would only add that this
21 proposal was proposed recently by the Bush
22 Administration last year.

23 The Chairman. Yes, sir. And this was done
24 on recycled paper.

25 Senator Durenberger.

1 Senator Durenberger. We went through this
2 when we were sitting on that side of the table.
3 And when you say that this has been reviewed by
4 the charitable community, I need to give you one
5 example to see who reviewed this.

6 I go to church every Sunday. And right in
7 the middle of the service, somebody -- several
8 people starting at the front of the aisle, working
9 towards the back, come along with long-handed
10 sticks with baskets on them. And a lot of the
11 stuff that I see, by the time it gets to me, is
12 cash.

13 And as I recall, the practice in many places,
14 many churches, if you will, there are commitments
15 that are made on an annual basis. And then, you
16 get a slip at the end of the year, just like
17 you're talking about, a substantiation.

18 But by the same token, my recollection -- I
19 cannot see inside those envelopes, but it seems to
20 me, by the time it gets to me, and the various
21 churches that I get to, there is an awful lot of
22 cash.

23 And my understanding is that under current
24 practice, a taxpayer may claim, if he keeps
25 records, if he or she keeps records of some kind,

1 may claim cash contributions made to churches.

2 And is that true?

3 The Chairman. I claimed that tax cash
4 contribution for 40 years. And no one has ever
5 said a word about it.

6 Senator Durenberger. Well, let us find out
7 if we are doing something illegal. Maybe we claim
8 the cash contribution as long as we keep a record?

9 Mr. Gutman. As long as there is some way you
10 can substantiate that it was made, certainly.

11 Senator Durenberger. Well --

12 The Chairman. No one has ever asked me.

13 Senator Durenberger. Mine is sort of like a
14 contemporaneous note that I make on the church
15 bulletin and stick it in my pocket or something
16 like that. Now, does this change that?

17 Mr. Gutman. No.

18 Senator Durenberger. You are not going to --

19 Mr. Gutman. On a transactional basis,
20 contributions of \$250 or more would require
21 substantiation in order to be deductible.

22 Senator Durenberger. All right. But this
23 routine kind of contribution that I have
24 illustrated to you, that is not --

25 Mr. Gutman. No. It does not aggregate. It

1 is --

2 Mr. Gale. Now, come on. If you do it over
3 an aggregate over the year and you come to more
4 than \$250 --

5 Senator Chafee. Sure. But I would hope that
6 it is more than \$250 over the year.

7 Mr. Gutman. It would only apply if you put
8 \$250 in the plate at one single transaction, but
9 you could put \$200 a week in and this would never
10 apply.

11 Senator Durenberger. You are out of my
12 league.

13 [Laughter]

14 The Chairman. Could I ask? Does however the
15 size offer free trips to the Caribbean?

16 [Laughter]

17 The Chairman. I do not think so.

18 Move onward.

19 Senator Roth. Mr. Chairman.

20 The Chairman. Yes. Senator Roth has asked
21 for time.

22 Senator Roth. I missed the discussion of the
23 expansion and simplification of earned income tax
24 credits.

25 Now, originally, it was my understanding that

1 the increase or expansion of this program was to
2 offset the additional cost of energy because of
3 the energy tax.

4 The Chairman. That is right. Not the only
5 reason, but one of the reasons.

6 Senator Roth. My question is exactly how
7 does this work? Who receives it? And how much --
8 to what extent is it an offset to the increased
9 gasoline tax? And to what extent is it a social
10 program of helping the --

11 The Chairman. At this point, Senator, if I
12 would presume to answer, it is about half of each.

13 The President made a campaign commitment
14 which many of us shared, which is that there
15 should be an end to poverty for persons working
16 full-time.

17 And indeed, if you are working full-time with
18 a family, a family with children, working full-
19 time at minimum wage would not get you out of
20 poverty.

21 The earned income tax credit is a supplement
22 for working families with children. And we have
23 raised it from about \$23,050 to \$27,000 at the
24 phase-out point.

25 And if you would look at the table of

1 distribution effects, for families with incomes
2 between \$10,000 and \$20,000, which these are the
3 ones we are talking about, this tax bill will
4 reduce the tax burden by \$888 million.

5 And that is about one half of what we get in
6 the increased cost of the EITC. It would offset
7 much of -- if those people have automobiles. Some
8 of them do.

9 It is intended to make full-time work a means
10 to live at least at the poverty line.

11 Senator Breaux. Mr. Chairman.

12 The Chairman. Yes, sir, Senator Breaux.

13 Senator Breaux. Let me just make a comment.
14 Hopefully, it will help Senator Roth understand
15 this point. If you take the maximum credit for a
16 mom and dad with two kids, under the Senate bill,
17 they would get back \$2,550 in a year for that
18 family.

19 Now, it hits them at about \$11,000 I guess.

20 The Chairman. Yes.

21 Senator Breaux. That family calculation is
22 almost a 4.3 gas tax. We pull up about \$120 a
23 year. And they are getting back \$2,550 a year,
24 which more than several times offsets any increase
25 in the gas tax.

1 The Chairman. More than, leaving a family of
2 four to live on \$13,000.

3 Can we leave it there, sir?

4 Senator Roth. So that it is principally a
5 redistribution of that.

6 The Chairman. Principally. That is right.

7 Senator Roth. You say out of the \$2,000,
8 about \$150 --

9 Senator Breaux. The maximum credit for a
10 family with two kids, mom, and daddy hits them at
11 about \$11,000 income that they would earn in
12 salary.

13 That family under the EITC would get back
14 about \$2,550 for that family. And what they would
15 pay in gas taxes, calculated to be about \$30 per
16 person. So if it is four people in that family,
17 that is about \$120 in gas tax, \$2,550 in earned
18 income tax credit.

19 The Chairman. Could I just make the point?
20 A family of four with one worker making the
21 minimize wage brings home \$8,500. And this
22 supplements it.

23 Now, we must move on.

24 Senator Chafee. Mr. Chairman.

25 The Chairman. Yes. Of course.

1 Senator Chafee. As I understood what you
2 said -- and I do not thoroughly understand the
3 earned income tax credit. You said that it phases
4 out for a family of four with \$27,000 of income.
5 Am I correct?

6 The Chairman. Yes. There would not be much
7 there.

8 Senator Chafee. All right. Well, let us
9 just take a family. Could you just explain how
10 this works? Let us say that you have a family of
11 four where the income is \$26,000 which is exactly
12 \$500 a week.

13 The Chairman. Right.

14 Senator Chafee. Now, what happens? Do they
15 pay no income tax and in addition receive --

16 The Chairman. No. They will not avoid
17 paying tax, but they will get a very small credit.

18 Could we get an example of what that credit
19 would be? It has to be reduced.

20 Senator Chafee. So they have their regular
21 income tax.

22 The Chairman. Reduced, a very small amount.

23 Senator Chafee. But reduced by some
24 percentage. So they then -- what?

25 Mr. Gutman. About \$200.

1 The Chairman. About \$200.

2 Senator Chafee. A year?

3 The Chairman. Yes. A year.

4 Senator Chafee. So how much would they be
5 paying roughly?

6 The Chairman. 15 percent on about \$7,000 is
7 about \$1,000 minus \$200, about \$800.

8 Senator Chafee. I do not know how you get 15
9 percent. You got income of \$26,000.

10 The Chairman. Our lowest rate is 15 percent,
11 Senator.

12 Senator Chafee. Come on. With all these
13 brains and --

14 The Chairman. All those computations. EDS
15 could do this job.

16 Senator Chafee. I have not hit you with my
17 alternative minimum tax question yet. So this is
18 just a warm-up.

19 [Laughter]

20 The Chairman. They have been at this all
21 night. Nobody on that table went to sleep last
22 night. I think they should --

23 Senator Chafee. Come on guys. \$26,000, what
24 is the tax?

25 Mr. Gutman. Roughly \$1,600.

1 Senator Chafee. A \$1,600 tax. Now --

2 The Chairman. I was only off by a factor of
3 two. That is not unusual.

4 Senator Chafee. All right. \$1,600. Now,
5 how much do they pay of that? Does he pay it?

6 Explain the earned income tax credit.

7 The Chairman. That side is returned. And
8 that is \$200.

9 Mr. Sessions. He would get \$200 if that is
10 -- the calculation earlier is that they would get
11 \$200 at that level.

12 The Chairman. Or use \$1,400.

13 Mr. Sessions. Reduce the tax liability by
14 \$200 to \$1,400.

15 Senator Chafee. The mechanics on the
16 withholding, how much is withheld during the
17 course of the year, \$1,600 or \$1,400?

18 Mr. Samuels. You have an option to have the
19 withholding reflect the anticipated earned income
20 tax credit. So it would be the \$1,400, if you
21 elected that.

22 Senator Chafee. All right. Thank you.

23 The Chairman. Thank you, Senator.

24 Senator Roth. Could I ask just a further
25 question?

1 Senator Chafee. Let me ask, does the public
2 understand this? Do many people use this?

3 The Chairman. Amazing. It has taken time.
4 We have been in place for almost 15 years. It is
5 now something that is more and more understood.

6 Was it instantly understood? No. Is it
7 effortless to figure out? No. We are working on
8 both. But it is beginning to be something
9 employers know about.

10 Senator Chafee. There is no -- if it is as
11 hard to compute for the public at large as it is
12 with these experts here, it must be difficult.

13 The Chairman. We do not claim simplicity.
14 No one can claim that.

15 On the other hand, I do claim that not none
16 of them has had an hour's sleep in the last two
17 days. And so if we give them -- and we will show
18 a little patience and a little willingness to keep
19 going.

20 Mr. Gutman, I have to keep you talking.
21 Otherwise, you might go to sleep.

22 [Laughter]

23 Mr. Gutman. I think there is a little risk
24 of that actually, Mr. Chairman.

25 Senator Chafee. One way to solve it is all

1 of us quit early.

2 Senator Roth. Mr. Chairman, I would like to
3 ask one further question.

4 The Chairman. All right.

5 Senator Roth. Are senior citizens eligible
6 for this program?

7 Mr. Gutman. If they have children, yes.

8 Senator Roth. If the children are adults?

9 The Chairman. Well, not if -- the family has
10 to have dependent children?

11 Senator Roth. You have to have dependent
12 children?

13 Mr. Gutman. Yes, dependent children.

14 The Chairman. Yes.

15 Mr. Gutman, keep talking.

16 Mr. Gutman. The next provision involves an
17 authorization to have the proceeds from the income
18 taxation of railroad retirement benefits
19 permanently dedicated to the railroad retirement
20 account. This is a provision that expired. And
21 it would be -- the dedication of those funds would
22 be made permanent.

23 The next provision is an extension of the 25
24 percent deduction for self employed health
25 insurance for individuals for 18 months through

1 December 31, 1993.

2 Senator Durenberger. Mr. Chairman, may I ask
3 a question about that?

4 The Chairman. Of course.

5 Senator Durenberger. Could you give us some
6 idea, Hank, or your staff, how many amended
7 returns are going to be filed because we did not
8 get this done on time last year, what the cost is
9 to the IRS, if you can?

10 And obviously, I am leading up to this
11 question which is we are going to back at this
12 again either this year or we ought to be back at
13 it next year. And I wonder if I couldn't persuade
14 somebody to think about extending this beyond the
15 end of the year. Otherwise, we are going to end
16 up in this box again next year with people filing
17 amended returns.

18 The Chairman. Let's -- I think along with
19 the subject that Senator Danforth, Senator Baucus,
20 Senator Riegle, and Senator Wallop raised, I think
21 this is a question, too, that I would like to sit
22 down with you and see what we can do in conference
23 because there is a question of this thing. We are
24 always catching up.

25 Senator Durenberger. Do we have --

1 Mr. Gutman. i have no idea how many that
2 will be, Senator.

3 Senator Durenberger. In that discussion,
4 maybe somebody can find it out, not now, but later
5 on.

6 The Chairman. Sure.

7 Senator Breaux. Could I ask? Do they know
8 if the recommendation is going to be to go 100
9 percent in health reform? I guess, Mr. --

10 Mr. Samuels. No. We do not know that yet.

11 Senator Breaux. All right.

12 The Chairman. I guess not.

13 Mr. Gutman.

14 Mr. Gutman. The increase in the statutory
15 limit on the public debt, the proposal would
16 repeal the temporary limit that expires after
17 September 30, 1993, and increase the statutory
18 limit on the public debt to \$4.9 trillion.

19 And now, the last section relates to outlay
20 related provisions which do not appear on the
21 revenue score card, but are part of the mark.

22 The first expands the 45 day interest rule
23 for certain refunds. Basically, what that does is
24 allow the Internal Revenue Service 45 days in
25 which to cut a check to grant a tax refund or

1 other adjustments.

2 The second involves outlay consequences of
3 FSLIC assistance which I have already spoken
4 about.

5 The third involves the Bureau of Alcohol,
6 Tobacco and Firearms, and authorizes user fees or
7 alcohol labeling and formula testing that
8 presently is done by BATF.

9 The fourth involves the use of the Harvard
10 Maintenance Trust Fund. The bill authorizes up to
11 \$5 million for fiscal year subject to
12 appropriation from the Harvard Maintenance Trust
13 Fund to be used by the Treasury Department and the
14 Corps of Engineers and the Commerce Department for
15 the expenses of administering the Harvard
16 Maintenance excise tax.

17 The next item increases the presidential
18 campaign fund check-off from \$1 to \$3.

19 And then, there are three provisions that
20 would permit the Department of Veterans Affairs,
21 the Department of Education, and the Department of
22 Housing and Urban Development access to tax
23 information to enforce various programs under
24 their jurisdictions. And each of those provisions
25 allowing information access would expire on

1 September 30, 1998.

2 Thank you.

3 The Chairman. Thank you, Mr. Gutman.

4 That finishes our -- not our discussion, but
5 that finishes your walking us through the measure.
6 You began around 11:00 o'clock this morning. It
7 is now 4:15.

8 Senator Packwood. Can I ask a question?

9 The Chairman. Of course, Senator.

10 Senator Packwood. Are we over our
11 reconciliation totals on revenue?

12 The Chairman. We are suspended. We are over
13 on the revenue.

14 Mr. Gale. The taxes are approximately \$249
15 billion. The instruction --

16 The Chairman. Well, we will want to go to
17 Medicare. Do we have that table? Right.

18 Mr. Gutman, you are honorably discharged from
19 your duties. Do not go far. We have a not long,
20 but important section on Medicare.

21 Do we have a document? Here we are.

22 Our measure provides for a \$62 billion
23 reduction in the increases that are expected
24 during the next -- in the window, as is the
25 saying.

1 Shall we come forward. The Senators are
2 waiting.

3 Margaret Malone, are you ready to come?

4 Senator Wallop. Mr. Chairman, while you are
5 waiting, can I make an observation?

6 The Chairman. Yes, Senator. I am sorry.

7 Senator Wallop. I was just saying that the
8 Labor Committee has reached into the territory of
9 the Finance Committee by amending the Internal
10 Revenue Code with regard to the pilot programs,
11 the changes in Title IV of the Social Security
12 Act.

13 The Chairman. Oh.

14 Senator Wallop. The issue involves a
15 demonstration program for the Federal Direct
16 Student Loan Program.

17 And they have -- the Internal Revenue Service
18 would be authorized and would have new
19 responsibilities, such as disclosing tax
20 information and assisting in student loan
21 collections.

22 The Chairman. I think we have to have that
23 sequentially referred to us. Don't you think?

24 Senator Wallop. That would be a hope of this
25 Senator. I do not think -- I am a little

1 reluctant when other committees start authorizing
2 the IRS to do anything. It is bad enough already.

3 The Chairman. You should properly so. That
4 is a fearsome authority the IRS has, and directing
5 is something that this committee does and only
6 this committee does. And we thank you, Senator.

7 And I will -- counsel. Where is our counsel?
8 I will ask our Staff Director, Mr. O'Donnell, to
9 take that under -- Chuck. Yes. We --

10 Senator Packwood. Yes.

11 The Chairman. Let us find out that that
12 ought to be sequentially referred to us. Does
13 Senator Packwood agree? Yes. And it is so
14 ordered.

15 Ms. Wynn, we have a summary table of these
16 measures. And we have a detailed backdrop of the
17 whole thing. We do not have a very great deal of
18 time. So perhaps you would move from the summary
19 table. Do not spare anything that you think we
20 should know.

21 Ms. Wynn. All right. What I will do is just
22 try to touch --

23 The Chairman. Will you bring that microphone
24 just a little closer?

25 Ms. Wynn. What I will do is just touch on

1 the highlights on some of the Medicare spending
2 cuts. Then, Cathy King and Jane Horvath will
3 speak to you as far as Medicare Part B and
4 Medicaid spending cuts.

5 The starting point for most of the Medicare
6 Part A spending cuts were -- was the President's
7 proposal. Most of the -- the largest cut is in
8 the area of the hospital update.

9 That is described on page 1 of your mark-up
10 document. The update is moved. The annual update
11 is moved from October to January, which is really
12 the equivalent of a three-month freeze in the
13 update.

14 And then, for the next three years, Medicare
15 payments will be reduced by two percent over what
16 otherwise would be paid to hospitals on the
17 prospective payment system.

18 In 1997, there would be a one percent
19 reduction in the hospital update.

20 Consistent with current law, rural hospitals
21 will be --

22 The Chairman. Ms. Wynn, now, I think --
23 let's be clear. You mean one percent of the --
24 three percent or whatever it is? Or do you mean
25 one percent?

1 Ms. Wynn. Right. One percent.

2 The Chairman. One percentage point of --

3 Ms. Wynn. One percentage point off the
4 estimated rate of inflation for the period.

5 The Chairman. Which would be in this case?

6 Ms. Wynn. For instance, in 1994, there is a
7 4.2 percent rate.

8 The Chairman. So instead of 4.2 percent, we
9 will have 3.2 percent?

10 Ms. Wynn. Well, in 1994, it is two percent
11 reduction. So --

12 The Chairman. Whatever it is, it is not a
13 two percent reduction. It is a reduction of two
14 percentage points?

15 Ms. Wynn. That is correct.

16 The Chairman. Good. Let's be very clear on
17 that.

18 Ms. Wynn. All right.

19 Senator Rockefeller. Let me ask on that,
20 too, if I may, Mr. Chairman.

21 The Chairman. Yes.

22 Senator Rockefeller. They still get a
23 increase?

24 Ms. Wynn. Yes. That is exactly what I was
25 pointing out. Average --

1 Senator Rockefeller. They will get more
2 under this than they got last year?

3 The Chairman. Right.

4 Ms. Wynn. Right. The average increase for
5 urban hospitals, for instance, in 1994 will be two
6 percent. For rural hospitals, it will be a 3.5
7 percent increase.

8 Senator Rockefeller. And the differential
9 will be maintained, but actually the differential
10 between rural and urban will get closed still by
11 1995. Is that correct?

12 Ms. Wynn. That is correct.

13 Senator Rockefeller. Yes.

14 The Chairman. All right.

15 Ms. Wynn. There are two other reductions in
16 the increase in payments. Well, actually, these
17 are the reductions in the payment formula that
18 will be made to teaching hospitals.

19 First is in graduate medical education. And
20 that is described on page 25 of your mark-up.

21 By reducing payments for residents that are
22 in non-primary care training programs, at the same
23 time it will be increasing payments by about 10
24 percent for residents that are in primary care
25 training programs.

1 We are also following proposals made by the
2 Prospective Payment Assessment Commission,
3 reducing the indirect teaching adjustment for
4 teaching hospitals. And that is described on page
5 3 of your mark-up document.

6 Senator Rockefeller. Mr. Chairman, can I
7 point out on that, too? That for the \$5.5 billion
8 that is spent through Medicare on this GME and
9 IME, teaching hospitals and academic medical
10 centers have reason to be concerned that we do
11 this in a responsible manner so that it is not all
12 done at once.

13 And the point is that we are trying to very
14 strongly shift towards primary care, whether it is
15 a per resident basis or a per bed basis, that we
16 are shifting towards the primary care emphasis,
17 but doing it responsibly, not all at once.

18 Ms. Wynn. That is right. All right.

19 In addition to those, there are reductions in
20 the cost limits for home health agencies and
21 skilled nursing facilities.

22 So it would be lowering their cost limit.
23 Again, they will get an increase in that limit,
24 but it will simply be less than it would otherwise
25 be.

1 Those is really the major changes on the
2 provider side Part A.

3 Senator Hatch. How do you justify the
4 decreases in home health care when actually it
5 is --

6 The Chairman. Senator Hatch.

7 Senator Hatch. Excuse me. I am sorry, Mr.
8 Chairman.

9 When actually you should actually save money
10 for home health care.

11 Ms. Wynn. I am sorry, Senator. I could not
12 hear you.

13 Senator Hatch. How do you justify the
14 decreases in home health care with the increased
15 spending --

16 Senator Packwood. Senator, could you speak
17 up a little? I am having a hard time hearing you,
18 too. Thank you.

19 Senator Hatch. My mike does not work I
20 guess.

21 But how do you justify those decreases in
22 home health care?

23 Ms. Wynn. It is the lowering of the cost
24 limit. They still will be paid on a reasonable
25 cost basis subject to that limit. There has been

1 a large expansion in the volume of health services
2 over the last few years.

3 Senator Hatch. Has it been a worthwhile
4 expansion? Because I have always been led to
5 believe that home health care would result in a
6 reduction in total overall cost.

7 And even though that expands, that should be
8 reducing costs elsewhere. Has that not been the
9 case? Or have you found it to be otherwise?

10 Ms. Wynn. I have not made a judgment in
11 terms of that.

12 Senator Hatch. I understand.

13 Senator Rockefeller. Mr. Chairman.

14 The Chairman. I am sorry. Senator,
15 Rockefeller.

16 Senator Rockefeller. It will reduce costs.

17 Senator Hatch. Well, sure. That is why I am
18 having trouble seeing it reduced at this point
19 when it is one of the lesser costly aspects of
20 medicine.

21 Senator Rockefeller. That is correct. And
22 it is only a two percent reduction. It is going
23 to go from 112 percent to 110 percent.

24 Senator Hatch. Right.

25 Senator Rockefeller. It is a small

1 adjustment.

2 Senator Hatch. Except that when you go down,
3 that works in reverse order to really hurt what
4 really has been an expanding program that does a
5 lot of good, and in the end saves money compared
6 to nothing to putting these people in
7 institutions.

8 Senator Rockefeller. And so there is no
9 question about that. And that is why -- as
10 Senator Durenberger and Senator Chafee know better
11 than I do, that is why home health care is so
12 important.

13 But as a government, we have not made really
14 that big a shift yet to home health care as we
15 should have.

16 Senator Hatch. No. I mean, after the
17 legislation out of the Labor Committee. And I
18 feel very deeply about it. But be that as it may,
19 I just wanted to see what they had to say about
20 it.

21 The Chairman. All right. Ms. King.

22 Ms. King. In Medicare Part B, I want to talk
23 first about physician services. As you know, we
24 implemented a new physician payment system in
25 1992. And under that system, there is a bonus or

1 penalty system for updating physician payments.

2 During the first year of implementation of
3 the fee schedule, the expenditures were a lot
4 lower than everyone anticipated, meaning that the
5 updates that physicians would get in 1994 would be
6 much higher than anticipated.

7 If we did nothing, the estimated updates for
8 surgical services in 1994 would be 12.2 percent.
9 The committee proposal would reduce that by eight
10 percent so that the update for surgical services
11 would be 4.2 percent.

12 The update for all other services was
13 estimated to be 6.6 percent. The committee
14 proposal would reduce that by --

15 The Chairman. I wonder if I could ask you,
16 instead of the word "update", can't we just say
17 the increase?

18 Ms. King. Yes.

19 The Chairman. Yes.

20 Ms. King. The increase would be 6.6 percent.
21 And the committee proposal would reduce that by
22 4.4 percentage points to 2.2 percent.

23 In addition, the committee proposes a full
24 increase in payments for primary care services.
25 All physicians performing primary care services

1 would get a 6.6 percent increase in payments.

2 The committee proposal also has a couple of
3 other provisions designed to increase primary
4 care. We create a separate target for primary
5 care services. And we would allow full growth in
6 primary care services.

7 For other services in Medicare Part B, the
8 committee proposes a one year freeze in payments,
9 meaning that there would be no increase in
10 payments during 1994.

11 And after that, there would be a one
12 percentage point reduction in payment increases
13 scheduled for 1995 through 1998.

14 Most of these services are updated based on
15 the consumer price index. So there would be one
16 percentage point less.

17 Senator Durenberger. Could you go back over
18 that for me, please, Ms. King?

19 Ms. King. Yes.

20 Senator Durenberger. What are you freezing
21 for this year?

22 Ms. King. For 1994, we will be freezing all
23 services in Part B except physician payments,
24 laboratory payments which are subject to a five-
25 year freeze under the President's proposal in

1 durable and interim nutrition equipment which are
2 also already frozen for one year.

3 Senator Durenberger. So what you are telling
4 us far is you have made adjustments in the volume
5 performance standard in part to reflect the
6 differences between primary care and specialty
7 care.

8 But in addition to that, across the board,
9 you have frozen any --

10 Ms. King. Not for physician services,
11 Senator. Under our proposal, the surgical
12 services would get a 4.2 percent increase.

13 Senator Durenberger. All right.

14 Ms. King. And all other services would get a
15 2.2 percent increase.

16 Senator Durenberger. What are we talking
17 about that is getting the freeze?

18 Ms. King. Durable medical equipment,
19 ambulance services, ambulatory surgery centers,
20 and a lot of smaller other services in Medicare
21 Part B, the residual there, but physician
22 services, we treat separately.

23 Senator Durenberger. Is there some
24 justification for the freeze on all these -- on
25 professional services? I mean, is there some --

1 somebody recommended --

2 Ms. King. It was not part of the President's
3 proposal.

4 Senator Chafee. I would like to follow up,
5 if I may, Mr. Chairman, with a question.

6 The Chairman. Senator Chafee.

7 Senator Chafee. You are freezing the
8 reimbursement to the community health centers. Is
9 that correct?

10 Ms. King. That is correct, Senator.

11 Senator Chafee. Now, what is the rationale
12 for that?

13 Ms. King. Senator, I think our rationale was
14 in following instructions to look for further
15 reductions in Medicare, we tried to make providers
16 share the sacrifice, except for -- the one
17 exception to that is primary care services,
18 primary care physician services.

19 And so other than that, we tried to spread
20 the reductions across all services in Medicare
21 Part B especially.

22 Senator Chafee. Well, did you do anything
23 about the Part B premium?

24 Ms. King. The Part B remains at 25 percent
25 which is a continuation of the current policy.

1 And I would like to point out on that --

2 Senator Breaux. May I ask? It would have
3 gone down had we not done that though, wouldn't
4 it?

5 Senator Chafee. Yes. We have played that
6 game. Come on now. Everyone --

7 Senator Breaux. Wait. I was just asking. I
8 am not --

9 The Chairman. Now, now.

10 Senator Breaux. I am just asking the
11 question.

12 Ms. King. After 1995, the rate of increase
13 in the Part B premium would revert to the COLA,
14 the same index used for Social Security.

15 But as a matter of fact, we have maintained
16 the 25 percent for a number of years, I think,
17 since 1984.

18 And our proposal on the premium would
19 maintain it at 25 percent for all three years.

20 And I would like to point out that that
21 results in actual -- because of the further
22 reductions in the Medicare Part B base, the
23 premiums that beneficiaries would pay are
24 substantially lower than they would have been in
25 the absence of deficit reduction.

1 The Chairman. Senator Chafee.

2 Senator Chafee. I would like to finish on
3 this. To me, it seems a very odd thing. I do not
4 -- I have never seen a community health center
5 that is wallowing in money. But you did nothing
6 about means testing the Part B premium?

7 Ms. King. No, Senator. The committee
8 proposal does not.

9 Senator Chafee. So if you are a millionaire,
10 the taxpayers are subsidizing 75 percent of your
11 doctor's cost?

12 Ms. King. That is correct.

13 The Chairman. That is why health insurance
14 is our next subject -- health care.

15 Senator Rockefeller. Mr. Chairman.

16 The Chairman. Yes, Senator Rockefeller.

17 Senator Rockefeller. If I could just make a
18 comment or two on physicians. I am concerned
19 about the surgeons. And as Karen Pollack knows
20 better than anybody, when we did resource base
21 relative to value scale, the whole point on the
22 update or the increase for the next year was to
23 try to give an incentive to restrained volume.
24 That is the number of procedures.

25 And surgeons really did well. I mean, they

1 restrained their volume. They did not do as much
2 as they have done. And they played by the rules.

3 And we made a deal with them. And in a
4 sense, we are undoing the deal we made with them.
5 We are addressing that by giving the surgeons a
6 special update. And they deserve that.

7 But I just wanted to go on record. In
8 conference, I think this is something that needs
9 to be looked at.

10 And I have to say, Mr. Chairman, with respect
11 to physicians in general, none of this is easy or
12 fun. And when our colleagues on this side of the
13 aisle or that side of the aisle talk about cutting
14 spending and including community health, somehow,
15 when you cut spending, you got to cut spending.
16 And it hurts. And this is an example of where it
17 hurts.

18 The Chairman. I think this is the case, is
19 it not, Senator Rockefeller, you know so much
20 about this, that the real incomes of physicians
21 have been declining in recent years.

22 Senator Rockefeller. That is right.

23 Senator Hatch. Mr. Chairman.

24 The Chairman. Yes, Senator.

25 Senator Hatch. It is not only that bad, but

1 as we all know, many doctors do not want Medicaid
2 patients now because of the reimbursement
3 schedules. And now, we do this. They are not
4 going to want to take care of Medicare patients.

5 And frankly, it has gone beyond that. A lot
6 of doctors do not want to --

7 The Chairman. That is why health care is the
8 next subject of this. We will go right by the
9 fast track authority which will not take us a day.
10 And then, we have a long season. And thank
11 goodness, you are --

12 Senator Hatch. It seems to me that we are
13 cutting Medicare.

14 The Chairman. We are doing what we have to
15 do.

16 Senator Hatch. I see.

17 Senator Danforth. Mr. Chairman.

18 The Chairman. Senator Danforth.

19 Senator Danforth. Mr. Chairman, I have two
20 questions, the first on the whole issue of means
21 testing Medicare. Was that addressed?

22 I mean, Senator Boren and I in the proposal
23 that we put together did have a proposal. And it
24 did not even start until people had incomes of
25 \$75,000.

1 So I mean, our idea was, well, if somebody is
2 -- even if they are 65, if they have income of
3 \$75,000, they should be paying some part of their
4 health care bill.

5 And it really is not right to have the
6 working people who have incomes substantially less
7 than that subsidize high-income Medicare
8 recipients, and particularly in the context of
9 reducing the deficit, if that is what this
10 exercise is for.

11 The President was so emphatic in his State of
12 the Union speech about how important it was to
13 control the cost of health care.

14 And was any thought given by the majority in
15 putting together this package about means testing
16 Medicare?

17 The Chairman. Senator Rockefeller is our
18 resident expert and an indispensable authority.

19 Senator Rockefeller. I would say to Senator
20 Danforth that there was consideration given to
21 means testing in Part B, which is physicians.

22 And what it was very strongly felt was number
23 one, we had cut, I guess, \$67 billion out of
24 Medicare, not for the purposes of seniors, not for
25 the purposes of health care facilities, but for

1 the purposes of deficit reduction, and that there
2 was a feeling that Part B and means testing is on
3 our horizon and radar, but this was not the place
4 to do it.

5 The place to consider that would be in the
6 totality of health care reform when, as you are
7 doing means testing, you are also doing health
8 care reform.

9 So it was considered, but it was considered
10 not the right place to do that or consider that
11 here, but rather in health care reform itself.

12 [Continued on page 242.]

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1 Senator Danforth. Well, I don't agree with that. The
2 politically popular thing to do, if anything, is in this
3 exercise. But it just seems to me that this is kind of a
4 ridiculous situation now, and we could have been a little
5 gentler on the tax side of this equation if we had means
6 tested Medicare.

7 In any event, let me raise the second question I had.

8 The Chairman. Could I ask? Senator Breaux wanted to
9 speak. In this subject?

10 Senator Danforth. Sure.

11 Senator Breaux. In this subject. Just a short comment.
12 I had offered the means test to Medicare Part B, and I think
13 it has to be done and it should be done. And I think my
14 colleagues, in administration of, accurately point out that
15 we're going to be doing health care reform, and we want to
16 make sure that that doesn't cost a lot of tax increases, and
17 this is a savings that's going to be used, and I think that's
18 appropriate.

19 The Chairman. Senator Baucus wanted to make a comment on
20 the same subject.

21 Senator Baucus. I think we all agree that something is
22 not quite right when some of the most wealthy seniors in this
23 country get the same benefits under Medicare as less seniors
24 in this country.

25 And I think some way -- one way or another we're going to

1 move in the direction of remedying that. But I do think also
2 it's important to recognize, at least as I've looked into
3 this, given the current system, it's not as easy as it sounds.

4 The basic question is how are we going to do determine
5 which seniors, you know, certain levels of income so that
6 they're -- say their Part B premium of payment is either
7 increased, but not -- or their benefits are decreased. I
8 mean, there are only two ways of doing this that I can think
9 of.

10 One is to walk into social security -- have all the
11 seniors walk into the social security office and declare their
12 incomes and their assets, and I don't think that we want to go
13 down that road.

14 And the only other way I can think of is require seniors
15 to fill out another form on their 1040 trying to go into the
16 calculations what deductions should be made based upon their
17 taxable income. But then there's all the question of
18 reconciliation of the IRS forms with social security because
19 of that information that's going to be transferred over to --
20 from the IRS over to social security.

21 What this really comes down to me is, is as you said, Mr.
22 Chairman, to avoid all those complications of more compelling
23 reason for national health care reform. In health care
24 reform, we can begin to deal with some of these issues,
25 hopefully, in a more rational way without requiring all this

1 additional complexity. In one hand, in the wrath of people
2 filling out more forms than the other.

3 So I just -- I agree with the direction we should be
4 heading in, but I tend to think that we say, you know, a means
5 test sounds good, but the more we look into it, given the
6 present systems, it's a little more difficult, more complex
7 than meets the eye, which means there's more to.

8 The Chairman. I think that's a very good point.

9 Senator Chafee. Mr. Chairman?

10 The Chairman. Same subject?

11 Senator Chafee. Yes.

12 The Chairman. Senator Chafee.

13 Senator Chafee. Mr. Chairman, I find all this odd. Here
14 we're cutting the community health centers, and -- which I
15 think if you took a poll of this group, everyone here thinks
16 they're performing outstanding services, and we back off it.
17 It may be legitimate reasons because of administrative
18 complexities. Back off from doing anything about means
19 testing on the Part B premium.

20 As everyone here knows, 75% of the Part B premium, Part B
21 insurance, is carried by the general fund.

22 Mr. Chairman. That's right.

23 Senator Chafee. That's a fair situation of some jewelry
24 worker in Providence, Rhode Island laboring for a modest wage,
25 of paying 75% of Jack Kent Cook's doctor bills. And at the

1 same time, the cry is we've got to save some money, so we'll
2 cut back on the reimbursements that are given to the community
3 health centers.

4 Now, the complain is here that all this is too complex to
5 administer. Yet you've got two tier system for your taxation
6 of 50% of social security benefit. Well, there's a complexity
7 if I've ever seen one, and I don't understand why we don't
8 step up to the plate and do something about the Part B
9 premium.

10 The Chairman. A fair question to which the answer--pity
11 me here--is that is what we do next in this committee, and
12 we'll be at it all year.

13 Senator Chafee. Yes. I also wanted -- somehow the
14 impression is that next week we're going to start on health
15 care reform.

16 The Chairman. Next week, fast track, Uruguay Round.
17 How's that cheer you?

18 Senator Chafee. I'm thrilled by that, but --

19 The Chairman. We got a smile out of John Chafee. It was
20 going to happen some time today. Look at him. Look at him.

21 Senator Chafee. Wait until you approve that roll back of
22 the luxury tax on boats heard January 1, 1992. You really had
23 me thrilled, but --

24 Well, since we've got you on the subject, when do you
25 think we're going to take up health care reform?

1 The Chairman. Well, sir I think I couldn't -- I
2 really -- Senator Rockefeller, you're very close to the
3 deliberations.

4 (Laughter)

5 Senator Rockefeller. Actually, Mr. Chairman, I would be
6 interested in how many of the members on the republican side
7 voted for the balanced budget constitutional amendment.

8 (A showing of hands.)

9 Senator Rockefeller. Well, when you're getting into the
10 matter of cuts, if you can imagine what would have happened
11 had that passed, and we would have had to have dealt with
12 that, and you think about what would have happened in Medicaid
13 and Medicare, talking about community health centers, it would
14 have been absolutely devastating.

15 We defeated a entitlement cap proposal of 114 billion
16 dollars in our small finance committee of 11 that would have
17 wrecked damage on, you know, community health centers and
18 Medicaid and Medicare. And you're complaining, and I join
19 with you, about cuts that are being made and, yes, Part B
20 premium, if that would have been done, it would have made up a
21 little tiny bit of that.

22 But I'm just saying that if you're in the business of
23 balanced budget amendments, or if you're in the business of
24 trying to reduce the budget deficit and you're doing cuts,
25 you've got to do cuts.

1 And I suggest that the way it's been done here is a whole
2 lot more humane and possible for health care, than a balanced
3 budget amendment. That's just an observation.

4 Senator Packwood. Mr. Chairman?

5 Mr. Chairman. Senator Packwood.

6 Senator Packwood. One of the reasons that Milton
7 Freidman is opposed to the balanced budget amendment is that
8 he's afraid we will not do what Senator Rockefeller is eluding
9 to. But he's afraid we'll raise the taxes necessary to
10 balance the budget, which ironically is what the States have
11 done.

12 Their spending has gone up rather significantly over the
13 years, but so have their taxes because they're compelled to
14 balance the budget. And he thinks we're better off to borrow
15 then to tax. Between the two, it's less distortive of the
16 economy to have us borrow from willingly lenders than to tax
17 unwilling tax payers.

18 I would hope that would be --

19 Senator Rockefeller. That's what we did for the last 12
20 years, and we went from 1 to 14 --

21 Senator Packwood. I understand that. And he regards
22 that as better than having raised the taxes, that much to
23 spend. Now, would we cut or not? I don't know. Nor the
24 figures that Senator Danforth or somebody cited early.

25 The four major entitlement programs, plus interest are

1 54% of the budget now. They're going to be 69% on baseline in
2 10 years, and unless we're going to raise the taxes to cover
3 that, we are going to cut. And it is going to be painful, and
4 some of it is going to have to come out of the beneficiaries.

5 We cannot squeeze the rural hospitals forever and the
6 community health centers forever. Eventually, we're going to
7 have to ask the beneficiaries to pay some. Oregon is trying
8 to do that with its Medicaid waiver now.

9 But I don't know how long we can postpone the inevitable
10 decision and say, "I hope we can squeeze another freeze out of
11 the doctors, and we can do 100% less the medical basket on
12 rural hospitals."

13 I mean, all of these things, whatever we do, sooner or
14 later we're going to have to say to the public, "We cannot
15 afford at public expense to provide you with all of the
16 medicine that you would like to have." And those are painful
17 decisions.

18 And I think we have put off -- I think we are putting off
19 that decision with what we're doing here. I think this is one
20 more whack at the providers.

21 Mr. Chairman. We do not assert otherwise, sir. We
22 assert that within -- in this session we will be engaged with
23 the large issue that you raised.

24 I would point out that the entitlement program that
25 you're talking about, the sense that they involved social

1 security retirement benefits, disability benefits, survivors
2 insurance or Medicare, they are in surplus. We have 500
3 billion dollars in surplus for 25 years.

4 Senator Packwood. Yes. They are in surplus, but in the
5 sense, are we collecting more social security taxes then we're
6 paying out? That's all I mean.

7 The Chairman. That's correct.

8 Senator Packwood. But I think your issue should be--and
9 you've raised this yourself, Mr. Chairman--should we perhaps
10 eliminate or lower the payroll tax because you know and I know
11 what we're using the money for.

12 You're not using it for social security beneficiaries,
13 and it's not going to be there for social security
14 beneficiaries.

15 The Chairman. And we're losing touch with the insurance
16 principal.

17 Senator Packwood. And the further issue comes, sure, if
18 we want to say we've got a payroll tax that pays for social,
19 and if we want to ship part of it over, as we're doing with a
20 little bit of this, we can pay for Medicare, what that really
21 means is that a greater and greater portion of total
22 government spending is going to go for these few big programs.

23 And we're going to say because there's an ear mark tax to
24 pay for it, they're in surplus. So when we get to 69% or 70%
25 of our total spending in 10 years, or this big retirement

1 program, and if you say they're paid for, that means we are
2 not going to pay for highway improvements, or we're not going
3 to pay for airport towers, or education, or environmental
4 protection, because they won't have an ear mark to pay for
5 them. And we'll say they are the drag on the budget.

6 And the real drag is going to be the things we have ear
7 marked taxes for, for which we are spending an ever increasing
8 portion for ear mark spending.

9 The Chairman. To which I would say, "Amen." And
10 there's a second question that Senator Danforth had.

11 Senator Danforth. Yes. I thank you, Mr. Chairman.
12 As I gather, the answer to the first question is not that
13 there is a theological opposition to means testing Part B
14 Medicare, but rather that at some indefinite future date, we
15 will take up that subject when we decide how we're going to
16 spend whatever we decide to save.

17 That is not a view that I agree with, but I think I
18 understand it.

19 The Chairman. That was very good, when we decide how to
20 spend whatever it is we decide to save. I think that's about
21 right.

22 Senator Danforth. Well, I think that's what I'm hearing.

23 The President makes a state of the union speech saying we
24 have to deal with health care because it's breaking the bank,
25 that it is integrally related to the whole problem of the

1 budget deficit.

2 Now we are told that we cannot deal with the problem of
3 restraining health care costs or mean testing Part B Medicare,
4 because whatever we save isn't to be applied to the budget
5 deficit. It's to be spent on whatever we decide to spend it
6 on in the health care program. It's a very circular process.

7 Let me raise the second question then. On the issue of
8 disproportionate tear and Medicaid.

9 Senator Boren and I, when we put together our ideas, had
10 savings of 8.8 billion dollars. We were told by people who
11 are very knowledgeable about this particular scam that we
12 could save more than that, but we put together a proposal to
13 save 8.8 billion.

14 Now, this program saves 2 billion dollars. We can't we
15 save more money? I mean, this is -- can't we at least agree
16 that this particular program is a scam? That it is just a --
17 it is truly an outrage? It's a rip off of the Treasury, and
18 can't we save more than 2 billion dollars dealing with it.

19 The Washington Post has an article. The headline is "Are
20 Cash Starred States 'Looting' Medicaid Cooffers?" Can't we at
21 least stop the looting and amount up to more than 2 billion
22 dollars?

23 The Chairman. A good question to which I think --
24 Senator Breaux did you want to comment?

25 Senator Breaux. I think the short answer is "yes." But

1 if there's one -- even one area that's probably more suitable
2 for addressing ruined health care reform is the Medicaid
3 Program. I mean, that's where we're going to be talking about
4 comprehensive health policies for everybody in this country,
5 and I think the answer is "yes."

6 I mean, we should be saving more. But the way to save, I
7 would suggest, is not just by drawing a number on this chart,
8 but moving towards the health care reform system which reforms
9 the basic problem of people who don't have health insurance.

10 I mean, we're going to lose a lot of savings out of this,
11 but I think it's going to be accomplished, not by just drawing
12 a number here, but by having everybody have a comprehensive
13 health care policy.

14 Senator Danforth. This particular scam doesn't have
15 anything to do with health care policy. I mean, this is just
16 ripping off the Treasury.

17 Senator Breaux. That's why they've got 2.5 billion
18 dollars in there. That's significant.

19 The Chairman. Senator Rockefeller? You wanted to
20 comment?

21 Senator Rockefeller. To make two points, Mr. Chairman,
22 and I thank you.

23 One is that this is, again, as Senator Breaux was making
24 the point, a reason for health care reform so as to try and
25 create a system wherein States are not driven to have to do

1 what they're now doing.

2 I mean, in 1991 they -- what was it? A
3 disproportionate -- what was it? A billion? A hundred
4 million? And then it went up to 16 billion in 1992. In other
5 words, we're driving the States to do what they're doing, and
6 that's because we've got a bad health care system, which we've
7 got to repair. Point one and point two in response to Senator
8 Packwood.

9 And chopping, chopping, chopping at the providers,
10 Senator Danforth made a proposal along with Senator Boren that
11 would have cut 114 billion dollars, and of that, the Part B
12 affect would have been 21 billion. Twenty-one billion, so
13 that that would have left 93 billion that would have come out
14 of doctors and hospitals.

15 And all I'm trying to say is that this is all very hard.
16 It's just very, very hard stuff. That even under that
17 proportion, doctors and hospitals would have received a
18 whacking far, far worse than what they're getting under this
19 proposal.

20 Senator Danforth. Why don't we ever do anything hard
21 except raise taxes? That's exactly the criticism of this
22 program. We're not doing anything hard. We're not doing
23 anything hard with respect to entitlement. We're giving the
24 same old answer we've always given.

25 Senator Packwood. It's hard.

1 Senator Danforth. You know, maybe tomorrow. Maybe next
2 year. Manana. You know, maintain your cool, and at some
3 future date we might take up these things. Meanwhile, let's
4 raise taxes, and oh, good news, there's no real sacrifice
5 because 80% of the people, or whatever, aren't going to have
6 their taxes increased. So this is the gravy train.

7 I mean, it's exactly the problem we've gotten into.
8 People on one hand try to fob this program off as the great
9 national sacrifice. Gosh, we are saving 500 billion dollars,
10 or whatever it is. And then on the other hand say, "And the
11 good news is that we're not really cutting anybody's benefits,
12 and we're not raising taxes on anybody who counts."

13 And I think that it is a disservice to the country not to
14 address the real questions that we all know are out there.

15 The Chairman. Senator, may I just say to you that I
16 think that -- I don't know of anyone on our side would
17 disagree with the characterization you've made of the -- some
18 of the recent developments disproportionate share hospitals.
19 It is a scandal. It's the sort of thing that happens and
20 breaks out in any complex, administrative system.

21 If you remember Title 20 of the Social Security Act, in
22 the late '70s, we found that Mississippi was building roads
23 with the social services money on the grounds that you could
24 get back to what the persons need here and maintain family
25 unity, and things like that, and we had to cap it.

1 I believe New Hampshire is building roads with
2 disproportionate share hospital money. I can refer to you
3 that every hospital in the state of New York is a
4 disproportionate share hospital, I would delve.

5 But again, and when a specific decision was made, it got
6 into the health care proposal. You are entitled to that
7 cantor, and I hope we cantered.

8 Senator Durenberger. Mr. Chairman, can I just follow up
9 on that?

10 The Chairman. Surely.

11 Senator Durenberger. Just so we understand each other,
12 and I think we're getting fairly close, and Jack is asking
13 very good questions, and I appreciate the response from
14 Senator Breaux and Senator Rockefeller.

15 My observation is that the reform we've done in the past
16 has done some good things. When we did BRGs, the hospital
17 rate of increase, or the part A rate of increase was something
18 like in the 80s. It was like 4% or something like that.

19 But unfortunately, the Part B side was like 11% of the
20 year because it was out of control. In 1989, the two of us in
21 particular, sat down and designed the RBRBS System for Part B,
22 and put that into effect with the help of all the physicians
23 in America. And now, the sort of good news that's back is in
24 the past year, Part B increases hit a near record low of about
25 3% to 4% in 1992.

1 It wasn't because --

2 The Chairman. Something happened.

3 Senator Durenberger. Exactly. There is something good
4 that's going on out there, and it isn't like we haven't done
5 reform around this place or on this commonty, in the last --
6 or while republicans were in charge, you know, in the last 10
7 years.

8 So some reform is in process. One of the pieces of good
9 news for you all, as I understand it, is that while the figure
10 67 billion dollars looks like a lot of money to be taking out
11 of Medicare, the reality is that because we were projecting
12 about an 11% increase in Part B in the volume performance
13 standards, the reality when the doctors come in, and they're
14 only spending, on the average, an increase of 3% and 4%, we
15 can capture some of that difference and project it forward
16 into the next year in these--whatever it is--6.6 resurgical
17 and so forth.

18 So that everyone understands, it is because the system is
19 beginning to work appropriately out there, that we do have
20 some of the savings that we can declare. And it isn't like
21 the Democrats came, and they decided that they were going to
22 cut the heck out of all the hospitals.

23 But the reality, as I still have to go back to a state
24 which is getting 1/2 per capita, or per Medicare enrolle, as
25 much money per enrolle as the state of Florida is getting.

1 The Chairman. One half?

2 Senator Durenberger. Yes, one half. And that isn't
3 because we're cheating on the care side. It's because our
4 doctors are just doing a whale of a lot better for a heck of a
5 lot less money then in Florida.

6 And so when we are going to adjust them by only 3% or 4%,
7 or something like that, remember you're only giving a 3% or 4%
8 adjustment the people that are already a bargain to you.

9 So I have to go back to them and say, "The next thing
10 that's coming is reform." And in this, in the reconciliation
11 side, when you look at what we could have done on
12 disproportionate share, for example, we could have done 20
13 billion dollars, and you decided to do two. But the
14 projection is that when we see health care reform, we're going
15 to see all this stuff back again, or a lot of it we're going
16 to see coming back again with recommendations on how to spend
17 it more wisely. And the same would be true of Medicare.

18 Is that a fair characterization?

19 The Chairman. That's a fair characterization.

20 Senator Durenberger. Since we weren't in on all of your
21 meetings, is it fair to say this is a temporary look at the
22 next five years, and somewhere in the next six months or so we
23 ought to be able to say our physicians and hospital
24 administrators, "We're going to say, via the administration,
25 we're going to see all this stuff back again or some part of

1 this back again."

2 Disproportionate share hospitals just being one of
3 them, with some relationship, with a new set of figures
4 perhaps, and some relationship between that and where this
5 administration wants to take us in health care reform. Is
6 that --

7 Senator Rockefeller. If the Chairman would allow me to?

8 The Chairman. Senator Rockefeller.

9 Senator Rockefeller. To my friend, Senator Durenberger
10 from Minnesota, I think that the umbrella statement is that
11 doing health care reform comprehensively is going to be the
12 hardest thing that we've ever done in the history of the
13 Congress.

14 And it's going to be tough and difficult, but in the end
15 result, that you and I David had known and any health care
16 economist, and Senator Chafee and Senator Hatch, and
17 everybody, Senator Danforth, who's a bear on cost containment,
18 you know, knows that we've got a lot of inappropriate and
19 unnecessary money being spent.

20 Maybe up to 25% of the trillion dollars or so that we'll
21 spend this year that could be squeezed out of the system, and
22 that that's part of what reform is about and so is tort
23 reform, and so is Erisa readjustment, and so is a whole lot of
24 things. All of which are going to be very complicated.

25 But in the end gain, hopefully, everybody is going to

1 have coverage, and doctors and hospitals, for the first time,
2 won't have to be worrying about being underpaid for procedures
3 or for office visits. That they will be being paid, in fact,
4 in full.

5 Right now, they're being paid less under Medicaid and
6 Medicare. So they're having to, on average, bill 128% of
7 their work to private patients. And that's what the Senator
8 from Minnesota and I and others want so much to get rid of, so
9 there's a sense of predictability and stability in the whole
10 system.

11 It's going to be very hard to do, but I believe we can do
12 it, and I believe we can do it together.

13 The Chairman. And I think that's the case. And we again
14 have to think somewhere out there Hank Gutman is dozing, and
15 we've got to think about that.

16 We have some nice piece of business we want to get to
17 quickly. Senator Riegle being present, he was the catalyst,
18 and he was the person who first put together a very fine
19 bipartisan proposal on immunization, which is in our proposal.

20 Let's see. Who's going to give us Title C? Improved
21 Access to Childhood Immunization? Ms. Horvath are you going
22 to do that?

23 Ms. Horvath. Thank you. Yes.

24 I'll cover the Medicaid piece.

25 Senator Breaux. Can I ask just ask a big question on the

1 previous thing?

2 The Chairman. Of course.

3 Senator Breaux. It was my understanding we're suppose to
4 be starting in 1995? Is that correct?

5 Ms. Horvath. The Medicaid DISH Provision? The Medicaid
6 DISH?

7 Senator Breaux. No. No. No.

8 Ms. Horvath. The Disproportionate Share?

9 Senator Breaux. The Disproportionate Share. Yes, I've
10 always gone with Disproportionate Share.

11 Ms. Horvath. Yes. It would begin. There's an error in
12 the market document.

13 The Chairman. May I point out that the proposal we're
14 about to hear about is under the leadership of Senator Riegle.
15 It was developed by Senators Chafee, Durenberger and Danforth,
16 and I think it has universal support. Senator Bradley and
17 others.

18 Senator Chafee. Mr. Chairman, just one final thing on
19 the Medicare, I think that's Ms. King's area, and that is like
20 everybody here, I support the antifraud provisions included in
21 the self referral section. But I've got concerns about how
22 the language that you currently have might affect legitimate
23 managed care arrangements.

24 And that's a -- I hope you would explore the options so
25 that in a preferred provider situation there would be not --

1 that these wouldn't be ruled out for third provider
2 arrangements. Do you understand what I'm driving at?

3 Ms. King. Senator, yes. We began meeting with the
4 managed care industry a couple of weeks, and unfortunately, we
5 didn't have time to really hammer out all of the provisions
6 that they were interested in.

7 We have begun consultations with the Inspector General's
8 Office. They have some concerns about a broad exemption for
9 all managed care plans. But before we get the conference, we
10 hope to have time to look at this issue more fully.

11 Senator Chafee. Because we've got a situation in which
12 certain members of the house have a purpose of torpedoing the
13 managed care situation. There's no question about it. And I
14 don't want us to be inadvertently caught because of the self
15 referral section of the bill and the antifraud provisions that
16 we'd have in connection.

17 The Chairman. Thank you, Senator. And Ms. King, we have
18 an understanding to try to do that.

19 Ms. King. Yes, we do.

20 The Chairman. Fine. Ms. Horvath, let's get to some good
21 news.

22 Ms. Horvath. Okay. Senators the one provision in
23 subtitle C is improved access to immunizations. The
24 provision, as it's drafted, would create a federal vaccine
25 purchase program covering children who are uninsured, and

1 children who have insurance but do not have specific coverage
2 for immunization. And these children would be -- have family
3 incomes below 75% of the medium state income.

4 The program would be funded through recaptured state and
5 federal program savings. Money currently spent on vaccine
6 purchase, mostly Medicaid. The provision includes a limited
7 demonstration authority for the states to work AFDC and
8 Medicaid programs to encourage parental responsibility with
9 respect to childhood immunizations.

10 And the program, it produces a federal savings over five
11 years of 48 million dollars.

12 The Chairman. That's just hugely impressive. Senator
13 Riegle, would you want to elaborate on this?

14 Senator Reigle. Yes. Thank you, Mr. Chairman. First of
15 all, I want to thank the staff and my republican colleagues
16 and democratic colleagues for working with us on this.

17 This is an effort to try to take and move up these
18 immunization rates, and to make sure that from a financial
19 point of view, that there is not a barrier in the way for
20 people to go ahead and get their children fully immunized.

21 We think that this is the kind of efficiency that in fact
22 will save us money. It's one of the few items in here that
23 actually produces a saving as you keep score of the numbers
24 here. And I think it is a piece of good news.

25 It's here, and I think the fact that we've done it on a

1 bipartisan basis is --

2 The Chairman. Your key is the federal purchase of the
3 vaccine?

4 Senator Riegle. That's right.

5 The Chairman. And then the savings that come by through
6 that mess.

7 Senator Riegle. Exactly.

8 Senator Hatch. Mr. Chairman?

9 The Chairman. Yes. Senator Hatch?

10 Senator Hatch. Mr. Chairman, I personally think the
11 committee has done an excellent job of bearing back Secretary
12 Shalala's original proposal because means testing is an
13 important test in the right direction.

14 But I know that the eligibility standard for -- vaccine
15 75% of medium household income, I believe you mentioned. That
16 was based on the Child Care bill. Now, while it would seem to
17 be a good basis, there's is some important differences.

18 For instance, child care, the bill, it's not an
19 entitlement bill. And the 75% figure was a ceiling. States
20 could lower that amount under the Child Care bill, and would
21 have an incentive to do so because there was a state match as
22 well.

23 Now, state medium incomes vary tremendously. For
24 instance, I understand that the highest state, New Jersey, has
25 a state medium income of \$56,000.00, which means that we would

1 be providing free vaccines to families with incomes of
2 \$42,000.00.

3 Now, I'm concerned that this still may be perceived -- I
4 know it's hard to think of this way, but it still may be
5 perceived as middle class entitlement, and I just wonder if
6 you could comment, Ms. Horvath, on that?

7 I might just give you a background. You toss medium
8 income as 29,500 per year, and 75% of that would be 22,125.
9 Could you comment on it, and whether that's a good approach
10 the way we're approaching it? Or should we give the
11 flexibility to that states?

12 Ms. Horvath. It's not clear to me if that's my place to
13 comment. All I can say is that 75% of State medium income is
14 what has been agreed to among everybody who has been
15 negotiating this bill.

16 Senator Hatch. Well, let me take that burden off of you
17 and ask Senator Riegle if he can comment on it?

18 Senator Riegle. Well, I think that's a reasonable way to
19 do it. You're right. There is a variation from state to
20 state, but what we're trying to do is to make sure -- remember
21 a child has to be in a situation where they're uninsured for
22 immunizations now.

23 So the fact that we're sort of reaching the same income
24 grouping, a state by state, taking into account variations in
25 state incomes, I think there's a reasonable way to do this.

1 You know, there is --

2 Senator Hatch. Wouldn't it be more reasonable to allow
3 the states to have some flexibility here?

4 Senator Riegle. Pardon?

5 Senator Hatch. Wouldn't it be more reasonable to allow
6 the states to have some flexibility here, rather than have a
7 75% mandatory minimum?

8 Senator Riegle. Well, you know, we've done it -- I think
9 this way is fine, frankly. I mean, you know, we worked it out
10 on that basis, colleagues on both sides.

11 Senator Hatch. I understand. Let me switch gears, if I
12 could, Mr. Chairman.

13 The House bill changes the secretary's negotiating
14 authority. In particular, to review the books and records of
15 the vaccine manufacturers. I personally think that's a
16 horrible, horrible precedent.

17 HHS, under the current CDC contract, has the usual
18 authority of a Secretary under federal procurement law to
19 review business records within appropriate confines.

20 Now, I'd like to ask whoever wants to answer this,
21 Senator Rockefeller or whoever, why does HHS need this
22 additional authority to meddle in the manufacturers' conduct
23 of its own business? I'd personally like to get the provision
24 dropped.

25 Let's let the new program run for a year or so, see how

1 it works, and if it doesn't work, then let's make a change
2 then. But I think it sets a terrible precedent.

3 Senator Rockefeller. Senator Hatch, your point about
4 letting the states do it and getting the federal government
5 out of it, it has a -- there's going to be a lot of state
6 possibilities, I think, in this health care plan when it
7 comes. But, you know, states just have different ways of
8 doing things.

9 I don't know what it is today, but Alabama -- I think in
10 Alabama to qualify for AFDC, today you have to be, or two
11 years ago, you had to be at 17% of poverty. Whereas in the
12 Chairman's state, they're very generous, and as a result, lots
13 of people come there for that reason.

14 In West Virginia, the medium income is about \$12,000.00.
15 I mean, and we're -- and to be qualified for AFDC in West
16 Virginia, I think it's 37% of poverty. I mean, states have
17 enormous variations, and what would happen if you gave it
18 state discretion is that a lot of states just simply wouldn't
19 do it. They simply wouldn't do it.

20 People wouldn't qualify for it, or they just would decide
21 that they wanted to spend their money on other things.

22 Senator Danforth. Mr. Chairman?

23 The Chairman. Yes. Senator Hatch?

24 Senator Hatch. You were talking about the first issue.
25 I'm talking about the one where we -- with regard to the

1 formula. Excuse me. With regard to keeping the books and
2 allowing -- and actually allowing the investigation of the
3 actual books of the company itself.

4 Ms. Horvath. Senator, the language as it stands now in
5 some respects actually does track the federal procurement
6 requirements, the federal procurement statute. And the -- or
7 the provisions have been modified from the House version to if
8 the Secretary decides that more information is needed, it
9 would be done by a regulatory and comment process.

10 That's the modification that is in the bill now.

11 Senator Hatch. But that would still be extremely broader
12 than the current law, or current situation, or current
13 regulation.

14 If they can actually get into the books and records of
15 the company, I mean, that's a precedent that I think is a
16 pretty bad one.

17 Senator Riegle. My understanding is that we actually
18 strengthen the confidentiality provisions in that we make any
19 breaches of that subject to penalty.

20 Senator Hatch. I don't think so. Am I wrong? I mean, I
21 think --

22 Ms. Pollitz. Senator, if I may?

23 Senator Hatch. Sure.

24 Ms. Pollitz. I'm Karen Pollitz from the Department of
25 Health and Human Services. There was -- the language was

1 added for additional information where appropriate to be
2 available to the Secretary because unlike current procurement
3 or a current bidding process for vaccines by CDC, under which
4 the winner takes all and is the sole provider for all of the
5 vaccine that the Secretary purchases, this language
6 specifically directs the Secretary to engage in multi source
7 contracting, and in fact, to encourage and entice new
8 manufacturers of vaccines into the market, and even to offer
9 differential prices to different manufacturers.

10 And we think in a multi source contracting situation with
11 differential prices, it may be that we will need further
12 information. We need to give this some more thought, and the
13 Secretary -- it is not blank authority. The Secretary would
14 need to specify in regulation what additional information she
15 would need in those circumstances.

16 Senator Hatch. Thank you.

17 The Chairman. Thank you, Senator Hatch. Senator
18 Danforth?

19 Senator Danforth. Mr. Chairman, just the chair think
20 that I'm totally grouchy about everything, --

21 The Chairman. You don't even like your great
22 achievement?

23 Senator Danforth. I am reasonably pleased with this. I
24 think that one of the things about it is that this is an
25 example of a bipartisan effort. People on both sides have

1 taken this issue very, very seriously. People -- all of us
2 have been distressed at the statistics on lack of immunization
3 particularly of very small children.

4 This is important legislation. The outreach aspects of
5 the legislation, the tracking aspects of the legislation, are
6 especially significant. I had been concerned that a universal
7 purchase program would so kill the private market as to make
8 the development of new vaccines, research into new vaccines,
9 less likely and less attractive, insofar as the vaccine
10 manufacturers are concerned.

11 I'm not sure that we've really taken care of that
12 problem, but there is some means testing in this, and I am
13 gratified of that.

14 I also think that even if it's just on a pilot basis, you
15 know, the aspects of this bill which are designed to test the
16 concept of parental responsibility are very, very important.
17 Ultimately, whether or not a child is vaccinated is going to
18 be a question of whether or not the parent gets that child
19 vaccinated.

20 It's done now in the case of almost everybody who's six
21 years old because it's a requirement to get in the first
22 grade. And I think that the -- at least trying out the
23 concept of parental responsibility at an earlier age is a
24 very, very important contribution of this legislation.

25 So all in all, I think that this is a very good step

1 forward.

2 The Chairman. Would you say that again?

3 (Laughter)

4 Senator Danforth. This is a good step forward instead of
5 a march backwards. But it's a step.

6 (Laughter)

7 Senator Danforth. It's a little nugget.

8 The Chairman. A little nugget.

9 But I want to just say to you that the real issue is
10 parental behavior in these things. It just is. It just is.

11 Ms. Wynn, I think that about does it. You have a few
12 with the Health Clearinghouse subtitle. What is that? Is
13 that Ms. King? Are you going to tell us about that.

14 Ms. King. That is both the Medicare and the Medicaid
15 item. And what it would do, it actually builds on a proposal
16 that was made by Senator Roth to require information about
17 health insurance on the W2 form, and then it allows an
18 exchange of information among the Secretary of Health and
19 Human Services, and the Secretary of Treasury to try and
20 identify cases in which Medicare and Medicaid beneficiaries
21 have other sources of health insurance, and then to try and
22 collect from those payers.

23 The Chairman. And we stand to gain 320 million. Senator
24 Roth, would you like to speak to this point?

25 Senator Roth. I'm very pleased to see it's part of the

1 package. The one question I have, as I understand the
2 proposal, it's limited to Medicare and Medicaid. But there
3 are other health programs. Champus, Veterans.

4 Is this information going to be made available to other
5 agencies?

6 Ms. King. Senator, I believe the labor committee has
7 reported a proposal along those lines. Our proposal is
8 limited to Medicare and Medicaid because those are the only
9 programs that we --

10 The Chairman. That we have before us, you see, on the
11 floor. We might to expand this on the floor.

12 Senator Roth. I think it's very important that we do so
13 because I think additional savings can be made.

14 The Chairman. Yes. Here you are. It's just right in
15 front of you.

16 Well, now. I think that does it. Ms. King --

17 Senator Hatch. Mr. Chairman, could just bring up one
18 other thing --

19 The Chairman. Well, it doesn't do it. Senator Hatch?

20 Senator Hatch. -- that I think might be important. I
21 hope to offer a technical budget neutral amendment to your
22 language allowing states to establish prescription drug
23 formularies. This is under the Medicaid program.

24 But CBO has not been to provide the committee with a cost
25 estimate on the provision. And let me be clearer. I

1 recognize that we must do what we can to hold down Medicaid
2 spending. My own state has written to me and said that they
3 are interested themselves in establishing a formulary.

4 At the same time though, a number of us have been
5 concerned that there could be a potential downside to
6 formularies, especially with respect to the access of
7 beneficiaries, the high quality medical care. I believe that
8 representative towns wrote to you about this after its recent
9 hearing on the matter.

10 So I do have some serious questions about the impact of
11 state formularies, and I'm not certain that they would lower
12 state spending on Medicaid. In fact, there exists a
13 significant body of evidence that restrictive drug formularies
14 are penny wise and Tom Foolery, since they can often result in
15 patients not getting well and needing more expensive care in
16 the hospital or nursing home.

17 But I also recognize that the formulary provision is in
18 the bill on both sides. And the thrust of my amendment would
19 be to allow beneficiaries greatly appeal rights should their
20 prescription be denied or otherwise restricted. It would also
21 provide a system of public notice and opportunity for a
22 hearing to review state determinations for formularies and
23 prior authorization.

24 So all I'm asking is is it possible for our staff to get
25 together and try and resolve this?

1 The Chairman. The answer is "yes."

2 Senator Hatch. Thank you, Mr. Chairman.

3 The Chairman. Now this raises another subject, which is
4 how we'd like to proceed. With that particular matter,
5 Senator Hatch, we can work it out. It's doable. It's a good
6 thing to do, and we're glad that you've done it.

7 Senator Hatch. Thank you, Mr. Chairman.

8 The Chairman. It would be the Chairman's wish--well,
9 preference--that we finish our work tonight. We're going to
10 be out tomorrow and -- do you bear that there?

11 Senator Dole. And moving very slowly on the
12 supplemental.

13 The Chairman. No.

14 Senator Grassley. I'm not sure of it, but I think it
15 will be the case.

16 The Chairman. Do you have an amendment to offer? Shall
17 we have some amendments?

18 Senator Packwood. If we're going to have amendments,
19 let's -- well, let's make a decision if whether we're going on
20 tonight for another two, three or four hours or coming back
21 tomorrow.

22 The Chairman. Right.

23 Senator Packwood. I'm prepared to do either.

24 The Chairman. And we're prepared to do either.

25 Senator Dole. Except we're not. Well, we're not really

1 prepared because we haven't had any time to analyze this.

2 The Chairman. We're not going to -- we're not going to
3 force anything. If you'd rather have some time for
4 amendments, fine, we'll stay over. Or you want to break for
5 an hour? What is your recommendation?

6 Senator Packwood. I'd recommend we come at 9:30 in the
7 morning.

8 The Chairman. Like to come in at 9:30 in the morning?

9 (Pause)

10 The Chairman. Yes. We have a technical problem of
11 having this thing before the budget committee by midnight.
12 Yes, it's a technical problem.

13 First of all, may I say to Ms. Wynn, Ms. Horvath, Mr.
14 Cleptor, Mr. King, and Ms. Pollitz, Ms. King, thank you very
15 much. They worked through this here.

16 And I'd like Mr. -- if Mr. Gutman is not sound asleep?
17 There he is. He's standing. Would you get back on and give
18 us your chess plan. Yes. We have one detail on 936 quickly
19 to be explained. Now, somebody here had a thought on this
20 subject. Thank you very much.

21 Mr. Grassley. I'm the one. I said I had an amendment on
22 it.

23 The Chairman. Yes. Well, we're just trying to wait to
24 see how we want to proceed here. We have one -- we said
25 earlier in the day that we expected section 936, the specifics

1 would be worked out. We have the specifics.

2 Senator Pryor, you wanted to --

3 Senator Pryor. Is Senator Bradley -- could we wait a
4 moment until Senator Bradley -- we're having a three way
5 agreement here.

6 The Chairman. Sure.

7 Senator Pryor. I think we're all together.

8 The Chairman. Right. Right. All right.

9 In that case, let's -- we're just sort of waiting around.

10 Senator Grassley has an amendment.

11 Senator Grassley. Okay.

12 The Chairman. Do you want to go first?

13 Senator Packwood. No. Let him go first. I'll go second.

14 The Chairman. All right. The door is open to amendments
15 with the understanding that there is a provision on 936 that
16 has been worked out. We'd like to have Mr. Bradley, who is
17 party to it, here when Mr. Pryor and he --

18 Senator Grassley. I'll yield the floor any time that you
19 want to go to that.

20 The Chairman. Thank you very much. The Senator from
21 Iowa is recognized.

22 Senator Grassley. Mr. Chairman, members of the
23 committee, my amendment is paid for. There are offsets. It
24 strikes that portion of your package, Mr. Chairman, that taxes
25 social security benefits from the 50% to the 85% level.

1 I'm sure that everybody knows what all the arguments for
2 this are, so I'll try to just summarize and won't go into
3 any --

4 Senator Conrad. Can we have order, Mr. Chairman, so the
5 Senator can be heard.

6 Senator Grassley. Thank you. Obviously because I moved
7 to strike this, I think it's a bad idea. And, Mr. Chairman, I
8 know that you have made some -- so this isn't quite as
9 egregious on this middle class, older people of America that
10 would be taxed because you did increase the thresholds from
11 32,000 for singles and 40,000, and it's -- it's going to hit
12 many relatively low income older Americans.

13 President Clinton proposed to increase tax on the rich.
14 Now, the rich were those with individual incomes of over
15 115,000 for an individual and 142,000 for a couple for
16 everybody younger than social security retirement age.

17 But for the people that are in social security, it was
18 25,000 and 32,000. Now you might say it's 32,000 and 40,000.
19 I'm sorry. In my judgment, that's not rich. This proposal is
20 going to cause older Americans to spend down faster the
21 savings that they've accumulated over a lifetime of hard work.

22 It's going to hit people who have taken seriously our
23 country's admonition that they must save for old age, and that
24 admonition, members particularly on the other side of the
25 aisle, you take great pride for what is a social fabric of

1 American society now in the social security system.

2 On this side, we accepted that maybe a year or two after
3 you did. But for the last 50 years, we've all accepted what
4 social security is, and from the day of it's foundation, it
5 was never meant to be a retirement. It was only a foundation
6 on which to build your retirement.

7 So we have been telling people, even under social
8 security, for the last 55 years, save. Now they've saved
9 enough for us to want to tax them some more. And in Iowa,
10 we're the third highest percentage of states with people who
11 are over retirement age, and we happen to be the number one
12 state with the highest percentage of people over 85 years of
13 age.

14 Our director of State Department of Elder Affairs tell me
15 that we have plenty of old people who will exhaust their
16 savings because they're going to live long enough to do it.
17 This -- and of course, this proposal is going to help them
18 deplete their savings.

19 It's going to raise, in addition, a marginal tax rate sky
20 high on older Americans who must work to make ends meet.
21 Well, let's say even if they want to work to make ends meet.
22 And believe me, even in my state we have plenty of these
23 people. You see them everywhere when you go around in my
24 state, and I'm sure you do in your own.

25 This is going to reduce the support for the program among

1 the middle classes. Now, here I'm not talking about people
2 who are retired. I'm talking about people who are working
3 today and probably mostly middle class people working today.

4 We're told, you know, that--and I think polls will show--
5 that social security has a broad basis apart. Maybe even
6 among working people, more so than among older people for the
7 simple reason that I think younger people see social security
8 not only for their own needs, but they see it -- they don't
9 want to have to take care of their mothers and fathers like
10 generations ago people did.

11 But also, middle class support for it because for their
12 own retirement, and we've got to work to maintain that middle
13 class support. You know, I must say that I have been
14 surprised to hear this tax increase advocated by defenders of
15 a social security program, who have argued in the past that
16 it's very important to maintain broad base support for the
17 program across all income classes.

18 Everybody knows that the reimbursement formula is skewed
19 towards lower average age workers, and now we're going to make
20 the return of the program to the middle income people even
21 worse.

22 So those of you who have been telling us for a long
23 period of time, and I don't disagree with it, that we have to
24 maintain this apart, this is one way of cutting the knees
25 out -- the legs out right from under the same effort to

1 generate ongoing support for the social security system.

2 Mr. Chairman, I think that when your bid gets to the
3 floor, that a point of order will be raised against it on the
4 ground that it violates Section 3 (10)(g) of the Budget Act.

5 As I understand at that Section, it would apply only in
6 the Senate itself, so I'm not going to raise it here. But I
7 think myself, that it was clearly designed to stop the kind of
8 thing with respect to social security that is happening here
9 today. I'm looking forward to that discussion when we get to
10 the floor.

11 Instead, what I'm going to do to make this amendment in
12 order here today, I have a number of offsets. But I have five
13 ones that I was looking at, which I picked three that will pay
14 for my amendment to strike the social security tax increase,
15 and your staff, or each staff, has the detail.

16 Let me just say that we're all familiar with those
17 proposals that are before us, so I don't think I'm going to
18 take the time of the committee to talk about those. And I
19 believe, considering the massive amount of debate we had on
20 this issue on the budget resolution, that there isn't much
21 point in my saying anymore.

22 I'd be happy to respond to questions. I'm prepared to
23 talk about offsets, but I don't think they're the major issue
24 here. I just think we're -- I think what the major issue is
25 here, are we going to tax an additional amount of social

1 security, and I oppose that.

2 The Chairman. May I thank the Senator from Iowa. May I
3 see that he comments that he was surprised at the support for
4 this measure coming from persons such as Robert Vaughn, who
5 was social security administrator, Robert Drew Meyers, who was
6 chief actuary for so many, and the chief staff director of the
7 Greenspan Commission in which several of us served here.
8 Senator Dole and I certainly.

9 That their position, as I said it earlier, is that social
10 security retirement benefits are earned benefits, and it is
11 entirely appropriate to tax them as are other earned benefits.
12 These are -- we still exempt persons up to \$25,000.00 extra
13 income, whereas the taxation on benefits of a private pension
14 begin at dollar one.

15 Now, there are questions that occurred to Senators?
16 Senator Rockefeller.

17 Senator Rockefeller. Parliamentary wise, I should move
18 my amendment?

19 The Chairman. Would you do, sir.

20 Senator Rockefeller. I move for the adoption of my
21 amendment.

22 The Chairman. Is there a second?

23 Senator Dole. I second that.

24 The Chairman. The questions from Senator Rockefeller.

25 Senator Rockefeller. Mr. Chairman, I can't think really

1 of a more cruel amendment. In affect -- I mean, I just
2 glancing for the first time at the Senator's amendment, but
3 what he's really doing is -- talks about change Medicaid to
4 Capitated Reimbursements, and then there's a whole lot of
5 language.

6 And then this proposal was also included in the Boren and
7 Danforth debt for reduction plan, which was caps on
8 entitlement.

9 Mr. Grassley. On that point, Senator Rockefeller, the
10 Chairman has already introduced legislation on that very
11 point. So if you're saying it's cruel for me to do it, you're
12 also saying it's cruel for Senator Moynihan to do it.

13 Senator Rockefeller. Well, that may or may not help my
14 case, but I'm trying to address my amendment argument to you
15 Senator that, you know, entitlement other than Medicaid and
16 Medicare pensions and safety net programs are growing at about
17 1.1% a year. In inflation, the adjusted dollars is 1975, and
18 less than half that, the rate of the total budget outlays.

19 So if that's the fact, then on other entitlement, and
20 that means you come down to Medicaid and Medicare, and you've
21 got to really do a number on Medicaid and Medicare. Let's
22 just take Medicaid because you specifically mentioned it.

23 So you are really sticking it to people who need nursing
24 home care, to pregnant women and children. You get Medicaid
25 in problems of this sort because you have health inflation,

1 you the number of poor people growing, that's not necessarily
2 controllable, you have a growth or number of disabled
3 individuals, that's not necessarily controllable. You can't
4 repeal inflation. You can't control the number of disabled
5 and poor people, and you are going to really put it to them.
6 I mean, big time.

7 I just find it a heartless amendment, and would oppose it
8 with everything I had.

9 Senator Grassley. Mr. Chairman, could I address? Could
10 I address?

11 The Chairman. Of course, Senator.

12 Senator Grassley. Just the one point that he made.
13 First of all, I feel very good about Senator Rockefeller not
14 speaking to the point of what's happening to the social
15 security recipients, and the increase in the portion of social
16 security taxed because before, that's the point that he's
17 always made, and maybe now his not addressing that means that
18 he's a little more nervous on that point.

19 But specifically, in opposition of what he said about one
20 of my offsets. First of all, I spoke to where it's got some
21 bipartisan spark in the first place. That seems to be the
22 most sound argument in this institution.

23 Secondly, you missed the whole point. The whole point
24 is, Senator Rockefeller, that this whole effort represented by
25 my offset is to improve the health care of this group of

1 people. Not detract from it, not make it less quality.
2 Because what we want to do, we want to move these people out
3 of the emergency room atmosphere.

4 It's costly, not very good health care. More into the
5 managed care system where they'll get better care and probably
6 get it cheaper and better.

7 I yield the floor.

8 The Chairman. Just if I may. Senator Breaux, Senator
9 Bradley, Senator Riegle.

10 Senator Breaux. I'll just be very brief. Senator Roth
11 said that Senator Rockefeller talked about what was moving to
12 the capitated method of reimbursement.

13 I mean, it's fine if the states all have HMOs, and they
14 have a place to put the. Arizona does, but most of the other
15 states don't fit into that requirement.

16 Your state I don't think does. My state doesn't. What
17 do you do with states that don't have the capacity to have an
18 HMO? I mean, you're telling them just -- where do the people
19 go? In theory, it's a fine idea if everybody has an HMO, but
20 what do you do with people in states that don't have the
21 capacity to move to HMO style systems, and then be able to
22 take care of these people. Where do they go? Streets or they
23 all move to Arizona.

24 Senator Grassley. Well, I'll be glad to answer that
25 question, Mr. Chairman. This is the whole issue that we've

1 got before us that the President says -- or that the Chairman
2 says we're going to take up right after Fast Track.

3 Senator Breaux. Maybe we should take this up right after
4 Fast Track.

5 Senator Grassley. This is a movement in that direction.
6 That's what Mrs. Clinton has been talking about for five and a
7 half months, of moving to these things. This is where we have
8 to go.

9 The Chairman. I cannot accept the proposition that your
10 Medicaid provisions, which are not the ones that Senator
11 Durenberger and I introduced last year, the movement in the
12 right direction.

13 I think Senator Rockefeller spoke very favorably about
14 that.

15 Senator Bradley? You wanted to speak.

16 Senator Bradley. Mr. Chairman, I was somewhat amused,
17 not by the seriousness of the sentiment behind the offer, but
18 by the rationale. Because a few minutes ago, at least several
19 people on the other side when we were discussing cuts in
20 Medicare, were urging us to have Jack Kent Cook, I think it
21 was, paying more than 75% fee for Medicare.

22 We wanted to make sure that that rich man or woman out
23 there didn't get away with paying only 25% of their Medicare
24 costs. And here we have an amendment which says Jack Kent
25 Cook, or whomever this rich, significal person is out there,

1 is going to get their social security, but they don't pay any
2 tax on their social security.

3 I find that a lose amendment. I find that an
4 inconsistency. If we are after making sure those who have
5 more pay more, then they should pay more for Medicare, they
6 should pay more for social security. And this -- they should
7 be taxed in social security. And this we do tax a very small
8 percent of the elderly, and, you know, I find it a little
9 inconsistent.

10 The Chairman. I don't disagree in the least. Senator
11 Riegle, you asked to be heard.

12 Senator Riegle. Thank you, Mr. Chairman. I think as
13 long as we're building a record on this issue, there are some
14 other important facts that relate to it that everyone should
15 know that I think are important, including just to members of
16 the general public.

17 If you take our package as a whole, and particularly the
18 elimination to BTU tax, which is a starting point that we had,
19 getting rid of that alone helps seniors a great deal in my
20 view, in terms of what the impact would have been on them were
21 it in the bill.

22 So with the energy replacement item that we have I think
23 that has been something that moves in direction of helping
24 seniors particularly.

25 Also, the administration initially proposed increasing

1 the amount of social security benefits that could be taxed
2 from 50% to 85% for single filers whose adjusted gross income
3 was over 25,000, and joint tax payers was above 32,000.

4 Now, we had a sense of the Senate resolution on the
5 Senate floor to raise those up, and to raise them up to 32,000
6 and 40,000 for a couple, 32,00 for an individual. And that
7 was the Lautenbergxon sense of the Senate amendment. It
8 carried. There were at least two members of this committee on
9 that side of the aisle who voted for it, including the ranking
10 member.

11 And that is what we've done here. We've taken that sense
12 of the Senate resolution, we've made that adjustment, and now
13 according to the analysis, it's been done. As I understand
14 it, and correct me if I'm wrong, 75% of all the seniors in the
15 country who receive social security will be exempt from any
16 taxation of this provision.

17 The Chairman. Mr. Samuels, would you give us an answer
18 to that? I bet it's a correct answer. It's a correct
19 statement.

20 Mr. Samuels. Yes. As we understand it, 75%.

21 The Chairman. Thank you.

22 Mr. Samuels. Of the 20% of people that are now affected
23 and are paying tax, will not pay tax under this proposal. So
24 it's only 25% of the 20% of the people who are affected that
25 would --

1 Senator Riegle. I understand, too, just to again for the
2 sake of the record, and because I think we ought to have a
3 clear path that we've been down, that these old thresholds
4 which we're now adjusting upward here, have not been indexed
5 for inflation since the law went into affect in 1984. So
6 that, also, I think is an important thing to note.

7 We also did not take the money that would come from this
8 and credit it to general revenues, which the House did. They
9 just folded it in. We in fact credit that to the social
10 security fund, and of course, social security is not
11 contributing to the deficit in any event.

12 We credited it to the hospital insurance trust fund, and
13 I think that is sound policy. That keeps the money, in
14 effect, within the social security system. So this is not, in
15 a sense, you know, reaching out and sort of moving the money
16 into some other general category.

17 So do I wish that we didn't have to do it all? Yes, I
18 wish we didn't have to do it at all. But I think one of the
19 dilemmas that we face is precisely what happens with the
20 offsets. And you know, you have a series of five here.
21 They've not been described other than the one that Senator
22 Rockefeller and the Chairman and Senator Bradley have spoken
23 about.

24 But the difficulty is that, you know, I think you've got
25 offsets here that inflict real pain on other people. I think

1 that has to be noticed.

2 Senator Conrad. Mr Chairman?

3 The Chairman. Yes. Senator Conrad?

4 Senator Conrad. Might I inquire of the staff from
5 Treasury? Mr. Samuels, I'm not certain I understood your
6 answer to the previous question. My understanding is that 75%
7 of current social security recipients would pay nothing in
8 terms of the proposal to subject 85% of social security income
9 to tax over the threshold amounts. Is that correct?

10 When you were talking about --

11 Mr. Samuels. As I understand it, approximately 80% of
12 the social security recipients under current law are not
13 subject to any tax on their social security benefits.

14 Senator Conrad. 80% under current law have no part of
15 their social security subject to tax?

16 Mr. Samuels. Correct.

17 Senator Conrad. So 20% do?

18 Mr. Samuels. Right. And of that 20%, under this
19 proposal, as I understand it, 75% of those people will have no
20 change from current law.

21 Senator Conrad. Well, I mean, so now we're talking about
22 25% of 20%.

23 Mr. Samuels. Right. Correct.

24 Senator Conrad. So 5% -- only 5% of social security
25 recipients would experience any increase? Is that correct?

1 Mr. Samuels. That's what we understand it. Yes.

2 Senator Grassley. Do we know how many people we're
3 talking about? Number?

4 The Chairman. About one and a half million people.

5 Senator Conrad. Well, if I might inquire further, how
6 much money -- has Treasury done an estimate of how much money
7 a person would have to have accumulated in order to earn
8 \$40,000.00 before they were subject to any increase in their
9 social security tax? The amount of social security subject to
10 tax rather?

11 Mr. Samuels. We have not done that analysis. This
12 proposal that we're now discussing is in the Chairman's mark.
13 So we haven't.

14 Senator Conrad. Well, would it be fair to assume, in
15 your judgment, that if somebody had, say \$500,000.00, they're
16 retired, they're earning 8% on that, they have \$40,000.00 of
17 income, that that would be a pretty good ballpark guess of the
18 asses they'd have to have? Earning assets?

19 Mr. Samuels. Senator Conrad, I would agree with that,
20 especially in this interest rate environment. That would be a
21 very good return. Yes.

22 The Chairman. Thank you, Senator.

23 Senator Dole. Mr. Chairman?

24 The Chairman. Yes. Senator Conrad, I don't want to cut
25 you off. Is that your questions?

1 Senator Conrad. Well, I just want to make the point it
2 seems to me that the Senator's from Iowa's amendment goes in
3 just the one direction.

4 He's going to save people who have a half a million
5 dollars in earning assets, and he's going to take it from
6 people --

7 Senator Grassley. Senator Conrad?

8 Senator Conrad. -- or recipients of Medicaid.

9 The Chairman. That sounds pretty well. Senator Dole
10 asked to be heard. Then we'll have a last word from you, sir.
11 Senator Dole?

12 Senator Dole. Does anybody know how much seniors are
13 losing a month because of the lower interest rates, passbook
14 savings and other interest rates that dropped from 8% to 2% or
15 3%.

16 The Chairman. What they lose on their CDs, they pick up
17 on refinancing their mortgages.

18 Senator Dole. Well, if they have a home. But, you know,
19 I think that's something we should consider. Maybe it was
20 considered in the earlier discussions.

21 Because we're getting a lot of phone calls and letters
22 from people. You know, some people like lower interest rates,
23 but it's not senior citizens.

24 The Chairman. Not everybody.

25 Senator Dole. Where they have their life savings and

1 they've lost as much as \$100.00 or \$200.00 a month. That's a
2 great deal of money.

3 And secondly, as Senator Mitchell pointed out, the
4 difference between the BTU tax and how that helps seniors now
5 with a transportation tax. But I'd assume that there would
6 still be a conference on this bill, and if it's 24 billion, as
7 I said earlier, and 71 billion over there, it's probably going
8 to be somewhere in the middle.

9 Maybe you end up with a 50 or 48 billion dollar
10 energy tax. And there's no change in the -- there isn't any
11 two tier system in the House bill on social security, so it's
12 not going to be--what is it--32 and 40. I'd assume there
13 would be some change on that.

14 You know, normally that happens in conferences
15 unless the House disagrees to take the Senate bill, and
16 there's not a lot of precedent for that.

17 So I don't think we ought to be trying to make a record
18 as though this was the bill that's going to pass. I know it's
19 good to make a record when we talk about social security, and
20 we ought to add to that record that even though this money is
21 going to the HI fund, the reason we need it is because there's
22 going to be a lot of new spending programs out there that
23 don't affect seniors at all, and that's why we have to have
24 all this money.

25 If we're going to reduce the deficit, I'd be for it. In

1 fact, we froze colas in 1985. Didn't get a single -- got one
2 democrat vote on the floor as I recall. Not of that, but --
3 so I know how tough it is to face up to social security.

4 The Chairman. Let's set a backwards comment that he
5 died.

6 Senator Dole. Yeah. But not because of that. In any
7 event, it's a tough vote. If we're going to reduce the
8 deficit, I'd say great. But we're not going to reduce the
9 deficit, and I think that's one distinction I would make for
10 the record because I assume some of these records are going to
11 be played next year and the year after, and the year after
12 that.

13 The Chairman. Those are fair points. May I see I was
14 trying to make -- we do have a very preliminary study that
15 suggest seniors make enough use of normal borrowing practices
16 that the lower interest rates tend to offset, and no one seems
17 to know exactly, but it's a good question, Senator.

18 Senator, would you like to make one closing statement.

19 Senator Grassley. Yes. I ask for a number. This 5% or
20 whatever you're talking about. The evidently small number of
21 people. How many million people are we talking about here?

22 The Chairman. Gentlemen, please. Give us an answer.

23 Mr. Sessions. We believe there are 30 million social
24 security recipients. Five percent of that is a million and a
25 half.

1 The Chairman. That's a simple answer, and that's what
2 we're after.

3 Senator Grassley. So we're talking --

4 The Chairman. Senator, we have to go on.

5 Senator Grassley. But we are talking about a lot of
6 people when you get right down to it?

7 The Chairman. We're talking about a lot of people.

8 Senator Grassley. Secondly, for Senator Conrad's
9 benefit, what you described could be true for some people.
10 But you could also be talking about people that are working
11 and earning money, and may don't have -- saved anything and
12 want to work, or have to work, and you're talking about taxing
13 that.

14 I think, also for the benefit of Senator Bradley, I'm
15 talking about people that are making \$32,000.00 or \$40,000.00
16 a year, but not all Jack Kent Cooks. And secondly, when you
17 talk about the number that are being taxed today, you want to
18 remember that that number is going to go up automatically
19 because this figure of 32,000 or 40,000 is not indexed.

20 Remember 1983? We started out with 8% being taxed at the
21 50% level. Of that 50% level today, at 25 and 32 is taxing,
22 as you said, about 20% of the senior citizens. So this is
23 going to grow and grow until we index it. If you really want
24 to hit just higher income people, then you're going to have to
25 index it. Otherwise, you're eventually getting people that

1 are lower from year to year.

2 The Chairman. Senator, we thank you very much.

3 Receiving no further comments, the clerk will call the

4 role.

5 The Clerk. Mr. Baucus.

6 Senator Baucus. Nay.

7 The Clerk. Mr. Boren.

8 The Chairman. Nay by proxy.

9 The Clerk. Mr. Bradley.

10 Senator Bradley. Nay.

11 The Clerk. Mr. Mitchell.

12 The Chairman. Nay by proxy.

13 The Clerk. Mr. Pryor.

14 The Chairman. Nay by proxy.

15 The Clerk. Mr. Riegle.

16 Senator Riegle. Nay.

17 The Clerk. Mr. Rockefeller.

18 Senator Rockefeller. Nay.

19 The Clerk. Mr. Daschle.

20 Senator Daschle. Nay.

21 The Clerk. Mr. Breaux.

22 Senator Breaux. Nay.

23 The Clerk. Mr. Conrad.

24 Senator Conrad. Nay.

25 The Clerk. Mr. Packwood.

1 Senator Packwood. Aye.
2 The Clerk. Mr. Dole.
3 Senator Dole. Aye.
4 The Clerk. Mr. Roth.
5 Senator Roth. Aye.
6 The Clerk. Mr. Danforth.
7 Senator Danforth. Nay.
8 The Clerk. Chafee.
9 Senator Chafee. Nay.
10 The Clerk. Mr. Durenberger.
11 Senator Durenberger. No.
12 The Clerk. Mr. Grassley.
13 Senator Grassley. Aye.
14 The Clerk. Mr. Hatch.
15 Senator Hatch. Aye.
16 The Clerk. Mr. Wallop.
17 The Chairman. Aye by proxy.
18 The Clerk. Mr. Chairman.
19 The Chairman. Nay.
20 The Clerk. Mr. Chairman, there are 12 nays, 8 ayes.
21 The Chairman. Twelve nays, 8 ayes. The motion fails.
22 Senator Packwood?
23 Senator Packwood. Mr. Chairman, again I want to ask your
24 pledge of Senator Danforth because he has to leave for about
25 an hour, and he has two amendments. A fair amount on our side

1 are prepared to come back tomorrow, but if we're going on
2 tonight, -- I'm sorry. Do you want to do the count first?

3 The Chairman. Could I just say the Chair regrets. The
4 tally was 14 to 6.

5 Now, Senator Packwood.

6 Senator Packwood. Senator Danforth has to be going for
7 about an hour. He's has two amendments. I have some. Our
8 side, a fair number are willing to be here in the morning. We
9 just want to know if you were going to go on for the rest of
10 the night, so they can plan their schedule.

11 The Chairman. Yes. Would it be possible to awake -- the
12 majority leader is going to be here, and I'd like to let him
13 join in this discussion. Is that all right with you?

14 Senator Packwood. I'll offer the amendment then?

15 The Chairman. Yes. Yes.

16 Senator Danforth. Mr. Chairman, if we are going to not
17 be in tomorrow, can I -- will we be here an hour from then?

18 The Chairman. Yes.

19 Senator Danforth. I'm not going to take a long time
20 offering amendments.

21 The Chairman. Sure. Guaranteed. Senator Dole?

22 Senator Dole. Can we go ahead and vote out the bill
23 number? Get off of our --

24 The Chairman. Yes. The clerk will call the role.

25 Senator Dole. I think I want to know the outcome. I

1 just wanted to make sure.

2 Senator Packwood. I might mark that amendment on my win.

3 Senator Dole. Oh, really.

4 The Chairman. All right. Let's find out.

5 • Senator Packwood. All right.

6 It's on the moving expense caps. I now found the study I
7 was looking for. It's a Coopers and Lybrand study. Every
8 salary employees moving is \$45,000.00, reimburse expense is
9 15,000. This is average, and this is -- does not -- this is
10 average including people that do not own homes. If you own
11 homes, and the employer is picking up your expenses, the
12 average, because they buy the houses on occasion, is
13 \$42,500.00.

14 So I'm going to move to -- and it's not in the
15 President's proposal. It's not in the House bill. I'm going
16 to move --

17 The Chairman. Now, I want to have -- I want -- Senator
18 Packwood is entitled to be heard. We want to hear him.

19 Senator Packwood. It's a simple amendment. I'm going to
20 move to remove a \$10,000.00 cap because this is not one that
21 favors the rich. Most of the moves that are now made are made
22 at the employer's request, so we're going to ask people to
23 move, we're going to ask them to pay taxes above 10,000 when
24 the average cost is 15,000, and it's 42,500 if a house is
25 involved.

1 It would lower the revenue increases in the mark by 597
2 million over the five years. We have about a 3 billion
3 dollars excess over our mark, and I would deduct it from the 3
4 billion dollars.

5 Senator Conrad. Mr. Chairman?

6 The Chairman. Senator Conrad.

7 Senator Conrad. Why don't we just inquire -- I mean,
8 something does not strike me as being correct here. How can
9 the average mover, any kind of a move, cost \$42,000.00?

10 Senator Packwood. If you've got a house involved, the
11 employer says, "I want you to be in Singapore by July 1st.
12 I'll take care of the cost and housing, and selling your
13 housing. Just go."

14 And the employer takes it, holds it for a while and sells
15 it at a loss or sells it, but that it attributable to the
16 employee.

17 When we talk about moving, and you've got a housing --
18 and you may be able to sell your house for a gain, you may not
19 be able to sell it for a gain, but your employer is going to
20 take it over, it is \$15,000.00 average cost if the house is
21 not involved. Forty-two thousand if a house is involved.

22 There's a Coopers & Lybrand. It was done last year when
23 we were considering a \$5,000.00 cap. But the average cost
24 doesn't change. We were simply considering a \$5,000.00 cap
25 last year.

1 Senator Conrad. Well, I would just say to my colleague,
2 Senator Packwood, and my other colleagues, I find it hard to
3 believe that any moves cost \$42,000.00, or frankly, 15,000.

4 I moved to Washington after I was elected to the Senate.
5 It cost me \$2,000.00. Of course, I used a U-haul to do it.

6 The Chairman. Well, then we do have a study. Isn't that
7 the case.

8 Senator Packwood. Again, I'll read from the study. It's
9 Coopers & Lybrand. It's dated last year. It's an October
10 study. "Nationally, the average salary of employees moved is
11 about 45,000, and the reimbursed expense average around
12 15,000, including an average \$5,200.00 for just shipping
13 household goods, 1,400.00 for house hunting trip expenses,
14 3,000.00 for temporary living costs. Real estate purchase and
15 sale expense add many thousands more to the cost of moving
16 homeowners."

17 The Chairman. The Chair has to say with great respect
18 and regret that we are under budget instructions. If we
19 weren't under that command, the Senator's proposal would be
20 more than receptive to it, I think. But we've done things --
21 a lot of things we don't really like.

22 Senator Packwood. Yes. But our figures are, we're over
23 on revenues and under and under on outlays for the first of
24 year of 10.7. For the five years, the 23.8 over on revenues,
25 which is fine, and we're 26.8 -- I mean, under on revenues and

1 over on outlays. We have a 3 billion dollars surplus over the
2 five years, if my figures are right.

3 The Chairman. Your figures may be right, but we're
4 trying to reduce the deficit. With great promise and respect,
5 I just have to say that in my view, I don't know what the
6 others will say.

7 Senator Baucus. Mr. Chairman.

8 The Chairman. Yes.

9 Senator Baucus. I know this is new, you haven't given
10 much thought to this, but I'm a little bit reluctant to
11 eliminate the cap all together if I understand Senator's
12 amendment.

13 Also, that I agree with Senator Conrad. I mean, did the
14 Senator say \$42,000.00?

15 Senator Packwood. If it involves a homeowner.
16 \$15,000.00 average cost. A real estate purchase to sale
17 expenses add many more thousands to the cost of moving
18 homeowners.

19 Senator Baucus. Another questions that comes to my mind,
20 particularly if it's overseas move, which is probably more
21 expensive, I'm not familiar with most company's practices
22 here, but I would wonder if most companies reimburse employees
23 enough not only to cover the move, but also to pay the
24 additional taxes that that employer would have to pay because
25 he'd be receiving imputed income, the grievance that his

1 receiving payments above what the cap would be.

2 I'm just wondering what companies ordinarily do here.

3 Senator Packwood. On that I can't give you a statistic.

4 Senator Baucus. And I would guess that if I'm an
5 employee, you know, and my company asked me to move, in all
6 probability, the company itself would pay me enough to make me
7 whole.

8 The Chairman. I don't think we know enough about this
9 subject. Senator Daschle and then Senator Dole.

10 Senator Daschle. I guess that part of my concern is just
11 not really knowing whether or not we've got information upon
12 which to base a decision here. I think there's another
13 question, too.

14 If what Senator Packwood has proposed is accurate, I
15 think it has a lot of merit. The question is, does it have
16 enough merit relative to other concerns that have also been
17 presented to this committee? And if there is any overage, how
18 does it fair compared to some of the other concerns that we've
19 all had the opportunity to weigh very carefully.

20 And frankly, I think there are other concerns that fall
21 ahead of this one that ought to be considered, especially
22 having to do with small business. I would hope that we would
23 defer a decision on this one subject to consideration of these
24 other ones, and look to see what priority we give the other
25 outstanding questions.

1 The Chairman. Fine. I would like to say that we are
2 going to have time to tally up all of our counts. We're going
3 to be -- and when we go to the floor, we'll have some
4 knowledge if we in fact have some leeway, and if so do we want
5 to use it. And we'll know more about this measure. That
6 would be my thought.

7 Senator Dole. You wanted to --

8 Senator Dole. I think there is a real problem if you
9 move overseas. I think that that's where there is a problem,
10 and I don't have any solution, but maybe if someone could
11 address that between now and the time they go to the floor.

12 The Chairman. Will you do that Mr. Gutman? Well, I
13 guess Mr. Samuels. The overseas matter that we need to know.

14 Mr. Gutman. Yes.

15 The Chairman. Senator Conrad.

16 Senator Conrad. Mr. Chairman, the staff just provided me
17 from a 1991 Statistics of Income the actual deductions that
18 appeared on tax returns for business for people that moved.
19 Three and a half billion of deductions on 803 returns for an
20 average of \$44,000.00.

21 Now, the Coopers and Lybrand study was done for a
22 specific purpose to justify a certain position on behalf of
23 certain clients that they had. Frankly, I think before we
24 reach conclusion on things, we ought to have a chance to
25 really scrub these numbers.

1 The Chairman. That's why I need a tax commissioner on
2 the committee. Senator Packwood. Senator Chafee.

3 Senator Chafee. No. I've got another amendment.

4 The Chairman. Well, let's get this amendment first. I
5 think we'd like to vote on it.

6 Senator Chafee. All right.

7 The Chairman. Senator Packwood, would you like to have a
8 vote, or would you like to take this up on the floor?

9 Senator Packwood. No. I think I'd like to have a vote.

10 The Chairman. All right, sir. The clerk will call the
11 role.

12 The Clerk. Mr. Baucus.

13 Senator Baucus. Nay.

14 The Clerk. Mr. Boren.

15 The Chairman. Nay by proxy.

16 The Clerk. Mr. Bradley.

17 Senator Bradley. Nay.

18 The Clerk. Mr. Mitchell.

19 The Chairman. Nay by proxy.

20 The Clerk. Mr. Pryor.

21 Senator Pryor. Nay.

22 The Clerk. Mr. Riegle.

23 Senator Riegle. Nay.

24 The Clerk. Mr. Rockefeller.

25 Senator Rockefeller. Nay.

1 The Clerk. Mr. Daschle.
2 Senator Daschle. Nay.
3 The Clerk. Breaux.
4 Senator Breaux. Nay.
5 The Clerk. Mr. Conrad.
6 Senator Conrad. Nay.
7 The Clerk. Mr. Packwood.
8 Senator Packwood. Aye.
9 The Clerk. Mr. Dole.
10 Senator Dole. Aye.
11 The Clerk. Mr. Roth.
12 Senator Roth. Aye.
13 The Clerk. Mr. Danforth.
14 Senator Danforth. Aye.
15 The Clerk. Mr. Chafee.
16 Senator Chafee. Aye.
17 The Clerk. Mr. Durenberger.
18 The Chairman. Aye by proxy.
19 The Clerk. Mr. Grassley.
20 The Grassley. Aye.
21 The Clerk. Mr. Hatch.
22 Senator Hatch. Aye.
23 The Clerk. Mr. Wallop.
24 Senator Wallop. Aye.
25 The Clerk. Mr. Chairman.

1 The Chairman. Nay.

2 The Clerk. The votes are 11 nays, --

3 The Chairman. The vote is 11 nays, 9 ayes.

4 Now, we'd like to, if we can interrupt just one minute,
5 as I said, we have Senator Bradley and Pryor have worked the
6 details of the proposals with respect to Section 936, which
7 we'd like to just get recorded here.

8 Mr. Gutman, would you like to begin?

9 Mr. Gutman. Thank you, Mr. Chairman. I'm making
10 reference now to page 53 of your mark up document. I had
11 earlier described in general how the cut back of the existing
12 possessions credit would be done. Let me now provide you with
13 the specifics.

14 Under the first alternative limitation, in general, when
15 some of you phased in, the 936 credit allowed you to a
16 possession corporation would be limited to 40% of the amount
17 allowable under current law. But there would be a transition
18 rule under which the applicable percentage would move in 5%
19 points from 1994 to 1998, 60, 55; 50, 45; and then 40% in 1998
20 and thereafter. That is the first alternative.

21 Under the second alternative, the credit that would be
22 allowed to a possession corporation could not exceed the sum
23 of three components, and the three components are listed at
24 page 53. The numbers would be 95% qualified possession
25 compensation, then there is an applicable percentage of

1 depreciation deductions, and that would vary according to the
2 class life of the property as to which depreciation was being
3 taken.

4 And then, third, if the corporation did not elect the
5 profit split method for allocating its income from intangible
6 assets, it would be permitted an additional component equal to
7 taxes paid to Puerto Rico, subject to a cap.

8 The other item that has been fully filled in is at page
9 54 of the mark up document, the second paragraph at the top of
10 the page involving the limitation on the cover over of Rome
11 excise taxes, and that would be an amount from \$10.50 for
12 proof gallon to \$11.30 for proof gallon for five years.

13 The Chairman. Thank you. Senator Pryor. Senator
14 Bradley.

15 Mr. Pryor. Mr. Chairman, thank you. I appreciate your
16 cooperation, Mr. Chairman, and that of the staff. Also, with
17 Senator Bradley and his staff we've been working throughout
18 the last day or two on trying to strike some compromise.

19 Under the present situation, I will not go into a lot of
20 history, Mr. Chairman and colleagues, under current law, I
21 should say, the 936 program is costing the American taxpayers
22 about 15 billion dollars. That is no secret.

23 Under this proposal that we are coming forward with
24 today, we're going to be saving about 3.8 billion. It will
25 still be a costly program, but we're going to start down the

1 road to what I think is some degree of fair play or fairer
2 play, by beginning to change the direct investment -- to a
3 direct investment in a wage based concept in Puerto Rico for
4 American companies, and moving away from an income based
5 credit for companies which they now--I want to say now--employ
6 and enjoy, I would say.

7 We're moving this beginning in 60%, and I want Senator
8 Bradley to correct me if I'm not correct, in 1994, and phasing
9 into 40% by 1998 and after. And we think this is a very, very
10 good step in the right direction, and I support it.

11 And we still will retain the savings of the 3.8. That
12 figure will not change.

13 The Chairman. That figure will not change.

14 Senator Pryor. We have made the percentage of 60% down
15 to the 40% in 1988 to come out to the 3.8 in savings.
16 Frankly, I wanted more in savings. I did not get that, but I
17 know in the spirit of compromise, I have agreed to this.

18 And I want once again thank you, Mr. Chairman and my
19 colleagues and friend, Senator Bradley.

20 The Chairman. Thank you, Senator Pryor. Senator
21 Bradley.

22 Senator Bradley. Mr. Chairman, this is acceptable to me,
23 and I certainly want to thank Senator Pryor for his openness,
24 and thank you, Mr. Chairman, for your openness. This is an
25 important issue, and I think this is a satisfactory

1 resolution.

2 The Chairman. I can only speak my admiration for the
3 combined combination you came up with.

4 Mr. Riegle, you've been much interested.

5 Senator Riegle. Thank you, Mr. Chairman. I want to
6 commend both Senators Pryor and Bradley for coming together on
7 this. I think this is a good, solid, balanced approach. I
8 think it's good for Puerto Rico. I think it will avoid a lot
9 of economic disruption and difficulty.

10 The unemployment rate down there is very high in this
11 country. It's at 18% down there. So I think this will avoid
12 dramatic economic repercussions, and I think there are many
13 reasons why that's a good goal to accomplish.

14 And so I'm pleased to be part of it, and I commend my
15 colleagues.

16 The Chairman. Thank you, all.

17 Senator Chafee. Mr. Chairman?

18 The Chairman. Could i just say that what we earlier
19 stated was that these details would be agreed to before we --
20 and in fact, included in the final package, when we vote in
21 the final package. So they have just now been included.

22 Is that right, Mr. Gutman.

23 Mr. Gutman. That's correct.

24 The Chairman. Thank you. Senator Chafee.

25 Senator Chafee. Well, Mr. Chairman, I find this a very

1 in house operation here in that I've been interested in 936,
2 and I know that it's been a target of Senator Pryor's for many
3 years.

4 And now some kind of an agreement has been reached that I
5 don't know whether is good, bad or indifferent, and I think it
6 just illustrates the difficulties of bringing us in here at
7 the last minute. Your group of 11 is all organized, and we
8 have no knowledge about these things, and I don't even know
9 what this thing does.

10 I just -- I don't think it contributes to the feeling
11 that there's been total fair play here.

12 The Chairman. Well, I don't have any disagreement with
13 you. I think the decision was made earlier, and I think when
14 we get past this, we'll be back to our old selves again at no
15 time at all.

16 I thought you had an amendment that you wanted to offer?

17 Senator Chafee. I do have an amendment, and it's on
18 there.

19 The Chairman. Well, yes. I understand. Let me explain,
20 it's that these details would be included in the proposal to
21 be voted on the final.

22 Senator Grassley. Mr. Chairman?

23 The Chairman. Senator Chafee.

24 Senator Chafee. All right. I have an amendment that I
25 hope is acceptable, and if you'll go to page 4 of your little

1 sheet, then --

2 The Chairman. Of our cost sheet?

3 Senator Chafee. No. Of this summary of the estimated
4 budget of tax.

5 The Chairman. JCX993?

6 Senator Chafee. You go to E, luxury tax, --

7 The Chairman. Luxury tax.

8 Senator Chafee. -- and you go to one --

9 The Chairman. One.

10 Senator Chafee. And "A" leads you to the secret. Repeal
11 luxury excise tax on boats.

12 Mr. Chairman, as you know over many years, --

13 The Chairman. Don't stop there. There's something
14 called aircrafts next.

15 Senator Chafee. I've got a specialty. As you recall in
16 your predecessor when we were dealing with this issue, and
17 many, many times we talked about "when's it going to be
18 retroactive to?"

19 Senator Dole. Right.

20 Senator Chafee. And the date was January 1st, 1992.

21 Senator Roth. '92. Yes.

22 Senator Chafee. '92. And however, on this, it goes to
23 January 1993. In the boat shows, and in the dealings with
24 customers, what few customers there were, that was always the
25 pledge, that rightfully or wrongfully they made it based on

1 the statements that were made here on the committee.

2 To go back to January 1st, '92, it cost 14 million
3 dollars.

4 The Chairman. Fourteen million dollars?

5 Senator Chafee. Right.

6 The Chairman. That does suggest that sales weren't what
7 they might have been.

8 Senator Chafee. And I hope you'd accept that.

9 The Chairman. January '92? No. I can't say I remember.
10 You're representing that Senator Bentsen --

11 Senator Chafee. It wasn't you.

12 The Chairman. Senator Bentsen had said it would be
13 January 1.

14 Senator Chafee. And indeed we did have it.

15 The Chairman. In the HR Act.

16 Senator Chafee. In the various bills that we passed
17 through here.

18 The Chairman. Right.

19 Senator Breaux. Mr. Chairman?

20 The Chairman. Senator Breaux.

21 Senator Breaux. Mr. Chairman, I would support his
22 amendment as suggestion, and also, Senator Mitchell would
23 support it because we just asked him about it.

24 There's a real sense of equity in this thing. Number
25 one, in the hearings last year, both the Chairman of our

1 committee at that time and Senator Mitchell, all to spoke to
2 the fact that it should be retroactive to January 1, '92. But
3 that's not the real reason.

4 The real reason is that all the industry that is paying
5 for the repeal of the luxury tax on furs, jewelry, airplanes
6 and aircraft, is the boat industry.

7 I offered the offset, which was to make them pay the 20
8 cent a gallon diesel fuel, which they were exempt from
9 currently. They were the only ones that put up a nickel to
10 have the whole thing paid for. And that 20 cent tax that all
11 the boat people are paying is being used to reduce the luxury
12 tax to everybody else.

13 The Chairman. I think that is the fact.

14 Senator Breaux. So that's a big equity argument.

15 The Chairman. I think that is the fact. There's a
16 question of equity here.

17 Senator Bradley. Are those the actual numbers, Mr.
18 Chairman?

19 The Chairman. Sir?

20 Senator Bradley. Are those the actual numbers?

21 The Chairman. I have to ask Mr. Gutman if he could -- do
22 we have a 14 million dollar item involved here?

23 Mr. Gutman. The number is a 14 million dollar number.
24 That is correct, Mr. Chairman.

25 The Chairman. Fourteen million?

1 Mr. Gutman. Fourteen million.

2 Senator Daschle. Mr. Chairman, I have a question.

3 The Chairman. Yes. Senator Daschle and then Senator
4 Rockefeller.

5 Senator Daschle. The effective date in the
6 reconciliation document is what?

7 The Chairman. January 1, 1993.

8 Senator Daschle. So we're going back to January 1, of
9 '92?

10 The Chairman. We would be going to back to the date that
11 was in HR11.

12 Senator Daschle. So these are all people that have
13 already purchased whatever they're going to purchase. Is that
14 correct?

15 The Chairman. But with some representation.

16 Senator Daschle. They purchased it, so the effect of
17 this, -- I'm trying to understand the -- they got a refund --
18 how that works. Who would benefit from this? These people
19 who purchased this would get a check?

20 Senator Chafee. The way it actually has worked is that
21 in practicality, the industry's paid it. The boat builders
22 paid it. They sell the boat. They have paid the tax that,
23 instead of having charged it to the customer, figuring that
24 this thing some day was going to be retroactive of -- step of
25 faith.

1 Senator Breaux. But would also work the same way as if
2 it was effective 1/1/93 because you'd have of January,
3 February, March, April.

4 Senator Daschle. I guess it's just a matter of how many
5 more people -- but -- but -- so the people between '92 and
6 '93, are the ones that the Senator is concerned about it. As
7 I understand it, they would get check? Is that --

8 Senator Breaux. Yes. But as I pointed out, -- and
9 that's a very good question. But as I pointed out, in their
10 eagerness to sell the boats, the boat builders have themselves
11 absorbed the tax. This means the checks would go to the
12 builders who have absorbed it, rather than to the --

13 Senator Daschle. But how would you determine that?

14 Senator Chafee. That's the problem of the question that
15 can be determined. Just like we're going to determine going
16 back to January 1993.

17 Senator Daschle. So who actually makes that? I mean, is
18 it the IRS who makes that determination?

19 Senator Chafee. Well, the Treasury. The individuals
20 will file for a refund, and Treasury will determine whether
21 indeed they -- they can trace it pretty easily because there
22 are not that many boats sold over \$100,000.00.

23 Just the same problem that we face going back to January
24 1, '93, we would face going back to January 1, '92. There's
25 no difference.

1 Senator Daschle. The senator has made a very compelling
2 argument over the years, and I've heard it many, many times
3 about how this affects unemployment, and how if we're really
4 concerned about employment, we needed to be concerned about
5 this tax and its affect prospectively on employment.

6 I don't know how this -- sending a check to some guy who
7 bought a boat in 1992 is going to help us much with
8 employment? Number one and number two, I find it especially
9 ironic, I guess, that the Senator from Rhode Island who has
10 expressed so much concern over the years about a 6 million
11 dollar honey program, would not express the same concern about
12 a 14 million dollar luxury tax rebate to guys who bought boats
13 two years ago.

14 And so I've got some concern about that, and I guess he's
15 answered my question. Thank you, Mr. Chairman.

16 The Chairman. Senator Rockefeller?

17 Senator Rockefeller. I'm trying to phase this more
18 elegantly, but I think this is a joke. I take it the Senator
19 is not including jewelry, furs, diamonds, foreign cars?

20 Senator Dole. Airplanes.

21 Senator Rockefeller. Airplanes? This is just boats?
22 Just boats. And so here we're reducing the deficit, as I
23 understand it, with pain to be administered? Hospitals,
24 doctors, people, programs, new taxes, and we're going to go
25 retroactive on boats that cost more than \$100,000.00, which is

1 luxury?

2 Senator Chafee. You've already done that. You've
3 already, in your own bill, that you've approved.

4 Senator Rockefeller. But not retroactively?

5 Senator Chafee. Sure you have.

6 Senator Rockefeller. This is 1993 that we're in now.
7 Well, HR11 was vetoed. This is a new year.

8 Senator Chafee. I don't want to press you too hard on
9 this because I'm afraid you'll make the whole thing
10 prospective, but --

11 (Laughter)

12 Senator Rockefeller. It's not a bad idea. You want to
13 go for 1995?

14 Senator Chafee. I've got a good one for you to vote on
15 in a little while.

16 Senator Rockefeller. Okay. Mr. Chairman, I don't think
17 this amendment -- I have enormous respect for Senator from
18 Rhode Island, but I don't think --

19 The Chairman. I think we're pressing time for this, and
20 we'll find a way to get to it Senator.

21 Senator Rockefeller. I think is not quite --

22 The Chairman. We'll find a way to get to it Senator.
23 Could you have -- do you my undertaking in that? And I do
24 note, not without certain measure of relief, that there is a
25 vote on. So we all get up and have a 7th inning stretch here.

1 Our distinguished recorder obviously agrees.

2 (Pause)

3 The Chairman. The bill is open to amendment.

4 (No Response)

5 The Chairman. We're going to go for the gold tonight.

6 We might make it.

7 Secretary, is there anything you'd like to say?

8 Mr. Samuels. No, sir. We have no amendments to offer.

9 (Laughter)

10 The Chairman. If anybody would like to know what we're
11 up against in the whole question of health care spending the
12 Congressional budget office estimates for the growth in
13 Medicare in the next six years, five years of our proposal,
14 are at 149 billion dollars this year, and will be at 262
15 billion in 1998.

16 That's a 76% growth in a five year period, clearly
17 doubling every ten -- doubling every seven years, which is the
18 workings of Balmos disease combined with technology.

19 (Pause)

20 The Chairman. The bill is open to amendment.

21 Mr. Moffitt, our distinguished record, do you have any
22 thoughts on the matter?

23 (Whereupon, the hearing went off the record and was
24 resumed back on the record shortly thereafter.)

25

(AFTER RECESS)

7:34 p.m.

The Chairman. Senator Packwood has returned from a meeting of the Republican Leadership. He suggested that the following procedure, which is that he will have very shortly now, a list of amendments, some 12 or thereabouts, which he would like to see have brought -- that they be brought up tomorrow morning, and the meeting will begin at 9:30, if that's agreeable to Senator Packwood.

That there will be a 10 minute limitation on each amendment, and at the end of the amendment, there will be a vote on final passage, and there will be no -- we won't let any procedural matters go between us and getting to a vote on final passage.

Senator Packwood. I told Pat also, we have 10 or 12, my hunch is if the first three or four get defeated serially, there may not be 12. But I will present a list to the staff tonight. If all the Republican staff members could meet in the back room. There's a couple of senators we haven't been able to contact, just to make sure we haven't gotten them -- we missed.

And then we'll present the list to your staff, and that will be the list of amendments.

The Chairman. Fine. Now, would you -- will you stay in session until you can get that list? Or we can just go out on

1 that basis?

2 Senator Packwood. Well, I don't think there's any point
3 in everybody waiting around here. They might want a nights
4 sleep.

5 The Chairman. No. No. Government doesn't sleep.

6 (Laughter)

7 The Chairman. It's contribution -- he's going to make
8 a -- there's a record coming out.

9 Senator Packwood. No. Except for those who may want to
10 stay around to see what the list of amendments is.

11 The Chairman. Fine.

12 In that case, the committee will stand in recess until
13 9:30 in the morning. A list of amendments will be available
14 shortly, for those who wish to know.

15 Thank you, all. Thank you, Mr. Moffitt. Thank you, all.

16 (Whereupon, at 7:36 p.m., the meeting was recessed to
17 reconvene at 9:30 a.m. on Friday, June 18, 1993.)

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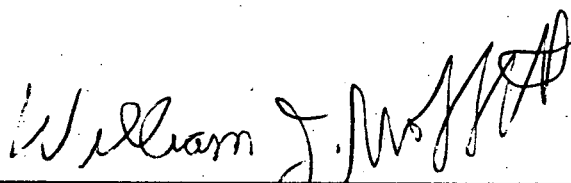
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C E R T I F I C A T E

This is to certify that the foregoing proceedings of an Executive Committee Meeting, Part 1, held before the Committee on Finance, on Thursday, June 17, 1993, were held as herein appears and that this is the original transcript thereof.



WILLIAM J. MOFFITT
Official Court Reporter

My Commission expires April 14, 1994.



United States
Department of
Agriculture

Forest
Service

Pacific
Northwest
Research
Station

Forestry Sciences Laboratory
1221 SW. Yamhill Street
P.O. Box 3890
Portland, Oregon 97208

Reply To: 4000

Date: October 14, 1992

Honorable Robert Packwood
101 SW Main
Suite 240
Portland, OR 97204

Dear Senator Packwood:

In response to your question regarding the input of higher log export prices on export volumes, I found (based on some recent research by Don Flora at our Seattle Lab) that a 5-percent change in log export prices leads to a 1.6-percent change in log export volumes. If for example, we were able to increase the prices of log exports by 5 percent than we would potentially divert 1.6-percent of the log export volume to the domestic market. If we assume the log export volume to be 3 billion board feet this would amount to 48 million board feet that could be diverted to the domestic market (enough to run 1 or 2 sawmills for a year). If we assume a gross increase of five jobs per million board feet for domestic processing than the employment impact is 240 direct (mill) jobs. There would also be the loss of roughly 50 jobs at the various ports for a net change in total direct employment of 190 jobs. At the current division of log exports between Washington and Oregon, about 25 percent of these jobs would be in Oregon.

This is a fairly quick answer to your question but it is based on the best information available. If you wish we can provide a more detailed analysis but the basic thrust of the answer would not change. Please let me know if you would like further information.

In summary, a 5 percent increase in log export prices would reduce log export volumes by 1.6 percent. At recent export levels that would amount to roughly 12 million board feet (47 jobs) being diverted from log exports markets to domestic mills in Oregon.

Sincerely,

RICHARD W. HAYNES
Program Manager
Social and Economic Values

cc:

D. Flora
F. Stormer
D. Darr:W01C
M. Reimers:W01C

