

1 EXECUTIVE COMMITTEE MEETING

2 THURSDAY, JUNE 19, 1997

3 U.S. Senate,

4 Committee on Finance,

5 Washington, DC.



6 The meeting was convened, pursuant to notice, at
7 10:25 a.m., in room SH-216, Hart Senate Office Building,
8 Hon. William V. Roth, Jr. (Chairman of the Committee)
9 presiding.

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10 Also present: Senators Chafee, Grassley, Hatch,
11 D'Amato, Murkowski, Nickles, Gramm, Lott, Jeffords, Mack,
12 Moynihan, Baucus, Rockefeller, Breaux, Conrad, Graham,
13 Moseley-Braun, Bryan and Kerrey.

14 Also present: Lindy L. Paull, Staff Director and
15 Chief Counsel; Mark A. Patterson, Minority Staff Director
16 and Chief Counsel.

17 Also present: Donald Lubick, Assistant Secretary for
18 Tax Policy, Department of Treasury; Ken Kies, Staff
19 Director, Joint Committee on Taxation; Mark Prater, Chief
20 Tax Counsel.

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1 OPENING STATEMENT OF THE HON. WILLIAM V. ROTH, JR., A
2 U.S. SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON
3 FINANCE
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5 The Chairman. The committee will please be in
6 order.

7 Well, today we start once more on the path of mark-
8 up. We will follow the schedule today that we followed
9 pretty much on the first day of spending.

10 We will start with opening statements. Each member
11 will be permitted to speak for three minutes.

12 Afterwards, we will have a walk-through on the tax relief
13 package. Questions will only be permitted at that time,
14 no amendments.

15 When we finish the walk-through we will have a
16 luncheon break, and again return at 2:15. The 2:15
17 meeting will be for members only and it will be across
18 the hall, as we met before.

19 I do want to announce to the committee that it is the
20 Chairman's intent to complete the mark-up, irrespective
21 of what time it takes tonight. So, I sincerely hope that
22 is an incentive to keep the amendments to an irreducible
23 minimum.

24 Yesterday's unanimous vote on the health and welfare
25 package, I think, demonstrated the power of

1 bipartisanship. I believe that it signaled there is a
2 new consensus emerging, a consensus that sets aside
3 politics in a genuine effort to address pressing
4 challenges and to create an environment of growth and
5 opportunity for Americans.

6 Today as we turn our attention to tax relief, it is
7 my sincere hope that this consensus becomes even more
8 defined as Americans realize that Congress is focused on
9 matters of utmost importance to them.

10 At issue today is the awesome tax burden Americans
11 bear, a burden that has them paying more in taxes than
12 they do for food, clothing and shelter combined. As this
13 special report points out, a typical American family pays
14 over 40 percent of income in taxes.

15 The importance of this issue is understood on both
16 sides of the aisle, and I do appreciate the spirit of
17 bipartisanship that has prevailed as we have crafted this
18 tax relief package.

19 We have taken the recommendations and concerns of
20 each member of this committee, and of our colleagues
21 outside of the committee, and we have put together a
22 series of revenue provisions that are workable,
23 provisions that will go a long ways towards offering
24 relief, especially to America's overburdened middle
25 class.

1 As with any bipartisan effort, not everyone will be
2 fully satisfied with this proposal. For my part, I would
3 like to see greater tax relief. I consider this the
4 first in a series of steps that I hope will lead to
5 deeper tax cuts and eventual long-term reform.

6 But this bipartisan effort signals an important
7 beginning, one which is built upon a foundation of
8 principles we share, whether we be Republican or
9 Democrat. Eighty-two percent of this tax relief is made
10 up by our family tax cut and education assistance,
11 priorities that we all share. It represents the biggest
12 tax cut in 16 years and, as I have said, is focused on
13 middle income families.

14 It contains important provisions for education
15 assistance. It gives middle class families a \$500 per
16 child tax credit. It will boost our Nation's savings
17 rate, while helping families prepare for their futures
18 through an expansion of Individual Retirement Accounts.

19 For the first time, homemakers will be able to save
20 up to \$2,000 annually in an IRA, regardless of their
21 spouse's participation in an employer pension plan.

22 This tax relief package also creates a new deductible
23 IRA-Plus account. It lowers the capital gains tax and it
24 provides relief from death taxes.

25 These are not only investments in our youth, in our

1 families, and in our economy, they are investments in
2 America, investments in our future, and that is what this
3 tax relief package is all about, the future.

4 Again, I appreciate the support I have received from
5 all of the members of this committee. As I have said, we
6 have combined the best ideas from both sides of the
7 aisle, from both ends of Pennsylvania Avenue, and I look
8 forward to the spirit of cooperation we saw yesterday as
9 I also look forward to President Clinton's signature on
10 this important tax relief package.

11 Senator Moynihan?

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1 OPENING STATEMENT OF THE HON. DANIEL PATRICK MOYNIHAN, A
2 U.S. SENATOR FROM NEW YORK

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4 Senator Moynihan. Thank you, Mr. Chairman.

5 Once again, I think we ought to acknowledge the
6 extraordinary spirit of cooperation and consensus that
7 you brought to these proceedings that resulted in that
8 unanimous agreement yesterday.

9 You speak, sir, of an emerging consensus. I think I
10 could perhaps put it somewhat differently. There is an
11 emerging consensus on our side of the aisle that you are,
12 in fact, a Majority now. [Laughter] It has taken some
13 time.

14 Senator Gramm. That is progress.

15 Senator Moynihan. It has taken some time and there
16 has been a change of party. We recognize that, and that
17 imposes certain realities that we would like to live
18 with. But also there are principles on which we will
19 continue to insist as far as we can, and with as little
20 acrimony as we can.

21 You do know that there are those of us on this side,
22 not all, who voted against the Budget Agreement, as it
23 was called, as reached between the administration and the
24 Republican leaders. Our feeling was that this was no
25 time for a tax cut, that this was a time to finish the

1 work we began in 1993 to bring us to a balanced budget.

2 You point out, sir, that we have here the largest tax
3 cut since in 16 years, and basically the only one. In
4 1981, the national debt was just under \$1 trillion.
5 Following that 1981 tax cut, it grew inexorably until,
6 just yesterday, we agreed to raise the debt ceiling to
7 just under \$5 trillion.

8 In the aftermath of the effort we made in 1993, we
9 now have a primary surplus. Our outlays on program are
10 fewer than our revenues, and the difference is the
11 interest on the debt.

12 There are those of us who would have wished we could
13 have continued to the point where we have a balanced
14 budget. And we could have done that in a number of ways,
15 not in the least the cost of living index changed, but we
16 did not. So we will offer restraint in these
17 conversations.

18 One final point which I think we can all agree on.
19 We owe it to that future that you are concerned with, Mr.
20 Chairman, that the out-year costs of these tax reductions
21 do not explode. I mean, we really have to be careful and
22 honest about that. It is so easy to take a seemingly
23 small step, modest measure, which in 20 years' time will
24 be eating you alive. We have been through that
25 experience from 1981 to now; let us not repeat it today.

1 But again, sir, we begin in good spirits and with
2 great appreciation for the manner in which you have
3 conducted these proceedings so far.

4 The Chairman. Thank you, Senator Moynihan.
5 Senator Chafee?

6 Senator Chafee. I do not have a statement, Mr.
7 Chairman. I have not been an enthusiastic tax-cutter.
8 But let us see how things go along here. I appreciate
9 the leadership you are giving.

10 The Chairman. Thank you.
11 Senator Baucus?

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1 OPENING STATEMENT OF THE HON. MAX BAUCUS, A U.S. SENATOR
2 FROM MONTANA

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4 Senator Baucus. Thank you, Mr. Chairman. I would
5 like to echo the statement of the Ranking Member,
6 particularly with respect to your wonderful effort to be
7 very patient and very fair with all members of this
8 committee.

9 I just contrast it, frankly, with the comparable
10 committee in the other body, where the Minority was not
11 offered near the same fairness, the same cooperation, the
12 same sense of compromise as you have given us. The
13 contrast could not be greater or better noticed than in
14 what you have done, and we very much appreciate your
15 being very fair with both sides.

16 Two major points, Mr. Chairman. One, is I, too, am a
17 bit concerned with the out-years, the second 5 years, as
18 well as the amount of the tax cuts beyond, that is, the
19 10 years upcoming.

20 We should not write a tax bill which looks good at
21 first and helps us in the present, but which saddles
22 future Congresses and future generations with such huge
23 tax cuts that it would be very difficult for future
24 Congresses in the next 5 years, the next 10 years, to
25 deal with the problems that we are creating for them.

1 Second, I will also be looking at the distribution
2 tables. And there are various stages here. Obviously
3 there will be the Senate Finance Committee bill, then
4 there will be the bill that passes the floor, is one that
5 is fair to all taxpayers and all income brackets. We
6 have an obligation to do that.

7 Third, Mr. Chairman, just very briefly, I want to
8 thank you for some of the small business provisions that
9 you have included in your mark. Many of us talk about
10 small business being the backbone of America. Sometimes
11 the most trite things are the most true. The stronger
12 small business is in America, the stronger America will
13 be, it is that clear.

14 At the top of my priority for small business is
15 reduction in the Federal estate tax for family-owned
16 businesses. You included some of those provisions in
17 your mark, and I very much appreciate what you have done.

18 I am very pleased that we are able to include,
19 frankly, the provisions with respect to family-owned
20 businesses, because they are the ones that truly are the
21 backbone of our communities.

22 Another small business provision that is important to
23 me is the restoration of the home office deduction. As
24 we know, it is in the House bill. The Supreme Court has
25 limited the availability of the home office deduction,

1 and I think the Supreme Court went much too far. At the
2 appropriate time I will offer a provision to restore the
3 home office deduction comparable to that in the House
4 bill.

5 Finally, I want to thank you for addressing the
6 electronic filing of payroll taxes. Many small
7 businesses want some delay to give them time to comply.
8 I appreciate the provision in the bill that is included
9 along those lines. I wish they had been a bit broader,
10 but I understand the revenue constraints that that
11 presents.

12 But, in the main, I just wanted to say thank you, Mr.
13 Chairman, for all of the effort that you have undertaken,
14 and I hope we can address the measures that I have
15 outlined.

16 Thank you.

17 The Chairman. Thank you, Senator Baucus.

18 Senator Grassley?

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1 OPENING STATEMENT OF THE HON. CHARLES E. GRASSLEY, A U.S.
2 SENATOR FROM IOWA

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4 Senator Grassley. Mr. Chairman, you are to be
5 congratulated on delivering this mark. I know that the
6 tight reconciliation instructions have made your task
7 very daunting.

8 But if there was one thing that describes your
9 leadership better than anything else, it would be the
10 compliments that I heard like, is Chairman Roth not fair,
11 and he not doing a good job of leading this committee?
12 Those are the things that you hear outside of the formal
13 organizations, and I think you ought to be happy and
14 proud of the way people see your leadership.

15 I say that even though I do not agree with you all
16 the time, and I am probably giving you as hard a time as
17 anybody has given you. So, I appreciate that very much.

18 There are a number of provisions in this bill that I
19 like, and I thank you for those. I suppose, if I were
20 writing the bill, it would be different. So there are
21 some issues that I do not embrace entirely. And, as
22 everybody else on this committee has some amendments in
23 mind, I do as well.

24 I am most happy, although it is probably a very
25 obscure provision of the bill, that you included our

1 legislation to repeal the unauthorized IRS expansion of
2 the AMT for farmers. By my count, we had 63 sponsors of
3 this bill, including 11 on this committee. It may be the
4 most broadly co-sponsored legislative bill in the Senate.
5 It would have been my dream amendment to your mark, but,
6 thanks to your including it, I do not have to do that.

7 I would also like to ask Mr. Kies why the same
8 legislation had only negligible revenue effect in the
9 last Congress, and presumably in this mark it is an \$800
10 million figure. That is an 800 percent margin of error
11 that you had from last fall. But, anyway, we will talk
12 about that.

13 I guess in regard to that it sometimes bothers me
14 that we have got some sort of revenue offset rule around
15 here that some obscure district court judge in the
16 hinterland of America can say that the IRS can interpret
17 the Revenue Code in a way where farmers had been honestly
18 filing their income tax for 16 years in a legal way, then
19 all of a sudden this judge rules and a farmer has got to
20 pay more income tax.

21 Then we tell IRS that they are crazy, and we change
22 it, but we have got to find a revenue offset of \$800
23 million. I mean, that is a stupid way, for some judge to
24 put that responsibility on this Congress. I think
25 somebody that needs to be looked at, because what was

1 done honestly and above board by every farmer in America
2 now causes a problem, so we have to have an \$800 million
3 offset. That is a crazy way to run tax estimation, I
4 guess.

5 I also want to compliment the Chairman for including
6 Senator Moseley-Braun's and my amendment that we have
7 been working on in a couple of Congresses to re-establish
8 the student loan deduction. I like the cuts in estate
9 taxes and capital gains. These are very vital to small
10 business in agricultural America. It would be better if
11 more revenue were dedicated to both, and hopefully we can
12 improve this.

13 I like the income tax deduction for student loans as
14 well, and I just very definitely think you put together a
15 pretty good bill, Mr. Chairman.

16 The Chairman. Thank you very much, Senator
17 Grassley.

18 Senator Rockefeller?

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1 OPENING STATEMENT OF THE HON. JOHN D. ROCKEFELLER IV, A
2 U.S. SENATOR FROM WEST VIRGINIA

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4 Senator Rockefeller. Mr. Chairman, I had not
5 actually, per my usual custom, been planning on saying
6 anything. But I would feel disloyal to you if I did not,
7 because everybody is being very complimentary, and
8 justifiably so.

9 I am grateful for a lot of things in this mark: the
10 rural air service beginning, which I think you put in to
11 be helpful to me, and I really appreciate that because
12 that is a huge problem for rural States. I hope that we
13 can do our tax breaks in a fair manner, trying to target
14 the folks that need it most in this country. That is
15 sort of a basic democratic principle.

16 I would like to see the Child Tax Credit and the EITC
17 be stacked in a way in which we can get the most
18 advantage, the EITC coming before the Child Tax Credit so
19 we can take the most advantage for people who need it,
20 incomes that are relatively lower, et cetera.

21 Also, I am one who does believe in the Child Tax
22 Credit. I think it is terribly, terribly important. I
23 would have preferred it, actually, at \$1,000, but of
24 course we cannot afford that.

25 Also, I just might say that I still believe very much

1 in what the President is proposing in the way of
2 educational help, and will be talking about that. But,
3 once again, you have a demeanor and a nature which
4 invites people to come together.

5 Our harmony is usually greatest when we cast a
6 unanimous vote. It is not always as great in the hours
7 and hours before that, but that is the nature of this
8 process. I think, by nature, demeanor, and instinct,
9 your leadership has been very helpful to this process.

10 The Chairman. Thank you, Senator Rockefeller.

11 Orrin Hatch, please.

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1 OPENING STATEMENT OF THE HON. ORRIN G. HATCH, A U.S.
2 SENATOR FROM UTAH

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4 Senator Hatch. Well, thank you, Mr. Chairman.

5 I want to compliment you, your staff, the people at
6 the table here for the work that you have done on this
7 bill--there are a lot of good things in this bill--and
8 for really what happened yesterday.

9 I thought that was a tremendous compliment to you and
10 to this committee that that matter was reported as
11 overwhelmingly as it was. It shows the good way that you
12 have been handling this committee, and I, for one, have a
13 tremendous amount of respect for you and your staff and
14 those who have worked to bring this about.

15 I also respect our colleagues on the other side.
16 They have really worked hard. They have fought hard and
17 worked hard on these matters and, I think, have helped to
18 mold these bills in ways that are fair and very good.

19 I am particularly happy about the tax rate
20 reductions, especially the estate tax, and above all the
21 capital gains rate reduction. I am a little disappointed
22 that we could not do anything because of the numbers in
23 the Senate with regard to corporate tax capital gains
24 rate reductions, because I think that would be of
25 inestimable benefit to the country over the long run.

1 Anyone who thinks that capital gains tax rate
2 reductions are going to cost us, I think just has not
3 looked at history. So I think that this will prove to be
4 a very worthwhile thing.

5 The estate tax reductions are very good, family tax
6 relief is very good, and frankly most of this bill, I
7 think you have done just a tremendous job on it in a very
8 diverse, difficult committee.

9 I hope that you will have as much success in passing
10 this matter through the committee as you did with the
11 matter yesterday, and I want to compliment you again. I
12 think you have done a great job.

13 The Chairman. Thank you very much, Senator Hatch.
14 Senator Breaux, the worthy successor of Senator Long.

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1 OPENING STATEMENT OF THE HON. JOHN BREAU, A U.S. SENATOR
2 FROM LOUISIANA

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4 Senator Breau. Oh, boy. I wish.

5 Well, Mr. Chairman and my colleagues, we are not
6 there yet, but I think we are getting there, wherever
7 there is. We are going to figure that out in the next
8 several hours. There is still a great deal of work to
9 do.

10 I would suggest that if everybody took the example of
11 Senator Moynihan and myself on the offering of amendments
12 we could finish this up in just about 5 or 10 minutes and
13 get out of here.

14 The Chairman. May I say amen to that proposal?

15 [Laughter]

16 Senator Breau. But there is a lot of work here. I
17 would just make one comment. I think everyone has worked
18 very hard to get to the point where we are today. I
19 think that that cooperation is very important because we
20 are going to be, I think, much stronger than the other
21 body because we are together.

22 I think that is going to carry through the
23 conference, because there is a joint effort here where we
24 will all be, hopefully, pulling together. There is
25 strength in numbers, strength in diversity, and

1 bipartisanship, which I think is very important.

2 I think what we have done in your draft is very
3 important with regard to efforts to help families and
4 children in education. I think as a result of what is in
5 the mark, it is better than the two pieces separately.

6 The initial proposal for the \$500 tax deduction, I
7 think, is a better proposal today because it is tied
8 towards educating children and families that need help.

9 The President's education proposal was \$35 billion.
10 I think any reading of the Chairman's draft mark is that
11 there will be more, substantially more, than \$35 billion
12 available for families to educate their children.

13 When you look at the HOPE scholarship, which is a
14 \$1,500 provision, very similar to the President's
15 proposal, plus the additional deductions and incentives
16 for education, add it to the education effects of the
17 \$500 tax credit, we have an education package which is an
18 improvement over what the administration offered, while
19 at the same time maintains the goal that the President
20 set out in the campaigns and throughout all of his talks
21 about making this a priority.

22 We all should gather together and declare a victory
23 on this, because I think it truly is.

24 The Chairman. Thank you very much, Senator Breaux.
25 Senator Nickles?

1 OPENING STATEMENT OF THE HON. DON NICKLES, A U.S. SENATOR
2 FROM OKLAHOMA

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4 Senator Nickles. Mr. Chairman, let me just join
5 others in complimenting you and Senator Moynihan for your
6 work together. I likewise am very pleased that yesterday
7 we did work in a bipartisan fashion. I say yesterday,
8 for the past couple of weeks, on the reconciliation bill.
9 Hopefully we will be able to finish this package and have
10 strong bipartisan support as well.

11 In looking at this package, it is a very difficult
12 task because of the numbers involved. A gross tax cut of
13 \$135 billion, a net of \$85 billion, that compares to the
14 tax bill we had last Congress of a net of \$245 billion.

15 So we were able to do a lot more in the last tax
16 bill. There are a lot of things that a lot of us would
17 like to be able to do in this bill, and I know it will
18 not all fit. We do not have AMT in this bill, and I
19 think it should be.

20 I understand the Chairman's dilemma in trying to put
21 everything in, but I will tell you, with the present tax
22 law, AMT--there is an excellent article in the Washington
23 Times about it today--it is unfair. It penalizes firms
24 in many cases that are making investments that will
25 provide jobs.

1 We ought to try to make some changes to the estate
2 tax. We made a little change in here on estate tax and
3 that is positive, but the estate tax rates are still far
4 too high.

5 If you have a taxable estate of \$1 million, it is 39
6 percent, \$3 million is 55 percent. Why should government
7 be entitled to take half of anybody's property because
8 they are trying to pass it on to their kids? So those
9 rates are too high. We are not able to do everything
10 that we would like to do in this package.

11 I will say the Chairman was very strongly supportive
12 of children and education. If you look at that, it is
13 the bulk of the package. I would hope that we would make
14 the tax credit available for all kids and make an option
15 for an IRA, and maybe we will be able to discuss that.

16 But, again, I want to compliment the Chairman. This
17 is not an easy task. I know you have people pulling you
18 from every angle. I would like to give everybody your
19 home phone number tonight in case they have any other
20 questions. But, no.

21 I think you have put together a good package, and I
22 look forward to working this up. I do not know if the
23 Chairman's intention is to finish tonight; I hope that we
24 can. I know it will be a challenging day.

25 The Chairman. Thank you, Senator Nickles. Yes, we

1 will stay until we finish it. That is my intent.

2 Senator Nickles. Good.

3 The Chairman. Kent Conrad.

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1 OPENING STATEMENT OF THE HON. KENT CONRAD, A U.S. SENATOR
2 FROM NORTH DAKOTA

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4 Senator Conrad. Thank you, Mr. Chairman.

5 I want to add my praise to the others who have
6 spoken. As I said publicly yesterday and told you
7 privately, I think you are a model of fairness. I could
8 not ask for more from a Chairman in terms of treating
9 people in an equitable manner, both in our consultations
10 in the hearing room, as well as here.

11 Obviously there are differences of views and
12 philosophy on this committee. I must say, as I look at
13 this package there are things that excite me and there
14 are things that trouble me.

15 I, first, want to thank you for dealing with a number
16 of issues that are very important in my constituency. As
17 you know, the IRS was putting deferred payments on
18 livestock into the AMT calculation, giving an absolutely
19 perverse result. This legislation fixes that.

20 We have had for many years roll-over of capital
21 gains, where a farmer was in a drought situation and
22 needed to replace their herd. This has been extended now
23 to conditions of blizzards and floods. This is very
24 important, and we thank you for it.

25 You have also corrected the anti-discrimination rules

1 that apply to State and local employees, and fixed the
2 estate tax problem where farmers have cash rented instead
3 of crop shared. Those are all very positive. I think
4 there are many other elements to this package that are
5 positive, including the promotion of education, the
6 estate tax changes are really long overdue, and many
7 other provisions that are important.

8 As I have said in our various sessions, it seems to
9 me there are four tests we need to apply. One, the tax
10 cuts should not explode in the out years and blow a hole
11 in the deficit. I am concerned about that part of this
12 provision, this bill, because in 2007 the cost will be
13 about double the amount in 2002.

14 I am concerned about the distribution of the
15 benefits. It seems to me they should be fair. I have
16 got a chart that really rivets this point. You can see
17 the bottom 60 percent, the lower 60 percent, get 13
18 percent of the benefits, and the top 1 percent get 13
19 percent of the benefits.

20 That does not strike me as equitable or a fair
21 sharing of the benefits when the top 1 percent get the
22 same amount of benefits as the lower 60 percent in our
23 society. That, I find troubling, and I think needs to be
24 substantially altered.

25 The third test should be, does it have a positive

1 economic impact, does it encourage savings and
2 investment? There are many provisions here which do
3 that. I think this package moves in the right direction
4 in many of those areas.

5 Finally, does it promote education? Clearly, this,
6 Mr. Chairman, in your mark has made a serious attempt to
7 have a substantial package to promote education. I think
8 we could improve it, and hopefully we will as we go
9 through this process.

10 Thank you, Mr. Chairman.

11 The Chairman. Thank you, Senator Conrad.

12 Senator Gramm.

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1 OPENING STATEMENT OF THE HON. PHIL GRAMM, A U.S. SENATOR
2 FROM TEXAS

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4 Senator Gramm. Mr. Chairman, let me first say that
5 I started this mark-up process with a very high regard
6 for you and I would have to say that it has certainly
7 grown. I do think you have been fair to everybody. I
8 think you have given everybody an opportunity to have
9 their say and allow the process to work, and I think we
10 are all grateful for that.

11 I would like to thank you for this bill. I would
12 like to thank you for the provisions that you put in the
13 bill.

14 I would like to say, in contrast to our dear
15 colleague, Senator Chafee, I am an enthusiastic tax-
16 cutter. I rejoice that, for the first time since 1981,
17 that we are going to reduce the tax burden on the working
18 men and women of America.

19 Now, I know we are going to have long debates about
20 the distribution of this tax cut. Let me say to begin
21 with, this is a tax cut for working men and women who pay
22 taxes. If you do not pay taxes, you are not going to get
23 anything out of this tax cut, and you should not. You
24 are benefitting from the Federal Government in that we
25 have numerous programs we are providing.

1 In fact, when the Clinton tax increase of 1993 went
2 into effect, it had a huge subsidy to people who did not
3 pay taxes. This is a tax cut for taxpayers. So what we
4 need to do is look at the distribution of this tax cut to
5 people who do the work, pay the taxes, and pull the
6 wagon.

7 I think if you look at this, you are going to find
8 that over 80 percent of this tax cut is contained in the
9 \$500 tax credit per child or in the education benefits
10 that we are providing. No one can complain about that
11 distribution.

12 Let me say that, while overall I think the bill is
13 good, I do think we have to discuss and look at the real
14 estate section very, very closely to be sure that we are
15 not going to affect the pattern of investment in the
16 country.

17 I am very concerned about the airline tax portion of
18 this bill. I am going to show some charts about American
19 air space and I think people are going to be surprised at
20 how high this tax is. If you look at the fact that it is
21 collecting \$17 billion, that ought to tell you something.
22 I think that has got to be looked at and perhaps be
23 reworked.

24 I would like to also say that I would like to get the
25 inheritance tax deductible up quicker. I think the fact

1 that we take so long to phase it out, we are barely
2 staying ahead of inflation in the process, and if we can
3 find a way to move it up quicker I think we could benefit
4 the package.

5 But, overall, we do have the problem of trying to get
6 250 pounds of sugar in a 100-pound bag. It is going to
7 be very difficult, and I am glad that we are working with
8 you, Mr. Chairman, in trying to make it happen.

9 The Chairman. Thank you, Senator Gramm.

10 Bob Graham?

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1 OPENING STATEMENT OF THE HON. BOB GRAHAM, A U.S. SENATOR
2 FROM FLORIDA

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4 Senator Graham. Thank you, Mr. Chairman.

5 I wish to also compliment you for the way in which
6 you have managed this difficult process and taken us to a
7 unanimous vote yesterday, and a very solid document to
8 begin our discussions today.

9 This document and the negotiations that lead up to it
10 have already made some very fundamental decisions. One
11 of those decisions is that the words that were heard most
12 in the 1996 Presidential campaign as it relates to tax
13 policy have been discarded: no discussion of flat tax, no
14 discussion of tax simplification, no discussion of
15 Senator Dole's 15 percent tax cut.

16 We have made a decision that we are going to add
17 additional complexity to the Tax Code by targeting funds
18 available for tax reduction in a myriad of specific ways,
19 each of which, for their own policy reasons, will add
20 complexity to our overall Tax Code. I think we should be
21 aware that we have made that very fundamental decision as
22 we start this process.

23 Second, is a message to the White House. Various of
24 my colleagues have already mentioned what I think are the
25 three fundamental tests that should be applied to this

1 complex set of provisions. Those are, what will be the
2 effect on out-year revenues? Second, what will be the
3 distributional effect? And I would like to commend on
4 the statements just made by my Teutonic cousin relative
5 to people who pay taxes.

6 Senator Moynihan. He is a Scot.

7 Senator Graham. What?

8 Senator Moynihan. A Scot.

9 Senator Graham. No, he is Teutonic.

10 Senator Moynihan. In manner, perhaps.

11 [Laughter]

12 Senator Graham. In heritage as well.

13 The Senator from Texas has talked about people who do
14 not pay taxes. The fact is, as we all know, many
15 American families pay substantially more payroll tax than
16 they do income tax.

17 But what you take home and have available to buy the
18 groceries with, or buy shoes for the kids, is just as
19 much diminished by what is one of the most regressive
20 forms of taxation that we have, the payroll tax, as it is
21 by the income tax.

22 So to say that that group of Americans' needs should
23 be disregarded because they pay through one source of
24 taxation rather than another is, I think, to miss the
25 point. We have got to try to treat fairly with all

1 Americans, however they happen to pay their taxes.

2 The third factor, is the growth effect. What effect
3 will all of these changes, most of which are justified in
4 their complexity and the abandonment of the goal of tax
5 simplification because they will have a stimulative
6 effect on the economy?

7 I think the White House owes it to this process to
8 tell us, and they should have already, but certainly they
9 should before we take final action on this bill, what are
10 their standards of evaluation? Those standards should be
11 expressed with numbers behind them. How much future year
12 tax revenue will be acceptable? What is the minimum
13 distributional effect that will be acceptable?

14 What is the minimum contribution to economic growth
15 that will be acceptable, so that those of us who have the
16 responsibility of voting today, on a series of amendments
17 and then on final passage, will have the benefit of
18 knowing the White House's wisdom on these matters, and
19 what are the political perimeters within which this
20 process is being conducted.

21 Mr. Chairman, I want to thank you for a number of the
22 provisions that you have included, particularly the
23 provisions that will make it easier for American
24 homeowners to sell their homes, to prepay the tuition of
25 their children, and to prepare for their pension

1 retirement.

2 I would hope that we would focus some additional
3 attention on the issue of education, particularly school
4 construction. I look forward to having an informed
5 discussion on, what is the national role and direction in
6 that important area of responsibility for our children.

7 Thank you.

8 The Chairman. Thank you, Senator Graham.

9 Jim Jeffords.

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1 OPENING STATEMENT OF THE HON. JAMES M. JEFFORDS, A U.S.
2 SENATOR FROM VERMONT

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4 Senator Jeffords. Mr. Chairman, thank you very much
5 for allowing me to participate here.

6 I am excited. As the Chairman of the Education
7 Committee and having served on that committee for now 23
8 years, I am excited about what we are doing this year.
9 This is the education year.

10 I compliment the higher education and tax provisions
11 here for helping those that just attended college, those
12 that are hoping to go to college, and also those that are
13 putting aside money for their children.

14 But I also want to thank you most profusely for a
15 small, but extremely important, provision in this bill
16 which may do more to help the education in this Nation
17 than anything else, and that is to help us with our K-12
18 to be about to upgrade our skills and to be able to raise
19 those skills so that we can meet the needs of the future.
20 That is where our biggest problem is right now. That is
21 where business is excited about hoping we can do
22 something in this area.

23 We have 190,000 jobs, for instance, that are going
24 begging in this Nation right now that are \$30, \$40, \$50
25 an hour jobs that should go to high school students, but

1 we do not have the skills to provide those jobs.

2 We must upgrade the teachers' professionalism, and
3 your provision will help do that, working with the higher
4 education community.

5 Let me give you an example also about how business
6 feels about this. Inda Rivera, who travels around with
7 IBM, gives you an example of where we are in this area.
8 He says, "If you were to fall asleep for 20 years and
9 walk into a modern business office, you would be in
10 catatonic shock as to what to do. You would not know
11 what to do.

12 If you were to walk into a classroom after being
13 asleep for 20 years and you were a teacher, you would be
14 right at home." That is how far behind we are.

15 So I appreciate the way we can do that is by making
16 sure that we take advantage of the things we developed.
17 We have developed great programs. Let me give two quick
18 examples. We have a tech-prep program which has been in
19 effect and 1 percent of our schools have adopted it.
20 Malaysia came to this Nation, took a look at this year,
21 went back, and overnight put it in all of their schools.

22 We have another example, distance learning. We are
23 the ones that developed all this technology. I found out
24 from the World Bank that they are now funding nationwide
25 teacher development programs in Indonesia and in a number

1 of other countries using World Bank money to do a program
2 that we developed but we do not use. We can do it and,
3 with your provision, this will help us get there.

4 Thank you very much, Mr. Chairman.

5 The Chairman. Thank you, Senator Jeffords.

6 Senator Moseley-Braun, please.

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1 OPENING STATEMENT OF THE HON. CAROL MOSELEY-BRAUN, A U.S.
2 SENATOR FROM ILLINOIS

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4 Senator Moseley-Braun. Thank you very much, Mr.
5 Chairman.

6 Listening to the comments, I was struck by the fact--
7 and it is a fact--that this year a baby boomer will turn
8 50 every 7 seconds. So we are stuck with a demographic
9 bubble that, as we address tax policy particularly, I
10 think we have to be sensitive to.

11 Similarly, we have to be sensitive to the widening
12 income gap in this country between the rich and poor.
13 The middle class really is the heart and soul of the
14 American dream, and defines it.

15 As we strengthen, preserve, and build that middle
16 class and avoid tensions between the different groups in
17 our country, we will strengthen our community and
18 strengthen our social fabric.

19 I think the really good news in this tax package has
20 been your leadership and the civility with which you have
21 conducted the process. The bill that we have before us
22 is less regressive than the House bill, and it is less
23 back-loaded in terms of its costs than the House bill.

24 I know that this Chairman looked to reconcile very
25 contrary and contrasting views in a civil way, and that

1 has been a very important thing and I think it is
2 something that the Senate, as an institution, needs to
3 cherish.

4 Some of us would have preferred more aggressive
5 pursuit of balance on the budget and felt that it was not
6 yet tax cut time, and in that regard I really want to
7 associate myself with the Ranking Member's remarks. I
8 think it would have been better for us to get our fiscal
9 house in order first before we headed down this road.

10 But since the consensus clearly favors tax cuts at
11 this time, I am happy to see in this mark more concern
12 than there was in the House for what happens to middle
13 and working class people in America.

14 The tax bill. There are distributive problems, I
15 think. I have a concern, frankly, with the methodology
16 and the way the Joint Tax Committee tracks the
17 distributive effects.

18 Based on the analysis I have seen, the great majority
19 of the largest tax cuts here will explode in costs at the
20 end of the 10-year period and a net cut will cost more at
21 the end of that period than at the beginning of it.

22 Well, the real meaning of that with baby boomers
23 retiring at that time, it will come at probably the worst
24 time. The backloading effect will hit just as the baby
25 boomers are beginning to retire.

1 The middle income taxpayers' tax cuts, on the other
2 hand, the HOPE school tax cut and the Child Tax Credit,
3 they do not see the expansion of those tax benefits over
4 time, those tax cuts will remain constant.

5 So I fear that we are still eluded by addressing the
6 issues of the demographic bubble and what happens when
7 people retire, and also the widening income gap. The
8 divide comes, frankly, on this committee and how we will
9 serve the interests of all Americans. Again, that is
10 where I think your civility has made such a difference.

11 We have to be able to recognize and build community
12 in this process, recognizing as Americans our mutual
13 dependence on each other. We are, in the final analysis,
14 all in this together.

15 This should not be a zero sum game pitting one group
16 of Americans against another, because we all have a stake
17 in job creation, growth, opportunity, and in helping
18 people who are vulnerable and need help.

19 The pitting of people against each other, I think, is
20 the politics of the past and I am really glad that you,
21 Mr. Chairman, have avoided that, that you have rejected
22 that approach. This has not been an approach that pits
23 people against each other, but rather seeks to build
24 community.

25 We may want to do it in different ways, we may get

1 there in different ways, but certainly the civility of
2 your approach indicates an interest in heading in that
3 direction.

4 Finally, and just in closing, I want to add this just
5 as an aside. The airline industry will be paying 77
6 percent of this tax bill over 10 years, just over \$200
7 billion. That industry, of course, is important to my
8 State. It is important to the country, but certainly
9 Illinois. I hope that through the amendment process we
10 can spread the costs of the tax bill a little more
11 broadly than we currently have in this mark.

12 So I look very much forward to continuing to work
13 with you, Mr. Chairman. Again, your approach to this has
14 given us all a voice. And, while some of us sing louder
15 than others, still at the same time it has been a very
16 important and a wonderful exercise for me to have a
17 chance to participate in, and I thank you.

18 The Chairman. Well, thank you for your cooperation
19 and aid. We look forward to continuing our efforts
20 together.

21 Senator Mack.

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1 OPENING STATEMENT OF THE HON. CONNIE MACK, A U.S. SENATOR
2 FROM FLORIDA

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4 Senator Mack. It was not my intention to speak this
5 morning, but, being a Senator and listening to my
6 colleagues, I thought I might share a few points.

7 First of all, let me express my appreciation in a
8 slightly different way. There is a radio host that says
9 "ditto and double ditto" to both of you for the work that
10 you did yesterday.

11 This is a small, but important, first step to provide
12 tax relief to all income tax paying Americans. This is a
13 tax package that will give relief to individuals all
14 throughout life. It begins with the opportunity for moms
15 and dads to have tax relief when a child is born.

16 I think of the discussion I had just a few weeks ago
17 with an individual down in the Hart Building, and he was
18 asking questions about the tax relief bill. I kind of
19 said to him, what is your interest in it? He said, I
20 have 5 children. And I thought, well, I can certainly
21 understand how \$2,500 a year will affect that family. We
22 all know today that most American families are spending
23 more in taxes than for housing, shelter and food.

24 I think of youngsters today who are looking for jobs
25 and I think of the reduction in the capital gains tax

1 that you are proposing. While there are many different
2 aspects to it, I think the real strength is that this
3 will allow capital to flow from old investments of the
4 past that have been held in those investments because of
5 the high tax rates that are now in place with respect to
6 capital gains, allowing those funds to flow into the new
7 technologies that are going to create the jobs and the
8 opportunity in the future.

9 I think of the families that are looking forward to
10 retirement and the expanded IRA, and the opportunity for
11 them to be able to set aside funds so that they can do
12 what we have been asking them to do for decades now, and
13 that is to prepare for retirement on their own, and also
14 think about those families and those businesses, Mr.
15 Chairman, that will be easier for those to continue in
16 operation to be passed on to the next generation without
17 the high tax burden that exists today.

18 So again, I say this is a small, but I think
19 important, first step to give tax relief to income tax
20 paying Americans.

21 I thank you, Mr. Chairman.

22 The Chairman. Thank you, Senator Mack.

23 Senator Bryan?

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1 OPENING STATEMENT OF THE HON. ROBERT H. BRYAN, A U.S.
2 SENATOR FROM NEVADA

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4 Senator Bryan. Mr. Chairman, thank you very much.
5 Let me express my sentiments of my colleagues by
6 expressing my appreciation to you for your fairness and
7 your including those of us who are very junior members of
8 this committee in assembling the mark, and your
9 receptivity to some of the amendments that we have
10 offered.

11 I much appreciate that and I think that is a
12 characteristic of the leadership that you have exhibited
13 as the Chairman of this committee and why you were able
14 to skillfully bring all of us together in passing the
15 legislation yesterday.

16 I take a little different tack than some of my
17 colleagues with respect to this legislation. I believe
18 the most important legacy that this Congress can leave to
19 the American people is not just to achieve an ephemeral
20 balanced budget in the year 2002, important as that is,
21 but by using real numbers and honest projections to build
22 in the kinds of structural changes that will make it
23 possible to retain that balanced budget in the out years
24 beyond.

25 I understand the enthusiasm for tax cuts. They have

1 an irresistible attraction, some might say even a fatal
2 attraction to those of us who face a restive electorate.

3 I understand that in the history of recorded
4 civilization no one who has returned to those that he or
5 she represents has been rejected by saying, look, I have
6 offered you a tax reduction as a consequence of my
7 elected service.

8 I would hope, however, that we could restrain our
9 enthusiasm so that we could, in fact, achieve this
10 balanced budget which I think is so important, not only
11 for us today, but in terms of the future economic growth
12 of America.

13 I look forward to working with you and the rest of my
14 colleagues in fashioning a piece of legislation that all
15 of us will be able to join in at the end of the day in
16 supporting.

17 The Chairman. Thank you, Senator Bryan.

18 Senator Murkowski?

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1 OPENING STATEMENT OF THE HON. FRANK H. MURKOWSKI, A U.S.
2 SENATOR FROM ALASKA

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4 Senator Murkowski. I will be very brief, Mr.
5 Chairman. It is going to be a long day. You have had
6 accolades from all members of the committee, and you
7 certainly deserve them, as well as the Minority Ranking
8 Member. I think you have worked extraordinarily well
9 together.

10 I would like to communicate basically the
11 significance of what I think is in here, and that is 82
12 percent of the package represents tax cuts and
13 educational incentives for middle income Americans.

14 Now, it is going to be interesting to see how the
15 media plays this because we have had the agenda that this
16 favors the rich, but 82 percent represents tax cuts and
17 educational incentives for middle income Americans. I
18 think that that is a commendable objective from the
19 entire committee membership.

20 And, while some will say this is not a perfect
21 package, I think it is as close to it as certainly I have
22 seen around here in the 17 years that I have been in this
23 body, and we have got a little ways to go to end this
24 process. But I think the American people, especially the
25 hard-working American wage-earners and families with

1 children, will ultimately be able to keep more money for
2 themselves rather than sending it to Washington.

3 So I commend you, the Ranking Member, and all members
4 because I think this represents a basic philosophy of
5 committee membership, and I think we are well on our way
6 to achieve that.

7 The Chairman. Thank you very much, Frank.

8 Senator Kerrey?

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1 OPENING STATEMENT OF THE HON. J. ROBERT KERREY, A U.S.
2 SENATOR FROM NEBRASKA

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4 Senator Kerrey. Mr. Chairman, I too want to
5 congratulate you and Senator Moynihan for your excellent
6 work in producing this mark. I think it is a balanced
7 approach. It is an improvement, in my judgment, over
8 what the House has done and I think it moves this country
9 towards balancing the budget in the year 2002, a crucial
10 objective both economically, and I think politically,
11 giving people more confidence in representative
12 democracy.

13 I want to thank the staff of Ken Kies and the staff
14 at Joint Tax, who have done an excellent job in keeping
15 us all one track and of doing the right thing.

16 We are able to do this, Mr. Chairman, I believe,
17 because the economy is growing. The first order of
18 business must be to make sure that the economy continues
19 to grow and that we do whatever is necessary to grow the
20 economy.

21 I believe, indeed, that the strongest justification
22 for a tax cut today is to return some tax money to those
23 who have generated the growth, to those who have produced
24 the growth in the economy. It seems to me a sensible and
25 reasonable thing for us to do.

1 We need to measure not only the cost today, but we
2 have got to keep in mind that there are future costs
3 here. None of us want to take action in 1997 that will,
4 in the out years, make the deficit larger and then have
5 to explain why it is that we did those things.

6 I appreciate very much what the President has done to
7 emphasize education, to make certain that education is in
8 this package. I appreciate the accommodations you have
9 made with those of us who are concerned not just about
10 doing education, but to make certain that people have the
11 equity needed to make the purchase.

12 The most alarming graph that I have seen to date is
13 the rising amount of debt that is being accumulated for
14 college. The amount of debt in the 1990s exceeds the
15 amount of borrowing in the 1960s, 1970s, and 1980s
16 combined.

17 A hard-hitting report that was issued yesterday or
18 the day before yesterday reported yesterday on higher
19 education indicates, yes, more money is needed, but there
20 is significant structural changes needed in higher
21 education to lower the cost.

22 So we have to be mindful as we try to help people go
23 to college that we have got to keep the pressure on those
24 institutions of higher education, that they do not just
25 price themselves out of the market and then come and ask

1 for additional assistance that might, in fact, add to
2 inflationary pressure.

3 I think we have got to apply a standard of fairness,
4 not just looking at the distributional analysis, which
5 will sometimes be both leading us as well as misleading
6 us, but I think we have to be mindful, as Senator Mack
7 was talking earlier about a man with 5 children and the
8 benefits that he is going to receive as a consequence of
9 this bill. A median family of four with \$34,000 faces
10 \$4,300 in payroll tax and \$2,700 in income tax. We are
11 going to be deliberating only that \$2,700 portion.

12 I intend to make the point that, though we are not
13 addressing it now, I think it is important for us to look
14 at that payroll tax side which inescapably causes you to
15 look at ways to adjust those programs to give those
16 Americans who do not have any estate ---- and the estate
17 tax will benefit 2 percent of the population that have
18 estates over \$600,000.

19 I am concerned about the 98 percent that do not have
20 estates of that size. There are ways, in my judgment,
21 for us to not only use your IRAs, but use some
22 adjustments in the payroll tax to enable all Americans to
23 acquire a stake in this country.

24 I congratulate you for the mark and I look forward to
25 the debate.

1 The Chairman. Thank you very much, Bob Kerrey.

2 Well, as Pat Moynihan just pointed out, I do feel
3 very good because of the many splendid things that were
4 said about me, but I have to tell you that a consensus
5 could not have been reached, we would not have had our
6 success yesterday, if it had not been for the Ranking
7 Member.

8 I think we are all extremely fortunate in having a
9 man of his talents, an individual of his leadership, and
10 particularly one of his intellect as the Ranking Member,
11 and I want publicly to express my deep appreciation for
12 his contribution.

13 [Applause]

14 Senator Mack. Mr. Chairman, I hope we all feel this
15 way tomorrow.

16 [Laughter]

17 The Chairman. You are going to be tired.

18 Having said that, we will now proceed with the walk-
19 through. You all have before you, I think, a copy of the
20 mark-up. Ken will go through section by section.

21 I would ask that we let Ken complete a section before
22 we ask any questions.

23 Ken?

24 Mr. Kies. Thank you, Mr. Chairman.

25 I will begin with Section I, the family tax relief

1 provisions. This section of the bill contains two
2 provisions. The first, is a \$500 tax credit which will
3 apply to children under age 17; beginning in the year
4 2002, it will apply to children under age 18. The credit
5 is effective in 1997.

6 Senator Baucus. Mr. Chairman, might I ask which
7 document he is working from?

8 Mr. Kies. Yes, Senator. I am working from the
9 revenue table. The upper right-hand corner says JCX-32-
10 97.

11 Senator Baucus. Thank you.

12 Mr. Kies. The \$500 tax credit applies after the
13 Earned Income Credit. There is a deposit requirement for
14 children ages 13 through 16. That deposit requirement
15 would also extend to age 17, beginning in the year 2002,
16 when the age 17 qualifies for the credit. The deposit
17 component of the bill costs about \$17 billion over 5
18 years.

19 The other component of this section is the individual
20 AMT. Under the individual AMT provision, the exclusion
21 amount under current law is increased by \$600 for joint
22 returns, \$450 for single for 2001 and 2002, then by \$950
23 for joint returns after 2002, and \$700 for single
24 returns.

25 This change would at least partially address what

1 will otherwise be a substantial growth in the number of
2 individuals subject to the AMT which, under current law,
3 will grow from 700,000 this year to 8.4 million in the
4 year 2007. This change will cause the number of
5 taxpayers that would be subject to the AMT by the year
6 2007 to be only 3.2 million.

7 Mr. Chairman, that completes a description of Section
8 I of the bill.

9 The Chairman. Are there any questions? Bob?

10 Senator Graham. What was the theory, looking at the
11 Child Tax Credit, of apply the Child Tax Credit against
12 the income tax as opposed to against either the payroll
13 tax or some combination of income and payroll tax?

14 Mr. Kies. Well, Senator Graham, that is obviously a
15 policy choice that was made. I believe that part of the
16 theory is that this package is addressed at reducing
17 income tax liability.

18 In addition, I think it partially reflects a view
19 that the Social Security benefit is quite a progressive
20 benefit relative to the amount of taxes paid in. Clearly
21 that is a policy choice that the committee has before it,
22 but I think those are at least two of the considerations
23 that led to that decision.

24 Also, there is clearly a revenue constraint to the
25 extent that, if the credit were applied prior to the

1 Earned Income Credit, it would cost upwards of \$20
2 billion of additional revenue.

3 The Chairman. Please proceed.

4 Senator Rockefeller. Mr. Chairman?

5 The Chairman. Yes, Jay.

6 Senator Rockefeller. Just another question on the
7 same line as Senator Graham's, but just a little bit
8 different.

9 People who benefit from EITC, some people think it is
10 welfare, but by definition they are all working and
11 paying taxes, right? If they were not working they would
12 not be eligible for EITC. Of course, they are close to
13 the poverty line.

14 So if EITC folks pay taxes, then from a policy point
15 of view it would seem to me you would be trying to help
16 them. I mean, that is consistent on both sides of the
17 aisle.

18 If, to help them, it takes stacking the Child Tax
19 Credit before EITC and thus making assistance available
20 to families with four children, for example, from \$20,000
21 or \$17,000, but here \$20,000, up to \$24,000 and over who,
22 under the current arrangement get no credit whatsoever as
23 a result of the stacking procedure of the tax credit and
24 EITC, if we stacked the tax credit before the EITC, would
25 that not open up help for those working families?

1 Mr. Kies. Senator Rockefeller, it would certainly
2 provide benefits to taxpayers who were in that category
3 who, as you correctly indicated, are working because they
4 are only entitled to the Earned Income Credit if they
5 have earned income. So that is certainly correct.

6 Senator Rockefeller. Thank you, sir.

7 Senator Gramm. Mr. Chairman?

8 The Chairman. Yes, Senator Gramm.

9 Senator Gramm. Let me be sure I get this. If you
10 pay any taxes and your income is not too high to exclude
11 you from the \$500 tax credit, you are going to get the
12 tax credit.

13 Mr. Kies. Senator Gramm, if you pay income tax.

14 Senator Gramm. Yes. Well, this is a rebate on
15 income taxes, right?

16 Mr. Kies. That is the way this is designed. I
17 think the point that Senator Rockefeller is making is
18 that there are taxpayers who do pay FICA taxes, but not
19 income taxes, who would not benefit from this because
20 this is only applicable against income tax liability.

21 Senator Gramm. Well, Mr. Chairman, I do not want to
22 get into a debate about the fact that, for moderate
23 income people who pay into Social Security, they are the
24 people who also are the huge beneficiaries. Higher
25 income people paying in end up paying confiscatory taxes

1 on Social Security benefits when they retire.

2 In fact, in terms of the benefit, the benefit is very
3 low relative to the amount put in by higher income people
4 and very, very high by a multiple amount put in by low
5 income people.

6 So moderate income people paying into Social Security
7 are getting mammoth returns on their payment, but
8 everybody who pays income taxes who is not in such a high
9 income bracket that they will not be eligible will get
10 this \$500 tax credit, to the extent that they pay \$500 in
11 taxes. Is that right?

12 Mr. Kies. That is correct, Senator.

13 Senator Gramm. Thank you.

14 Senator Rockefeller. But Mr. Kies, it remains the
15 case that if you are making \$20,000, or if you are making
16 up to \$24,385 and you are working and paying taxes, that
17 under the mark, and the relationship between EITC and the
18 tax credit, you would get no tax break at all.

19 Mr. Kies. That is correct.

20 Senator Rockefeller. Yes.

21 Senator Gramm. Mr. Chairman, this is my last
22 response on this. But you are already getting the tax
23 break through EITC and you are not paying any income
24 taxes, right? So you do not get the \$500 tax credit
25 because you are not paying income taxes.

1 Mr. Kies. That is the way the proposal works. It
2 only applies if there is an income tax.

3 Senator Gramm. All right.

4 The Chairman. I would point out, there will be
5 opportunity to debate later, but I would like to get
6 through the walk-through quickly. So, if you would,
7 limit your comments to questions you want to ask Mr.
8 Kies.

9 Senator Graham. Mr. Chairman, this is a straight
10 statistical question.

11 We have this chart that shows income categories, less
12 than \$10,000, \$10,000, et cetera. Could you give us the
13 percentage of Americans in each one of these categories,
14 or American families? I am not asking you to do it
15 orally now, but could you give it to us?

16 Mr. Kies. I have those numbers available, Senator,
17 and I can provide those to you.

18 Senator Graham. Thank you.

19 The Chairman. If you would now please proceed.

20 Mr. Kies. All right.

21 Section II of the bill is the education incentives.
22 The first item is the administration's HOPE scholarship
23 tax credit, with certain modifications. The most
24 significant modification is that, while the credit amount
25 is 50 percent of the first \$3,000 for a \$1,500 credit,

1 the administration provided the dollar-for-dollar credit
2 up to \$1,500; for students attending community colleges
3 and technical schools, the credit amount is 75 percent of
4 the first \$2,000. The income phase-outs are \$40,000-
5 50,000 for single, and \$80,000-100,000 for joint returns.

6 Item 2 provides student loan interest deduction,
7 \$2,500 above the line for the first 5 years after a
8 student graduates from college. Item 3 is a permanent
9 extension of Section 127 Employer-Provided Educational
10 Assistance Exclusion for graduates and under-graduates.

11 Item 4 is a provision providing for penalty-free
12 withdrawals from IRAs for post-secondary and graduate
13 education. Item 5 is an education----

14 Senator Nickles. Mr. Chairman, what are you working
15 from?

16 Mr. Kies. Senator, I am working from the revenue
17 table. In the upper right-hand corner it says JCX-32-97.

18 Senator Nickles. All right.

19 Mr. Kies. It is the revenue table of the main mark-
20 up document.

21 Senator Nickles. I got you.

22 Mr. Kies. I am on page 2 now of that document.

23 The first item is the educational IRA provision.

24 This allows contributions on a non-deductible basis of
25 essentially up to what amounts to \$2,500 per year, per

1 child.

2 The amounts inside these accounts grow tax-free. To
3 the extent that they are used for tuition, room and
4 board, and graduate education, when withdrawn, the
5 amounts are non-taxable.

6 In addition, State-sponsored tuition plans would
7 receive the same treatment. Under current law, amounts
8 withdrawn from those plans are taxable when withdrawn.
9 This would provide that those amounts are tax-free as
10 well.

11 Item 7 would repeal the \$150 million limit on tax-
12 exempt Section 501(c)(3) bonds for new capital
13 expenditures.

14 Item 8 would exempt teachers' course work in
15 education technology from the 2 percent miscellaneous
16 itemized deduction floor for grades K-12.

17 Item 9 would raise the small issue arbitrage rebate
18 exception for governmental bonds used to finance
19 educational facilities from \$5 million to \$10 million.

20 Senator Moseley-Braun. Mr. Chairman? Mr. Chairman?
21 The Chairman. Yes, Carol, please.

22 Senator Moseley-Braun. Number 9, the arbitrage
23 rebate for educational facilities. The General
24 Accounting Office tells us that it will take \$112 billion
25 to bring America's schools up to just code condition,

1 that we have got \$112 billion worth of unmet need in
2 terms of our crumbling schools and school facilities
3 generally.

4 Your numbers here indicate that this number 9 will
5 represent \$1 million total.

6 Mr. Kies. The revenue cost in the first year is \$1
7 million. That grows over time. But the amount of bonds
8 that would be issued under this provision would be
9 substantially more than that.

10 Senator Moseley-Braun. That was my question. So do
11 you have any numbers indicating to what extent we will
12 get to the \$112 billion worth of basic need?

13 Mr. Kies. Senator, I can check when we take a break
14 as to what we are assuming as to the volume of additional
15 bonds that would be issued under this provision and we
16 will let you know that.

17 Senator Moseley-Braun. Thank you. I appreciate it.

18 Senator Nickles. Ken? Mr. Kies.

19 The Chairman. Senator Nickles.

20 Senator Nickles. On the two major provisions
21 dealing with education, the HOPE scholarship tax credit.
22 If a parent had three kids and they fell within the
23 eligible income category, then they could receive a tax
24 credit of up to 50 percent of the \$3,000 for each child?

25 Mr. Kies. That is correct.

1 Senator Nickles. And the same thing for the IRA
2 provision, a non-deductible IRA could be set up for each
3 child up to \$2,000?

4 Mr. Kies. Actually up to \$2,500 if the child
5 qualifies for the Child Tax Credit.

6 Senator Nickles. I understand. So in an IRA those
7 are non-deductible, but you could set up a \$2,000 IRA per
8 year, per child, from any age from zero to 18, I guess.

9 Mr. Kies. That is correct.

10 Senator Nickles. Thank you.

11 Senator Baucus. Mr. Chairman?

12 The Chairman. Senator Baucus.

13 Senator Baucus. Ken, on number 5, the education
14 IRAs, it says it will allow contributions of \$500 from
15 the Child Tax Credit, and so on. Is that at all
16 restricted by the \$500 family tax credit with respect to
17 the age of the student?

18 Mr. Kies. Yes, sir. The provision that allows the
19 \$500 additional amount relates to that period of time
20 from age 13 to 17. You cannot contribute the \$2,000
21 after age 18. So you could contribute \$2,000 a year from
22 age zero up through age 18.

23 Senator Baucus. So if a child today is over 18, he
24 or she cannot take advantage of the education IRAs,
25 number 5.

1 Mr. Kies. That is correct, although the way in
2 which the package is structured that individual could
3 take advantage of the HOPE scholarship credit. The way
4 in which the package works, in any year you can only
5 claim either the HOPE scholarship credit----

6 Senator Baucus. I got you.

7 Mr. Kies. [Continued]. Or withdrawal from these
8 accounts on a tax-free basis. They would be entitled to
9 the HOPE scholarship credit.

10 Senator Baucus. Thank you.

11 Senator Breaux. Mr. Chairman?

12 The Chairman. Yes.

13 Senator Breaux. Just a question on number 9, that
14 Senator Moseley-Braun has been so involved in with the
15 bonds for the schools and educational facilities. Is
16 there an intent to include high schools as well? It is
17 educational facilities that are qualified educational
18 facilities, and that would include an elementary school,
19 a high school, or a college?

20 Mr. Kies. That is correct. It would generally be
21 K-12 because it is State and local government issues, and
22 it would be the small issuers, so they would generally be
23 grade schools or high schools.

24 Senator Breaux. All right. Thank you.

25 Senator Gramm. Mr. Chairman?

1 The Chairman. Yes, Senator Gramm.

2 Senator Gramm. Just one question. On these
3 educational tax credits and these education provisions,
4 how tight are they? For example, could a grandparent do
5 it for a grandchild? I mean, how tight is it?

6 Mr. Kies. Senator Gramm, for any child there can
7 only be one account established, but a grandparent could
8 contribute into the account or the parent could
9 contribute into the account, but it would be subject to
10 the yearly \$2,000 limitation.

11 Senator Gramm. Or an aunt or an uncle, as long as
12 there is only one.

13 Mr. Kies. Right. That is correct.

14 Senator Gramm. That is a good provision.

15 The Chairman. Please proceed.

16 Mr. Kies. All right. Section III of the bill
17 contains, first, the capital gains proposal which would
18 cut the top capital gains rate from 28 percent to 20
19 percent; for those taxpayers in the 15 percent marginal
20 rate bracket the rate would go to 10 percent.

21 Section 1250, depreciation recapture, would be
22 subject to tax at 26 percent; the current law rate is 28
23 percent. Comparable treatment would apply for AMT
24 purposes.

25 The exclusion for gain on the sale of principal

1 residences contained in the President's proposal is
2 included, so \$500,000 on the gain of a sale of a
3 principal residence would be fully excludable from tax.

4 In addition, there are a number of modifications to
5 the existing qualified small business stock rule.

6 Senator Bryan. Mr. Chairman, could I ask a question
7 about the capital gains, sir?

8 The Chairman. Well, I would like to finish this
9 section, then we will open it for questions.

10 Senator Bryan. I will forbear.

11 Mr. Kies. That provision essentially expands the
12 rules that currently apply to sale of certain small
13 business stock acquired at original issue and held for 5
14 years.

15 Finally, this provision also includes substantial
16 enhancements of deductible IRAs. The income limits
17 applicable for deductible IRAs are phased up over a
18 period of years from the current law level of \$40,000 of
19 adjusted gross income for a joint return up to \$80,000,
20 and for a single return from the adjusted gross income
21 level of \$25,000 to \$40,000. The IRA Plus account, which
22 permits non-deductible contributions into an IRA of
23 \$2,000 per year is also included.

24 Finally, the current linking for the spousal IRA is
25 eliminated so that individuals utilizing the spousal IRA

1 are not prevented from doing so as a consequence of the
2 fact that their spouse is a participant in a qualified
3 plan.

4 Senator, that completes a description of that section
5 of the bill.

6 The Chairman. Senator Bryan?

7 Senator Bryan. Thank you very much.

8 What would the scoring be if you eliminated the
9 recapture provisions as you have described that and treat
10 the entire gain as capital gains at the 20 percent rate
11 that you have established here?

12 Mr. Kies. Senator Bryan, let me just clarify that.
13 Under current law, a portion of depreciation recapture is
14 actually taxed at ordinary income rates, at the top
15 ordinary income rate. The current law provides that, for
16 non-accelerated depreciation, the current rate is 28
17 percent, this would drop it to 26 percent.

18 If we lower the 26 percent rate that applies to non-
19 accelerated depreciation down to 20 percent, it would
20 cause a revenue loss against the bill of approximately, I
21 believe, around \$7 billion. Let me just check. It is \$7
22 billion over a 10-year period.

23 Senator Nickles. What is it over 5 years?

24 Mr. Kies. About \$3.5 billion over 5 years. It is
25 actually fairly linear.

1 Should I proceed to Section IV?

2 The Chairman. Yes, please.

3 Senator Chafee. Could I ask one question?

4 The Chairman. John.

5 Senator Chafee. Mr. Kies, just looking at III
6 there, the Expanded Deductible IRAs, the price difference
7 between 10 years and 5 years is very, very substantial.
8 Why is that? Is that from backloading?

9 Mr. Kies. Well, Senator Chafee, there are at least
10 two reasons. The first, is that the IRA Plus provision
11 which allows contributions on a non-deductible basis to
12 an IRA, that provision has a feature that allows
13 taxpayers who have an existing IRA that was a deductible
14 IRA to take the money out of that account and pay tax on
15 the earnings that are inside the account over 4 years,
16 and to roll it into this back-loaded IRA. So during the
17 early period we are actually raising some money from that
18 feature.

19 The other aspect of this is simply that money that
20 goes into an IRA because it is currently tax-free does
21 have a significant growth effect over time because the
22 contributions put in in the early years continue to earn
23 tax-free interest income as you go into the later years.
24 So, it is just the feature of IRAs.

25 Conversely, the inverse happens, for example, in the

1 fiscal dividend that is part of the budget calculation
2 because it has interest savings against the deficit, and
3 that compounds in the opposite direction over time.

4 Senator Chafee. Well, I just wanted to point out
5 that that is a five fold increase. Well, it is more than
6 that.

7 Senator Moynihan. Nine-fold.

8 Senator Chafee. It is a nine-fold increase. I do
9 not know what will happen in the next 5 years. Does it
10 even out?

11 Mr. Kies. Well, eventually we reach the point where
12 the money starts coming out of the IRAs and at that point
13 the earnings are taxed, so that there is a reversal
14 effect that happens in later years from the money that
15 was put in in the early years and grew tax-free during
16 the period of time that it was in the account.

17 Senator Chafee. Thank you.

18 Thank you, Mr. Chairman.

19 Senator Moseley-Braun. Mr. Chairman?

20 The Chairman. Senator Moynihan.

21 Senator Moynihan. Yes, Mr. Chairman.

22 To follow on the point that Senator Chafee was
23 making, and a number of us made earlier, the really
24 astonishing growth, if I can suggest, is in the capital
25 gains provision, number 1, where you have 20 times as

1 much a loss in the 10-year period as you do in the 5-year
2 period. You go from \$978 million to \$20-plus billion. I
3 think that is because it will be cashing in in the early
4 phase, then the higher losses.

5 But I would just flag that. If you want an example
6 of out-year explosion, the 10-year costs are 20 times the
7 5-year costs, just to point that out.

8 That is right, is it not?

9 Mr. Kies. That is correct, Senator Moynihan.

10 Senator Moynihan. Thank you, sir.

11 The Chairman. Please proceed.

12 Senator Kerrey. Mr. Chairman?

13 The Chairman. Bob?

14 Again, I would ask that we limit ourselves to
15 questions at this stage and not debate the item.

16 Bob?

17 Senator Kerrey. I appreciate that, Mr. Chairman.

18 Ken, either you or Mark, or perhaps both, have you
19 considered any potential adverse impacts for this rate
20 differential on capital gains at 10 percent with
21 individuals at the 15 percent rate?

22 I understand the intent of that, but is it possible
23 for me to basically, if I have got stock or an asset, to
24 give it to my children who will have a lower tax rate?
25 Is it possible for me to have an impact that is not what

1 we intend?

2 Mr. Kies. Well, Senator Kerrey, there would be
3 limits on the extent to which you could do that because
4 of the gift tax rules, if the amount of gift that you
5 made exceeded \$10,000 they would be subject to a gift
6 tax. The gift tax rates tend to be fairly steep, so the
7 amount that I think is available is limited.

8 I think the concern was that if you did not provide a
9 10 percent rate for those taxpayers in the 15 percent
10 rate bracket, they would essentially not be enjoying any
11 benefit out of the capital gains portion.

12 Senator Kerrey. I agree. I understand the intent.

13 Mr. Kies. Yes.

14 Senator Kerrey. Just as long as you and Mark have
15 done a calculation of potential problems with this in the
16 manner that I have just described.

17 Similarly, on the small business stock, as I
18 understand it you are going to have an effective rate of
19 10 percent and you are raising the asset from \$50 million
20 to \$100 million. You are raising the limit to \$100
21 million of assets.

22 Mr. Kies. That is correct, Senator. It would be
23 the gross amount of assets of the entity could not be
24 more than \$100 million in order for the investment in the
25 entity to qualify for this preferred treatment. So the

1 value of the entity would not be \$100 million, it would
2 be its gross assets.

3 Senator Kerrey. Right.

4 Well, I do not need it now, Mr. Chairman, but I would
5 like as a follow-on to see the calculations that you used
6 to estimate the cost of that.

7 As you know, we have had some conversations about
8 making some change in the excess business holdings for
9 foundations, and we have got some cost estimates on that
10 as well.

11 This looks like a fairly substantial change and
12 anything you could do afterwards to give me an estimate
13 of how you have calculated the cost would be helpful.

14 Mr. Kies. All right. Sure, Senator Kerrey.

15 The Chairman. Senator Graham. Then I would like to
16 continue.

17 Senator Graham. Have you calculated what the cost
18 of eliminating the depreciation recapture on real estate
19 would be?

20 Mr. Kies. Yes, sir. It would be about \$7 billion
21 for the 10-year period to lower to 20 percent.

22 The Chairman. Please proceed.

23 Mr. Kies. Section IV of the bill consists of the
24 changes in the estate and gift tax area. The unified
25 credit is phased up to \$1 million by the year 2008. The

1 various limits under the gift tax and estate tax
2 provisions are indexed. In addition, there is an
3 exclusion of \$1 million of qualified family farm and
4 business property that is in addition to the unified
5 credit.

6 The current law provision that provides for
7 installment payment of estate taxes for closely-held
8 businesses under Section 6166 which permits the payments
9 of these over 14 years would be extended by 10 years.

10 The interest charged on those utilizing the
11 installment method, which currently is 4 percent on the
12 first million of value of the estate, would be changed to
13 0 percent on the first million of the taxable estate.

14 The provisions under 2032(A) dealing with special use
15 valuation would be clarified to indicate that farm cash
16 rentals do not cause a recapture.

17 Item 6 is a modest change in the generation-skipping
18 transfer tax to exempt individuals with deceased parents.

19 Finally, Item 7 is an exclusion from the estate tax
20 of up to \$1 million for the treatment of land subject to
21 a qualified conservation easement, and in addition the
22 rules applicable to severed mineral rights would be
23 modified to eliminate the current law rule which makes
24 the current exception only applicable to mineral rights
25 severed prior to June 13, 1976.

1 That completes a description of that section of the
2 bill.

3 The Chairman. Please proceed.

4 Mr. Kies. Section V of the bill contains the
5 expiring provisions. The provision dealing with
6 contributions of appreciated stock to private foundations
7 is extended through December 31, 1999. That provision
8 previously expired on May 31 of this year.

9 The Orphan Drug credit is made permanent. The Work
10 Opportunity Tax Credit is extended through December 31,
11 1999, with a modification in the eligibility rules
12 applicable to welfare recipients.

13 Finally, the R&D credit, which expired on May 31 of
14 this year, is extended through December 31 of 1999.

15 Senator Nickles. Ken, on number 1, that is to
16 market value, is it not?

17 Mr. Kies. That is correct. That is the provision
18 that allows contribution equal to fair market value for
19 contributions of appreciated stock to private
20 foundations.

21 The Chairman. Please proceed.

22 Mr. Kies. The next section is the District of
23 Columbia incentives.

24 Senator Gramm. Mr. Chairman, can I ask Ken one
25 question on the inheritance tax?

1 The Chairman. Yes, Senator Gramm.

2 Senator Gramm. Ken, if we eliminated number 2 and
3 just took the money to raise the deductible quicker and
4 higher on number 1, what could we get?

5 Mr. Kies. Well, it would sort of depend on which
6 one you wanted to do more of, quicker or higher, because
7 they are sort of directly related.

8 Senator Gramm. Well, if you did it quicker first
9 until you got to the million, then with any money you
10 would have over the 10 years go higher, sort of what
11 could you, in ball park figures, do?

12 Mr. Kies. You could probably design something that
13 would get you to \$1 million rather than, in 2008, of
14 probably in the neighborhood of 2003 or 2004. These
15 things you have to kind of play with, but it would
16 probably be somewhere in that neighborhood. So you could
17 probably get to \$1 million several years earlier than
18 under the mark. Then in the out years you could take it
19 up higher, if that were the decision the committee wanted
20 to make.

21 Senator Gramm. All right.

22 Thank you, Mr. Chairman.

23 The Chairman. Please proceed. I am sorry.

24 Senator Moynihan?

25 Senator Moynihan. Just for the record, Mr. Kies,

1 how many estates are subject to the estate tax?

2 Mr. Kies. Senator Moynihan, under current law in
3 1998 we project that, of the 2.3 million people that will
4 die, 40,100 will have taxable estates.

5 Senator Moynihan. 40,100.

6 Senator Chafee. Give us those statistics again,
7 please, Ken.

8 Mr. Kies. We project, of the 2.3 million people
9 that will die in the United States in 1998, that 40,100
10 will have taxable estates.

11 Senator Chafee. What does the estate tax bring in,
12 total, per year?

13 Mr. Kies. This year it is expected to bring in \$17
14 billion. We expect that to grow to \$34 billion within
15 the next 10 years.

16 Senator Baucus. That is under current law?

17 Mr. Kies. That is correct.

18 Senator Moynihan. Yes. And a lot of people are
19 getting richer.

20 Senator Gramm. The number of families over the next
21 10 years that pay the tax really goes up fast.

22 Mr. Kies. We project that, by the year 2007, there
23 will be 73,000 taxable estates, which will be up from the
24 40,000 in 1998.

25 The Chairman. I would point out that the Budget

1 Agreement, of course, provides that there will be
2 substantial relief in the estate tax area.

3 Senator Moynihan. And may I say to my good friend,
4 this truly is substantial.

5 [Laughter]

6 The Chairman. Please proceed.

7 Mr. Kies. The District of Columbia incentives makes
8 several changes. First, the existing DC Enterprise
9 Community, plus those Census tracks with greater than 35
10 percent of poverty would receive Empowerment Zone
11 treatment.

12 Second, new investments in the District of Columbia
13 in the next 5 years, if held for 5 years, would qualify
14 for a zero capital gains rate. That provision would
15 sunset for new investment after 2002.

16 Finally, the administration proposal providing \$75
17 million in tax credits to taxpayers that provide equity
18 investment and loans to DC businesses would be adopted.
19 All of these provisions are contingent upon enactment of
20 legislation providing what essentially is an overall DC
21 rescue package legislation that is currently pending in
22 the two Houses.

23 Senator Jeffords. Mr. Chairman, that last part, it
24 is contingent upon what?

25 Mr. Kies. Well, it is contingent upon the enactment

1 of legislation that would create, I believe it is
2 referred to as the DC development board or entity. That
3 is part of the overall legislation that has been proposed
4 with respect to the District of Columbia, so these tax
5 incentives would not take effect until that entity is
6 actually created and enacted into law by the Congress.

7 Senator Jeffords. Thank you, Mr. Chairman.

8 I just want to point out, I know that there are a
9 number of members that are looking and kind of lusting
10 for this money, and I would hope we at least could keep
11 this provision within the District of Columbia boundaries
12 or to help the District of Columbia. So I would just
13 alert anyone that tries to steal it, I will be trying to
14 do my best to prevent that.

15 Thank you.

16 Senator Baucus. Mr. Chairman?

17 The Chairman. Senator Baucus.

18 Senator Baucus. Mr. Chairman, might I ask a
19 question again about the estate and gift tax, and go back
20 to that, if possible?

21 The Chairman. Yes.

22 Senator Baucus. Thank you very much.

23 Mr. Kies, in response to an earlier question, it
24 might have been Senator Gramm who asked it, what would
25 the effect be of eliminating, say, number 2, that is,

1 IV(2) in order to accelerate the unified credit to a
2 million to an earlier date. You said, basically, by
3 eliminating 2 you could accomplish that objective, and
4 the earlier date would be, I think you said, 2004. Is
5 that right?

6 Mr. Kies. Senator, it was a rough projection. I
7 would project that you could probably get to a million
8 perhaps even maybe a little earlier, 2003, 2002, I think.

9 Senator Baucus. Well, the reason I asked the
10 question is earlier when I submitted our amendment to
11 you, to Joint Tax, which had both the unified credit
12 acceleration as well as a provision with respect to
13 qualified family farms, my understanding is your office
14 told us that that figure of 1997 to 2002 would be \$10
15 billion more than you have got there. That is, the loss
16 would be \$13 billion, not \$3 billion. I am just
17 wondering what the difference is.

18 Mr. Kies. Senator, these estimates are
19 significantly affected by the type of phase-in that you
20 select. So it may be that the estimate that we provided
21 had a different phase-in pattern, but I will check during
22 the break and find out if we just took the entire amount
23 of money that is in the \$1 million.

24 Senator Baucus. If you could. Our bill is very
25 similar to the one that the Majority Leader also

1 introduced on the same subject.

2 Mr. Kies. All right. We will do that.

3 Senator Baucus. Thank you.

4 Senator Nickles. Mr. Kies?

5 The Chairman. Senator Nickles.

6 Senator Nickles. Going back to the DC provisions.

7 That exemption from capital gains, is that all investment
8 in DC?

9 Mr. Kies. It is all investment in----

10 Senator Nickles. What is qualified DC business
11 property?

12 Mr. Kies. Essentially, it is open to retail office
13 buildings. It is a fairly open definition in terms of
14 what would qualify.

15 Senator Nickles. Is that real estate property
16 complex, duplexes?

17 Mr. Kies. Yes. Yes.

18 Senator Nickles. Apartments?

19 Mr. Kies. Yes. Generally, what it would not apply
20 to is intangible assets, but retail establishments, any
21 commercial establishments, things of that nature would
22 all qualify for this rate.

23 Senator Nickles. So if I wanted to put in a liquor
24 store or something like that, that is going to qualify
25 for zero capital gains, or rental property in DC is going

1 to be exempt from capital gains, but not in Virginia? I
2 know Senator Jeffords may have a different opinion, but I
3 question this.

4 Mr. Kies. Senator, there is a list of types of
5 businesses that frequently do not qualify for any tax
6 incentives when these kind of provisions are done. They
7 include liquor stores, various amusement activities, and
8 things of that nature, and none of those would qualify.

9 Senator Nickles. I started to ask you that. I did
10 not know what amusement activities you were talking
11 about.

12 Mr. Kies. Those would not be qualified under this.

13 Senator Nickles. Now, I was actually looking at
14 number 2, which I was interpreting to be pretty broad,
15 the zero capital gains. I am thinking you are talking
16 about new investment, and almost anybody that invests in
17 DC is going to qualify.

18 Mr. Kies. That is correct, except that you have to
19 realize there is a requirement that it be held for 5
20 years so that no one would be entitled to the zero
21 capital gain rate essentially any earlier than about
22 2002.

23 Senator Nickles. Well, let me ask you another
24 question. In the District of Columbia you have some very
25 affluent neighborhoods and you have some very low-income

1 neighborhoods. But this applies to anywhere in the
2 District of Columbia?

3 Mr. Kies. It applies to anywhere in the District of
4 Columbia, but it, of course, would not apply to
5 residential housing, it would only apply to business
6 investment.

7 Senator Gramm. What if you rented the residential
8 housing?

9 Mr. Kies. Then it would be rental property.

10 Senator Gramm. But if you bought a house and rented
11 it for 5 years it would count, would it not?

12 Mr. Kies. It does not apply to residential
13 investment, whether it is leased or owned, so those do
14 not qualify. It is only commercial business
15 establishments like retail office buildings, things of
16 that nature.

17 Senator Nickles. One additional question. The \$75
18 million in tax credits to taxpayers that provide equity
19 and loans to certain DC businesses. Who is going to be
20 the wizard that gets to choose who qualifies?

21 Mr. Kies. That is the DC board that I referred to
22 earlier. Under the legislation which the administration
23 has proposed, this board would, subject to certain
24 criteria that are provided in the legislation, decide who
25 these credits could be awarded to.

1 One of the requirements is that, for any dollar of
2 credit awarded, the recipient has to be putting \$3 of
3 investment of their own money into the investment that
4 occurs in the District of Columbia. But the decision
5 about to whom these credits would be awarded would be in
6 the hands of this board to be created by other pending
7 legislation.

8 Senator Nickles. All right. I appreciate the
9 answer.

10 Mr. Chairman, I have some problems with some of this
11 section, but I appreciate the answers to the question.

12 Senator Murkowski. Mr. Chairman, I have a couple of
13 more questions relative to this.

14 The Chairman. Frank?

15 Senator Murkowski. For clarification purposes, you
16 said duplexes, you said apartments. I am concerned about
17 many of the residential homes on Capitol Hill that have
18 an apartment in them. They may have an English basement
19 or something. I would assume that they would qualify
20 then.

21 Mr. Kies. They would not qualify.

22 Senator Murkowski. Then what is your cut? They are
23 depreciating those properties. They are commercial in
24 the sense that they generate rental.

25 Mr. Kies. Senator Murkowski, no residential

1 properties would qualify for the zero capital gains rate
2 under this legislation.

3 Senator Murkowski. Well, distinguish for me a
4 residential property from a duplex.

5 Mr. Kies. A duplex is residential.

6 Senator Murkowski. Well, you said duplexes.

7 Mr. Kies. That was incorrect. No residential
8 property qualifies under the zero capital gains rate,
9 whether it is a duplex, an apartment, a house, or any
10 other residential property.

11 Senator Nickles. What about an apartment complex?

12 Mr. Kies. No. Only commercial business property,
13 office buildings, retail, and things of that nature would
14 qualify.

15 Senator Murkowski. And that would mean, if I own a
16 building and have a cleaners in it, now that building
17 previously could have qualified as a residential because
18 they are all over Capitol Hill. They are these
19 brownstones, for all practical purposes. Now, does it
20 become commercial because they have a commercial activity
21 in it, a cleaners?

22 Mr. Kies. In the case of a property like that it
23 would be bifurcated. The residential piece would not
24 qualify, the portion that is retail or commercial would.

25 Senator Murkowski. What concerns me a little bit is

1 how you make this definitive break because you are going
2 to find people that are going to be able to say, well, I
3 have got a commercial function in what I bought for a
4 residence and it is very attractive now because it has
5 got zero capital gains.

6 Mr. Kies. Although, Senator Murkowski, this is a
7 distinction that has existed in tax law for years because
8 we give different depreciation to residential versus
9 commercial. So, I mean, it is a concept that the tax law
10 has worked with in the past.

11 The Chairman. All right.

12 Senator Mack. Mr. Chairman?

13 The Chairman. Connie Mack.

14 Senator Mack. Yes. If I may just make a comment
15 here. I mean, these provisions are put in here for the
16 purpose of trying to encourage investment into the
17 District of Columbia.

18 As we look at what is happening to the District, the
19 only involvement of the Congress has been, how much money
20 are we going to appropriate to the District? There are
21 those of us who think that we have got to find other
22 alternatives, that we have got to find ways to develop
23 incentive for people to invest and to move into the
24 District. Businesses and families are moving out of the
25 District.

1 As those families move out, the tax base and the
2 revenue base for the city declines and services begin to
3 deteriorate and continue to deteriorate. If there is not
4 a way found to turn that around, then the Congress is
5 going to be called on more and more often for more and
6 more appropriated accounts, and that is why this is in
7 there.

8 The Chairman. I do want to limit comments on the
9 part of the members to questions.

10 Senator D'Amato has not had a chance.

11 Senator Jeffords. Mr. Chairman, I have a question.

12 Is there any requirement that the businesses are
13 owned by residents?

14 Mr. Kies. No, Senator, there is not.

15 Senator Jeffords. Thank you.

16 The Chairman. Senator D'Amato.

17 Senator D'Amato. Mr. Chairman, I would like to
18 touch on the area of depreciation while we are talking
19 about it, and capital gains tax cuts. While it does not
20 center itself about Washington, I think it is appropriate
21 to note, and I know that some have commented, that in our
22 attempt to raise revenue, one of the things that is very
23 discouraging is that we are treating certain Americans in
24 a much different way than we are treating others on the
25 basis of their business investments. I just do not think

1 that is fair. I think that we ought to be taxing people
2 at the same rates, and businesses, and should not be
3 discriminating.

4 In this case, those who invest in real estate are,
5 and will be, taxed in terms of capital gains tax cuts at
6 a different rate. By using the recapture provisions as
7 it relates to those properties that were depreciated, it
8 really does violence to that principle of fairness and
9 equity in our taxing system. What happens is, we are
10 singling out those who invest in real estate.

11 I would like to make this additional comment. Many
12 regions of the country were savaged as a result of the
13 collapse of the real estate market, and I believe to some
14 extent that was exacerbated, the situation in the 1980s,
15 as a result of the unfair manner in which reforms were
16 made as it related to investments made in real estate.
17 Retroactively we penalized people who had made
18 investments. It is one thing to say future, but that is
19 what we did in 1986.

20 Now, here what we are saying is that if you have
21 invested in anything other than real estate your capital
22 gains tax rate will be 20 percent, but if you invest it
23 in real estate your capital gains rate will not be 20
24 percent, but that part which has figured into
25 depreciation will be taxed at a 26 percent rate. It is

1 just not right. It is inequitable. I have several
2 amendments pending.

3 Now, I also think we run into a situation where we
4 should not be in the business of having to raise rates
5 for one class to deal with equity on another. So, I am
6 somewhat uncomfortable about that and later when we get
7 to the actual time to offer amendments, I will speak to
8 that issue. But I certainly would hope that this
9 committee, hopefully on a bipartisan basis, could work
10 together to find a way, in a collaborative effort, to
11 deal with this inequity because it is just not fair.

12 Thank you, Mr. Chairman.

13 The Chairman. Please proceed.

14 Mr. Kies. Mr. Chairman, I am turning to the
15 miscellaneous provisions on page 4. The first item would
16 create an inner city passenger rail fund, which would be
17 funded with amounts equivalent to 0.5 cent per gallon
18 from the gasoline tax through April 16, 2001.

19 Item 2 would provide an above-the-line deduction for
20 certain State and local official expenses that are
21 currently subject to the 2 percent of AGO limitation for
22 deductible business expenses.

23 Item 3 would repeal the UBIT rule on income from an S
24 corporation to an ESOP.

25 Item 4 would clarify the tax-exempt status of certain

1 Worker's Compensation funds.

2 Item 5 would essentially codify the IRS position with
3 respect to corporate sponsorship of charitable
4 organization events.

5 Item 6 would raise the charitable mileage rate from
6 12 cents per mile to 15 cents per mile and index
7 thereafter.

8 Item 7 would allow time share associations to elect
9 to be taxed as homeowner associations at the 32 percent
10 rate.

11 Item 8 would modify the passive foreign investment
12 company provisions to eliminate the overlap between
13 Subpart F and the so-called PFIC provisions.

14 Item 9 would phase in a clarification of the foreign
15 sales corporation benefits for computer software.

16 Senator Nickles. Mr. Kies?

17 Mr. Kies. Yes, sir.

18 Senator Nickles. On that one, what is the
19 difference in dollars if we just did it automatically, as
20 some people think is appropriate?

21 Mr. Kies. I believe, Senator Nickles, that the cost
22 is a couple of hundred million dollars. I believe it is
23 around \$200-300 million if it went in immediately rather
24 than being phased in over the 3-year period.

25 Senator Nickles. Well, a lot of individuals think

1 that is already the case. Anyway, if you would give that
2 figure to me that would be appreciated.

3 Mr. Kies. We certainly can.

4 Senator Nickles. Thank you.

5 Mr. Kies. The next item would exempt from U.S.
6 property definition under Subpart F certain securities
7 positions.

8 The next item would direct the Secretary of the
9 Treasury to limit treaty benefits for payments to certain
10 hybrid entities.

11 The next item would equalize the tax rates among
12 propane, LNG and methanol.

13 The next item would repeal the excise tax on
14 recreational motor boat diesel fuel.

15 The next item would provide expensing for
16 brownfields, developments, and empowerment zones,
17 enterprise communities, and certain EPA demonstration
18 sites.

19 The next item would reduce the excise tax on draft
20 cider from its current level to the rate which applies to
21 small-producer beer, which is 22.6 cents per gallon.

22 The next item would clarify the capital gains from
23 culled cows that are not included in the disqualified
24 income for purposes of the Earned Income Credit
25 limitations.

1 The next item would provide involuntary conversion
2 tax treatment for livestock sold on account of certain
3 weather-related conditions which would expand the current
4 law rule that only applies to livestock sold on account
5 of drought conditions.

6 The next item would reverse the IRS position on the
7 alternative minimum tax treatment of certain installment
8 sales by farmers.

9 The next item would require a study on simplified
10 collection of distilled spirits taxes.

11 The next item would restore the meal deduction
12 limitation to 80 percent for those individuals subject to
13 the hours of work limitation under the Department of
14 Transportation regulations, and to Alaskan seafood
15 processors. That would be phased up in 5 percent
16 increments every other year until it hit 80 percent.

17 Senator Nickles. What is the deduction now?

18 Mr. Kies. The current deduction is 50 percent.

19 Senator Chafee. What was it before? I think we
20 changed this in the 1986 bill.

21 Mr. Kies. At one time it was 100 percent, then it
22 was reduced to 80 percent. Then I believe it was the
23 1993 act that reduced it to 50 percent. This would phase
24 it up to 80 percent for those individuals like truckers
25 and other people subject to the hours of work limitation,

1 plus seafood processors.

2 Senator Nickles. So we are going to change it to 5
3 percent per year?

4 Mr. Kies. Five percent every other year, until we
5 hit 80 percent.

6 The next item would delay the penalties for failure
7 to make payments under the electronic funds transfer
8 provisions until June 30, 1998. The IRS recently waived
9 those penalties through the end of this year.

10 The next item would allow grandfathered publicly-
11 traded partnerships to elect to remain in partnership
12 form, provided they agree to pay a 3.5 percent tax on
13 their gross income.

14 The next item would exempt multi-employer plans from
15 the Section 415 percentage limitations applicable to
16 qualified defined benefit plans.

17 The next item would clarify the partial termination
18 rules for trans-Alaska pension trust.

19 The next item would permit Montana to do a 5-year
20 demonstration project with simplified tax and wage
21 reporting for employment taxes.

22 Finally, item 26 would increase the size of projects
23 financed with small issue taxes and bonds to \$20 million;
24 the current level of investment is \$10 million. This
25 provision would, however, keep the bond cap at \$10

1 million for these small issue projects.

2 Mr. Chairman, that completes the description of VII.

3 The Chairman. Senator Gramm.

4 Senator Gramm. Mr. Chairman, on your number 16,
5 this is on the capital gains change for culled cows. I
6 assume this applies to livestock across the board, that
7 the sheep and goat people would get the same treatment?

8 Mr. Kies. That is correct. But not poultry.

9 Senator Baucus. I might say to my good friend from
10 Texas though, female sheep are not cows.

11 [Laughter]

12 Senator Gramm. So it includes all livestock except
13 chickens.

14 Mr. Kies. That is correct.

15 Senator Gramm. And the logic of excluding chickens
16 is what?

17 [Laughter]

18 Mr. Kies. They are not subject to capital gain
19 treatment, generally.

20 Senator Hatch. What about ostriches?

21 Senator Gramm. In other words, their production
22 schedule is so short it is not relevant.

23 Mr. Kies. Exactly.

24 Senator Gramm. My sheep and goat people are going
25 to feel good when they hear about this.

1 [Laughter]

2 The Chairman. Are there any more questions?

3 Senator Nickles. I think the Gramm modification of
4 this is very important. But this is just for the
5 purposes of the Earned Income Credit?

6 Mr. Kies. That is correct. Under current law, if
7 you have more than \$2,200 of capital gains you lose the
8 Earned Income Credit, and this would allow you to exclude
9 that for purposes of that disqualification rule.

10 The Chairman. Senator Graham.

11 Senator Graham. Mr. Chairman, this goes to the item
12 on the small issuer and the capital expenditure limit
13 being increased from \$10 million to \$20 million. In a
14 previous item under the education component there was the
15 question of raising the limit for arbitrage from \$5
16 million to \$10 million, is your recommendation.

17 Could you give us a revenue estimate of what it would
18 entail if you raised that arbitrage limit to the \$20
19 million that you have here?

20 Mr. Kies. Senator Graham, we can certainly find
21 that out and we will let you know after the break.

22 Section VIII of the bill is the revenue offset
23 section. The first series of provisions deal with taxes
24 which go into the Airport and Airway Trust Fund.

25 Item 1 would provide for an extension of the current

1 law 10 percent ticket tax through September 30, 2007.

2 Item 2 would reduce the air passenger tax rate from
3 10 percent to 7.5 percent for the ticket price of flight
4 segments to and from certain rural airports.

5 Item 3 would repeal the \$6 departure tax and impose
6 the 10 percent ticket tax on the portion of the
7 international ticket price attributable to flight through
8 U.S.-controlled air space. It would, however, retain the
9 present law rule for domestic flights to and from Alaska
10 and Hawaii.

11 Item 4 would impose a 10 percent ticket tax on cash
12 payments made to airlines for air travel under credit
13 card and similar programs, like frequent flyer programs.

14 Senator Conrad. Mr. Chairman, might I ask a
15 question on that? Do you want to complete the section?

16 The Chairman. Yes, please. Then we will open it
17 up.

18 Mr. Kies. Item 5 would require recognition for
19 certain extraordinary dividends addressing the so-called
20 Seagram's transaction.

21 Item 6 deals with the treatment of transactions under
22 Section 355 dealing with so-called Morris Trust
23 transactions. This would contain a significant
24 modification from the originally-introduced legislation
25 to essentially exempt intra-group spins within a

1 consolidated group if they are not part of a Morris Trust
2 transaction involving the sale of an entity to an
3 unrelated third party.

4 Item 7 would require recognition of gain on certain
5 appreciated positions and personal property. This
6 addresses the so-called short-against-the-box
7 transactions.

8 Item 8 modifies net operating loss carryback rules
9 from the current law rules which permit 3-year carryback
10 and 15-year carry forward to 2-year carryback and 20-year
11 carry forward.

12 Item 9 would modify foreign tax credit carry-over
13 rules of current law so that they would provide for a 1-
14 year carryback and a 7-year carry forward, rather than
15 the current law 2-year carryback and 5-year carry
16 forward.

17 Item 10 is a Treasury proposal which would modify the
18 holding period for dividends received deduction.

19 Item 11 is another Treasury proposal which would
20 provide for inclusion of income for principal contracts
21 under Subpart F.

22 Item 12 would restrict the like-kind exchange rules
23 involving the transfers of foreign for domestic property,
24 bringing those rules into conformance with the rules
25 currently applicable to real property like-kind

1 exchanges.

2 Item 13 would extend the last excise tax through
3 September 30, 2007.

4 Item 14 addresses the treatment of preferred stock as
5 boot.

6 Item 15 extends the FUTA surtax of current law of 0.2
7 percent through December 31, 2007.

8 Item 16 provides for an expansion of the requirement
9 that involuntarily converted property be replaced with
10 property acquired from an unrelated person.

11 Item 17 would require registration of confidential
12 corporate tax shelters.

13 Item 18 would provide for information reporting on
14 corporations receiving contract payments from Federal
15 agencies.

16 Item 19 would extend the disclosure of tax return
17 information for the veterans' programs.

18 Item 20 would provide for a modification of the
19 holding period for certain foreign tax credits of 16 days
20 for common stock and 46 days of preferred stock.

21 Item 21 would reform the tax treatment of redemptions
22 involving related corporations under so-called Section
23 304.

24 Item 22 would restrict the income forecast method
25 essentially to the entertainment industry and allow 3-

1 year depreciation recovery for rent-to-own property.

2 Item 23 would deal with gain and losses of certain
3 terminations dealing with the so-called extinguishment
4 doctrine.

5 Item 24 would clarify the rules as relates to
6 interest on under-payments reduced by foreign tax credit
7 carrybacks.

8 Item 25 would modify the basis allocation rules for
9 distributing partners.

10 Item 26 would eliminate the substantial appreciation
11 requirement for inventory of a partnership.

12 Item 27 would extend the UBIT rules to second-tier
13 subsidiaries of tax-exempt organizations.

14 Item 28 would provide for carryover basis on sale of
15 property to tax-exempt related parties.

16 Item 29 would modify the provisions applicable to
17 corporate-owned life insurance, to make those rules
18 applicable to essentially circumstance in which the
19 corporation had an insurable interest. Under current
20 law, these rules only apply to insurance on officers,
21 employees and directors.

22 These rules would clarify that premiums are not
23 deductible and interest borrowed from life insurance
24 policies in the case of any insurance interest follows
25 the rules applicable to officer, employer, and director

1 insurance and would provide for a pro rata interest
2 disallowance rule for these types of policies.

3 Item 30 would terminate the suspense accounts for
4 family farm corporations, the so-called Big Chicken
5 provision, which would provide for a 20-year recapture of
6 those amounts that are currently in a deferral account.

7 Item 31 would repeal the installment sale grandfather
8 rule which was included in the 1986 Act for what appears
9 to be three or four corporations.

10 Item 32 would repeal an 1986 grandfather rule which
11 exempted from the general life insurance taxation rules
12 the pension business of Mutual of America.

13 Item 33 would apply to the 3 percent telephone excise
14 tax to certain prepaid phone cards.

15 Item 34 would provide for a consistency requirement
16 for returns of beneficiaries of estates and trusts.

17 Item 35 would repeal the reporting requirement
18 applicable to real estate transactions that will qualify
19 for the principal residence exclusion under the capital
20 gain provisions.

21 Item 36 clarifies the period of limitation relating
22 to foreign tax credits.

23 Item 37 provides for a uniform excise tax on vaccines
24 and adds three new vaccines.

25 Item 38 increases the amount which currently

1 qualifies for involuntary cash-out from pension plans
2 from \$3,500 to \$5,000.

3 Item 39 repeals the 15 percent excess distribution
4 tax, which also applies to excess accumulations in
5 pension plans.

6 Item 40 repeals the special rule which permits
7 certain companies to eliminate their AMT liability, an
8 exception from the 90 percent limit on the use of foreign
9 tax credits of current law.

10 Item 41 would provide employers the option to offer
11 tax-free employee parking or taxable cash compensation.

12 Finally, Item 42 would replace the truck tax
13 deduction for tire value with a tax credit for excise
14 taxes paid on tires.

15 Mr. Chairman, that completes a description of that
16 section.

17 Senator Hatch. Mr. Chairman?

18 The Chairman. Yes, Senator Hatch.

19 Senator Hatch. Mr. Chairman, let me just ask Ken,
20 the mark changes the way taxes on international flights
21 are calculated. Now, if you can give us the average
22 dollar amount that international travelers will pay under
23 your formula, how is this tax going to be administered?

24 Do travel agents and other sellers of transportation
25 currently have the information they need about percentage

1 of a total trip in U.S. air space for tens of thousands
2 of city payors in order to do the computations to derive
3 the tax due on each ticket? If you could give us some
4 background on that, I would appreciate it.

5 Mr. Kies. Senator Hatch, under the proposal the
6 portion of an international flight that occurs within the
7 U.S. air traffic control space, the portion of the ticket
8 that relates to that portion of the flight would be
9 subject to the 10 percent tax.

10 So, for example, if one flew from Rome to Atlanta,
11 air traffic control space begins in the middle of the
12 Atlantic Ocean. So, roughly, in that example probably
13 about half of the trip would be within U.S. air traffic
14 control space, so one-half of the ticket price would be
15 subject to the 10 percent tax.

16 In terms of administrability, we are advised by the
17 FAA that the administrability of this is not a problem
18 because our current air traffic control system identifies
19 exactly when a plane enters air traffic control space.

20 And, like the frequent flyer mile information that is
21 available for determining how many frequent flyer miles a
22 traveler earns on a particular trip, this type of
23 information is also easily available.

24 In terms of the percentage of the trip that would be
25 subject to the tax, in the case of a New York to London

1 trip it would be 12 percent, Dulles to London, 18
2 percent, Miami to San Paolo, 4 percent. We have the
3 various percentages.

4 Senator Hatch. Does this not put our domestic
5 carriers at a decided disadvantage?

6 Senator Moseley-Braun. It does.

7 Mr. Kies. These rules would be imposed on both
8 foreign and domestic carriers alike so that they would
9 both be subject to the same rules.

10 Under current law, planes that overfly the United
11 States but do not land here are already subject to
12 overflight fees, so that it is only those planes that are
13 international that actually land in the United States
14 that are currently exempt from tax. We are already
15 imposing tax on planes that fly over the United States
16 but do not land here.

17 The Chairman. Carol?

18 Senator Moseley-Braun. Thank you very much.

19 I want to follow up on Senator Hatch's comment about
20 our domestic industry.

21 Senator Hatch. Carol, could you yield for just one
22 second?

23 Senator Moseley-Braun. Yes.

24 Senator Hatch. I asked you about the average
25 dollar, if we could just get that. The average dollar

1 amount that the international travelers will pay under
2 that formula.

3 Mr. Kies. Senator, I will try and find that out.

4 Senator Hatch. Can you provide that?

5 Mr. Kies. I would just caution you that it might be
6 somewhat misleading, only because the percentage of the
7 ticket that is subject to this tax has a wide variation,
8 depending on the destination or the source of the trip.

9 For example, a flight from Seattle to Tokyo, 71
10 percent of the flight is within U.S. air space, whereas,
11 Miami to San Paulo, only 4 percent. So an average would
12 necessarily be a function of some fairly wide variations
13 that exist, but we will find out what that is.

14 Senator Hatch. All right. Thank you.

15 The Chairman. Carol?

16 Senator Moseley-Braun. If I may. Thank you very
17 much, Senator Hatch and Mr. Chairman.

18 The percentage variation, though, sets up an internal
19 discrimination in this country based on location, so that
20 flights originating in the midwest or in the west would
21 pay a higher proportion of this tax by definition.

22 Mr. Kies. Senator, that is correct. Just in terms
23 of the policy here, those flights, of course, use more
24 air traffic control services because they are within U.S.
25 air traffic control space longer than a flight that, say,

1 leaves from Atlanta going to Europe.

2 Senator Moseley-Braun. But that seems to me to be
3 the flaw in that part of the proposal, in that it sets up
4 that kind of discrimination internal to our country,
5 penalizing the heartland, among other things. As much
6 the point, it thereby will have a negative impact on our
7 domestic air traffic located particularly in the
8 heartland of our country. I mean, that is kind of the
9 predicate of the entire formula.

10 The Chairman. Senator Moynihan?

11 Senator Moynihan. I would simply like to ask Mr.
12 Kies if he could describe the effect that the airline tax
13 increases would have on Puerto Rico.

14 Mr. Kies. Senator Moynihan, the rules applicable to
15 a trip to New York to London would apply to a trip from
16 New York to Puerto Rico, so they would be subject to the
17 10 percent tax, essentially. I think all of the trip
18 from New York to Puerto Rico, or from Miami to Puerto
19 Rico, is probably within U.S. air traffic control space.

20 The Chairman. I would like to ask you a question.
21 Is it true that right now our domestic flights are
22 subsidizing international flights in terms of cost of
23 using our air traffic control system?

24 Mr. Kies. Certainly, Mr. Chairman, since we collect
25 nothing on international flights arriving in the United

1 States, and we only collect \$6 on people departing. The
2 consequence is that domestic air travelers essentially
3 are picking up, to the extent that the ticket tax funds
4 the FAA, all of that cost, so international travelers are
5 paying very little.

6 Relevant to that I think also is the fact that under
7 the current set of ticket taxes, we are only collecting
8 about 62 percent of what it costs to fund the FAA from
9 air travel generally. Your proposal for the 10-year
10 period of 1998 to 2007 would raise that to 86 percent, so
11 there would still be 14 percent paid by the general fund
12 by non-utilizers of the air traffic control system.

13 Senator Gramm. Mr. Chairman?

14 The Chairman. Yes, Senator Gramm.

15 Senator Gramm. Well, Mr. Chairman, first of all, I
16 am sure people were surprised when they saw this was
17 going to raise \$17 billion. I think when you look at
18 these charts you are going to understand why.

19 This is a map of the Pacific. You can see San
20 Francisco and Los Angeles there. Then you can see over
21 here, Japan, Manila, and Australia. The area that is in
22 pink is American air space.

23 So, for example, if you fly from San Francisco to
24 Manila, for all practical purposes you are flying in
25 American air space 95, 98 percent of the time. So if

1 your ticket costs \$2,500, 95 to 98 percent of that is
2 going to be subject to a 10 percent tax.

3 Now, obviously, I want to talk about that tax and
4 what impact it has, and ask my question. But you are
5 going to produce an infinite amount of gaming. People
6 are going to fly places in order to get out of the United
7 States and then to try to fly on. Of course, we will try
8 to close the loophole. The Canadians ought to be here
9 outside handing out tourist literature.

10 [Laughter]

11 Senator Gramm. If you look at the Pacific, it is
12 obvious we are the world's air power because we claim
13 most of the world as American air space. But, basically,
14 half of the Atlantic Ocean is American air space.
15 Somebody in Miami or somebody who wants to fly from
16 Europe to Miami is going to pay that 10 percent ticket
17 tax on half of their flight.

18 Now, let me finish the information and then pose my
19 question. Most studies that have been done about the
20 price elasticity of international travel have concluded
21 that this price elasticity is one which means a 1 percent
22 increase in the price reduces the number of people who
23 buy that ticket by one, the number of tickets sold by 1
24 percent.

25 Now, if that number is right and that was the number

1 that we used in all of our tourist work in Texas, we are
2 going to lose \$47 billion a year in tourist business
3 because of this tax. \$47 billion of tourist business.
4 Having this kind of tax on airline tickets to come to
5 America is like putting a cover charge at a department
6 store.

7 What it basically means is, people are not going to
8 come to look for something to buy. We are collecting
9 from this \$7 billion more than we have under current
10 taxes on aviation. You know, nothing is perfect. Part
11 of this problem is trying to get this 250 pounds of sugar
12 into a 100-pound bag.

13 But I do not think people have thought through the
14 implications of a 10 percent tax, where you are going to
15 have people paying \$250, \$300, \$400 in a tax to fly into
16 the United States, the number one tourist destination in
17 the world.

18 So if somebody wants to go to San Antonio and they
19 are in Japan, they are going to find that their ticket
20 price is maybe \$250 higher to go to San Antonio than it
21 is to go to Europe, and they are not going to come to San
22 Antonio.

23 So all I am saying, Mr. Chairman, is we really need
24 to go back and look at this because this is a very
25 competitive business and I think if we are not careful we

1 are going to have something like a cover charge at
2 Macy's. Has anybody here looked at the implication on
3 tourism spending? We have got almost one million people
4 in America that are employed directly in tourism. What
5 kind of impact would it have on employment or revenues
6 from tourism; has anybody done any kind of study on this,
7 or looked at it?

8 The Chairman. Do you have any comment?

9 I would urge everyone now to keep their comments
10 short and ask questions.

11 Senator Gramm. Let me get an answer to that one, if
12 I could.

13 Mr. Kies. Senator Gramm, we have not done a study
14 of the impact on tourism. Certainly I think it would be
15 worth looking at what the average cost of coach air
16 travel is for these places, because frequently that is
17 substantially less than, say, business or first class
18 where we would predict very little impact on travel.

19 In many of the fares to Europe, the average ticket
20 price, even round trip, is in the \$400-500 range, so if
21 half of that fare is subject to this it would be \$250,
22 which would be a \$25 cost.

23 I suspect that we would find that that increase in
24 cost is a relatively small percentage of what European
25 travelers end up spending in the United States in total,

1 so that the impact on the volume of travel for those type
2 of travelers I think we would probably find would be
3 relatively small.

4 In the case of Asian travel, you are right that our
5 responsibility for air traffic control does cover most of
6 the Pacific, but that is part of the reason that the FAA
7 will spend \$100 billion in the next 10 years. I mean,
8 that is a significant component of what they do.

9 The Chairman. Is it correct that domestic air
10 travel is paying for air control of international waters?

11 Mr. Kies. Clearly that is the case under current
12 law, Mr. Chairman, because international travelers, other
13 than those that fly over the United States and do not
14 land here, essentially pay very little. The only fee
15 that is charged is the departure tax.

16 Senator Murkowski. Mr. Chairman?

17 The Chairman. Frank.

18 Senator Murkowski. I think it is important to note
19 when my friend from Texas put up the chart that the
20 reason that we have such a huge piece of the Pacific
21 under U.S. air traffic control is the reality that you
22 have the Hawaiian Islands, you have Guam. These are
23 possessions, or whatever, so we control those spaces out
24 there.

25 I would encourage the professional staff to try and

1 get us a little information relative to some of the other
2 factors that affect foreign travel. Exchange rates have
3 a dramatic effect on location for tourism because they go
4 where you can get the best buy with the American dollar.

5 Fuel surcharges are passed on all the time relative
6 to the airlines. I mean, it is something that is not
7 necessarily a controllable factor.

8 Then if you want to really get into a zoo, start
9 playing with the fares. There are combinations where
10 they carry cargo and passengers. I mean, there is a
11 myriad of rates out there. You can fly certain times a
12 year for \$200 round-trip cheaper than you can go to New
13 York.

14 So I think as you address the impact of this 10
15 percent or thereabouts it is not going to scare your
16 travelers away, by any means. There are just too many
17 factors out there that address whether somebody is going
18 to come to the United States or not, and among those are
19 exchange rates, fuel surcharges, and range of fares.

20 I would encourage, and my question to the staff is,
21 provide us with some information on some of those other
22 factors that offset the suggestion from our friend from
23 Texas that it is going to discourage activity.

24 The Chairman. Could I ask a question, then we can
25 go ahead and begin to recognize.

1 If I fly from LA to New York, I pay the 10 percent.
2 But if I travel from LA to New York to Paris, do I pay
3 the 10 percent?

4 Mr. Kies. Mr. Chairman, under current law there is
5 a provision which seems a little odd, but it provides
6 that the domestic leg of international travel is not
7 subject to any tax.

8 So, in your example, if you and I were on a plane
9 flying from LA to New York, and you got off in New York
10 but I went on to London, you would pay the tax but I
11 would not.

12 This proposal would impose the 10 percent tax on the
13 domestic leg of international travel so that people
14 flying domestically get treated the same as those who are
15 going on an international trip that follows the domestic
16 leg.

17 The Chairman. Connie?

18 Senator Mack. Thank you, Mr. Chairman.

19 Two questions, I guess. The first one is, did anyone
20 do a study to determine the impact on the so-called
21 luxury tax? My point is, we are getting ready to impose
22 a tax that, frankly, many of us think could have a
23 significant impact. That is the first question.

24 The second question is, is it not fair to say that
25 the issue of discrimination can be worked out within the

1 present tax? I mean, if there is discrimination you can
2 deal with that issue without raising taxes: you can
3 adjust the present law.

4 Mr. Kies. Senator Mack, you could adjust the
5 package so that it would produce the level of revenues
6 that are produced under current law.

7 However, there would remain a significant potential
8 component of discrimination, at least in some people's
9 minds, because the current taxes combined only fund 62
10 percent of the FAA. So the general fund, which is paid
11 by all taxpayers including those who do not travel, is
12 essentially picking up the balance.

13 So some would view that as a remaining element of
14 discrimination, if you will, because taxpayers generally
15 are essentially paying for the rest of the FAA, including
16 a lot of people that do not use any air traffic control
17 services whatsoever.

18 In terms of the luxury tax issue, I think it is a
19 reference to the impact on the boating industry. I am
20 not sure you want to debate it.

21 Senator Mack. You do not have to answer that. That
22 was just a rhetorical question.

23 Mr. Kies. Thank you.

24 The Chairman. Senator Conrad.

25 Senator Conrad. Thank you, Mr. Chairman.

1 Two questions. One, we have got in the
2 industrialized world the oldest fleet in our airlines of
3 any. Second, our airline industry lost money in the
4 1990s. Third, now we are talking about a significant
5 increase in tax. Has anybody looked at the economic
6 impact on the industry and how that flows through to the
7 rest of our economy, given the fact that we have got the
8 dominant position in the airline industry in the world?

9 Mr. Kies. Senator, this is an issue that economists
10 debate all the time and they, not surprisingly, do not
11 necessarily reach agreement. But many people view the
12 excise tax on airplane tickets as a tax that is really
13 paid by the traveler, not by the airline industry,
14 because most economists view excise taxes as ones that
15 pass through to the consumer.

16 I think what the industry would argue is that an
17 increase in excise taxes will have some effect on the
18 level of ridership and that the industry will lose that
19 portion of the profit attributable to those riders. But
20 in terms of who actually bears the tax itself, I think
21 most economists would conclude that it is borne by the
22 passenger, not by the airline itself.

23 Senator Conrad. But would that not be the case? I
24 mean, if we tax something, clearly we are going to get
25 less of it. If we start increasing a tax on air travel,

1 you are going to get less of it and that has an impact on
2 an industry that, frankly, has been very hard hit. You
3 look at other industries in the United States and you
4 look at what this industry has gone through in the 1990s;
5 it is not pretty.

6 I do not think you would disagree with that in terms
7 of the loss of money in the industry in the 1990s and the
8 effect that has had in terms of the fleet that we have
9 out there. It just seems to me we are sort of piling on.

10 Mr. Kies. Well, the earnings numbers for the last
11 couple of years have been fairly optimistic.

12 Senator Conrad. But even with that, I mean, if you
13 take the cumulative effect in the 1990s, this airline
14 industry has lost money, have they not?

15 Mr. Kies. They are a very capital-intensive
16 industry and they have been modernizing in the last
17 couple of years. That has resulted in a substantial
18 depreciation deduction which has depressed their
19 earnings. So there is no doubt but that they have gone
20 through a cyclical period.

21 Senator Baucus. And I might add, a lot has to do
22 with the fare wars. I mean, a lot of this is brought on
23 by the industry itself. With deregulation and fare wars,
24 the industry has done massive restructuring.

25 Mr. Kies. I was going to point out, Senator Baucus-

1 ---
2 The Chairman. Could I just point out that I do want
3 to recess for lunch, and we are coming back in at 2:15.
4 So I would ask everybody, try to keep this to questions.

5 Senator Conrad. Could I go to the second element of
6 this question and just ask, the justification for the tax
7 on credit card benefits for airline travel, it just seems
8 to me this is discriminatory.

9 We are not taxing for other benefits that are on
10 credit cards. I mean, I get these credit card entreaties
11 two, three times a week now, and they have got a long
12 list of benefits. But we have singled out the airline
13 industry benefit plans for taxation. How do we justify
14 that?

15 Mr. Kies. Well, Senator Conrad, I think that
16 actually the current system is what discriminates,
17 because currently if I use my Visa card and I earn miles,
18 Visa periodically, monthly, makes a cash payment to
19 United, or whatever other airline that I end up flying
20 for free on.

21 Under current practice, my use of the air traffic
22 control system I do not pay anything for, because these
23 payments are not subject to the ticket tax, even though
24 they represent cash payments for air travel.

25 Essentially, what this would do is impose the same 10

1 percent tax that fare-paying passengers pay when they buy
2 an airline ticket. On the other hand, if I use my
3 frequent flyer miles to stay in the hotel I do not use
4 the air traffic control system when I am staying in the
5 hotel.

6 So I think that imposing the tax on cash payments for
7 compensating the airlines for air travel really produces
8 a policy result that is consistent with the overall air
9 ticket tax that is there.

10 Senator Conrad. It just seemed that we would go
11 back to the question, and I understand the explanation,
12 that we are sort of hitting this industry once, twice,
13 three times. This is an industry that strikes me as not
14 the one that is in the strongest position to take
15 additional hits.

16 Senator Nickles. Mr. Chairman?

17 The Chairman. I would like to recognize Don.

18 Senator Nickles. Mr. Chairman, a couple of quick
19 questions.

20 The Chairman. Jim Jeffords is actually next on the
21 list. Jim?

22 Senator Jeffords. I have no questions.

23 The Chairman. All right.

24 Senator Nickles. Mr. Chairman?

25 The Chairman. All right. Let me recognize Don.

1 Senator Nickles. Mr. Kies, you mentioned that on
2 international flights you have an LA to New York that is
3 not taxed. Do you have any computation what it would be
4 if we just taxed the segments and not the international
5 on air space, or maybe come up with something on that?

6 Mr. Kies. A rough approximation of that would be
7 that the House bill, for example, would have at one point
8 imposed a tax on the domestic segment. The rate schedule
9 is a little different, at 7.5 percent with \$2 per flight
10 segment in addition, but that provision raised roughly \$4
11 billion in the House bill.

12 So, based upon that rough approximation, the portion
13 that is taxing travel within the air traffic control
14 system by both domestic and international travelers would
15 be around in the \$13 billion range over the 10-year
16 period, or about \$1.3 billion a year.

17 Senator Nickles. All right. Also, on this question
18 on frequent flyer taxation, as I understood the proposal,
19 the tax would be basically not when the ticket was
20 purchased or not when it was redeemed, and a whole lot of
21 people have miles but not a lot of people are flying or
22 using those miles, or maybe they use it for cars or
23 hotels. Is your proposal limited just to when the ticket
24 is purchased?

25 Mr. Kies. Senator, it essentially is limited to

1 that because the way in which the credit card companies
2 have worked out their contractual relationships with the
3 airlines is they make periodic payments roughly monthly
4 that are intended to compensate the airlines for the
5 travel that occurs within that time period by people who
6 are redeeming frequent flyer miles.

7 So the alternative would be to try and impose it at
8 the point that the person actually gets on the airplane,
9 but since there is no economic transaction that they are
10 entering into with the airline it would be rather
11 impractical to impose it at that point.

12 So it is imposed when the cash payment goes from the
13 credit card company to the airline, but those cash
14 payments are timed to essentially reimburse the airlines
15 on a fairly contemporaneous basis with respect to the air
16 travel the airlines are providing free to frequent flyer
17 travelers.

18 Senator Nickles. And it would not have any costs
19 associated with things that are non-air travel.

20 Mr. Kies. No, not at all. This does not apply to
21 any cash payment that is other than for the compensation
22 for air travel.

23 Senator Nickles. I am going to shock you, and you
24 are going to love this, but I am going to change
25 subjects.

1 Could you explain 27?

2 Mr. Kies. Yes, sir. Under current law, if you have
3 a tax-exempt organization which is a 501(c)(3) that
4 controls a taxable entity, rental payments and other
5 types of income that would generally be not taxable to
6 the 501(c)(3) entity, if they are received from the tax-
7 exempt they are subject to what is referred to as
8 unrelated business income tax.

9 However, those rules do not apply to a second tier
10 subsidiary, so if you have a tax-exempt and immediately
11 under it is a taxable entity and under it is another
12 taxable entity, rental payments from the second tier up
13 to the tax-exempt are not subject to these UBIT rules.

14 All this provision would do is essentially provide
15 the same set of rules to a taxable entity that is in the
16 second or third tier, so you cannot avoid the UBIT rules
17 by simply structuring the organization with the rental
18 payments coming from the second-tier subsidiary.

19 Senator Nickles. Thank you.

20 The Chairman. I would now like to recognize Carol.

21 Senator Moseley-Braun. This issue provides, for me
22 at least, a wonderful opportunity to come together and be
23 in coalition with Senator Gramm on an issue, and I think
24 this is a wonderful thing.

25 Senator Nickles. That is dangerous.

1 [Laughter]

2 Senator Moseley-Braun. At the outset, I agree with
3 Senator Gramm. This is really penny wise, pound foolish
4 policy. It seems to me we are going to unduly burden our
5 domestic industry. It will have tremendous impacts on
6 tourism, which apparently has not even been looked at
7 yet.

8 It will have the effect of diminishing the strength
9 of an industry that has already had difficulty in our
10 country and that is important, not only for us in terms
11 of our domestic activity, but internationally as well.

12 In addition, I want to raise, and my colleagues made
13 the point, that this is kind of piling on with regard to
14 the airline industry. There is another issue here. The
15 IRS has apparently decided to change its tax treatment of
16 aviation maintenance and repairs so that the cost of FAA
17 repair cannot be expensed. So essentially we are taxing
18 them.

19 We are going to put another tax on the industry for
20 doing the safety repair. I fly twice a week. I try to
21 get home because I have got a son at home, a teenager. I
22 try to get home as much as I can. So now the cost of
23 keeping those planes in good flying order will have to be
24 borne by the carrier and they will not be able to deduct
25 those costs and they will have to be depreciated.

1 So there is a change of policy at the IRS level. And
2 I have a letter, by the way, which I hope our colleagues
3 will take a look at, this change of policy in terms of
4 international flights, particularly for States like
5 Illinois where I consider us as having three airlines
6 hubbed out of my State, even though one of them is really
7 Missouri.

8 The fact is, it is going to have a tremendous
9 negative impact, not only on the carriers themselves, but
10 on tourism and every related industry and secondary and
11 tertiary effects that are probably well in excess of any
12 short-term revenue gain that is in this mark. So I think
13 it is penny wise, pound foolish.

14 Again, I look forward to working with my colleague
15 from Texas on this issue.

16 The Chairman. Bob Graham.

17 Senator Graham. Mr. Chairman, I just wanted to
18 remind everybody why we are here at this subject today.
19 We are here because we made a foolish decision a few
20 months ago when we extended the aviation tax not to do it
21 on a permanent basis, but rather to have it expire on the
22 30th of September. Some of us opposed that.

23 Why did we do that? We did it to set up this totally
24 fictitious process which says that we are enacting a new
25 tax. The new tax that we are enacting effective October

1 1 is the tax that we had on September 30.

2 So the only reason the airline industry is being not
3 only asked to continue the tax after the 30th of
4 September but to pay a substantially higher tax is
5 because they were the one person standing in the room
6 when people looked around the room and said, who do we
7 tax? It was a bad decision and now we are about to
8 magnify the consequences.

9 So the question I would like to ask, and ask for not
10 a response immediately but as we move on throughout the
11 day, is if the airline industry had not been the only
12 person in the room when the decision was asked as to
13 where to raise this amount of revenue, who else would you
14 have asked into the room to have considered them for the
15 additional taxes to meet the committee's responsibility?

16 I would like to know who the fourth, fifth, and sixth
17 people that you would have invited into the room would
18 have been so that we can analyze what the policy
19 implications are of the alternatives to this imposition
20 on an industry which has all of the economic
21 characteristics that my colleagues have just described.

22 I think that, for a totally irrational set of
23 political judgments and decisions, we are about to
24 compound into a serious economic blow to one of the
25 mainstays of the American economy.

1 The Chairman. Bob Kerrey.

2 Senator Kerrey. Well, Mr. Chairman, I guess what we
3 are saying is, in the next hour and 15 minutes we have
4 got to find \$7 billion offset. Deal? All right.

5 I just want to call colleagues' attention, as well as
6 the public's attention, to the section that we are not
7 going to walk through that I consider to be very
8 important, and I think it is an important message to put
9 out.

10 This committee is also doing a lot of work and paying
11 a lot of attention to simplification. There is a long
12 section on simplification, and there are also things we
13 are doing to make it more complicated. There are some
14 things in this code that do address the problem of
15 simplification.

16 The Chairman. Thank you.

17 With that, we will recess until 2:15.

18 [Whereupon, at 12:55 p.m., the meeting was recessed.]

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ORIGINAL

EVENING SESSION

(Time: 10:00 p.m.)

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3/19/97
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The Chairman. The committee will please be in order. I am indeed pleased to announce that after long discussions and many differences, agreement has basically been reached on the tax cuts.

We have discussed a number of issues, reached agreement as to how to compromise or modify them, and I will modify my mark accordingly. Let me review what we have agreed upon.

First, we will delete the international ticket tax proposal and substitute the following: First, a 10-percent on domestic segment of international flights; second, there will be a \$8.00 ticket departure and arrival tax; two, we have reached agreement to allow one half of EIC in stacking with child credit. There is no change in income limits.

And three, we will cut depreciation recapture to 24 percent. Four, cut one year from the unified credit phase up; five, we have a \$8 billion, five year add on in child health. In other words, this is in addition to the \$16 billion already approved by the Finance Committee.

The offsets include Clinton's continuous levy and debt collection proposal. And B) We will increase

1 cigarette tax as necessary.

2 Senator Baucus. Twenty cents.

3 The Chairman. I would point out that the tobacco
4 tax will be 20 cents.

5 So that is a summary of the modifications that we
6 have reached agreement on with respect to the
7 Chairman's mark. I would now ask the committee whether
8 they have reached agreement -- the staff rather, if
9 they have reached agreement on the amendments they were
10 reviewing.

11 Senator Moynihan. Mr. Chairman, before you do,
12 could I offer the appreciation of this entire committee
13 for what you have done? It was perhaps not doable, but
14 you have done it again.

15 You have brought us together in a mode that has
16 not been seen in Washington for a very long while, sir.
17 It is a tribute to your experience and to your
18 character. I think it would only be appropriate to me
19 to say we now have \$24 billion in child health
20 provisions over the five years.

21 This could not have happened without Senator Orrin
22 Hatch, and I would like, personally, to acknowledge
23 that, and I think others would agree. The provision
24 for stacking the child provisions, the child credit
25 with the earned income tax credit, could not have

1 happened without Senator Rockefeller.

2 There is not a person on this body who does not
3 add significantly to this achievement, and none more
4 so, singularly so, than you, sir.

5 The Chairman. With the possible exception of the
6 ranking member. Again, I have to say it could not have
7 happened, this agreement could not have been reached,
8 if it had not been for the leadership and the
9 contributions made by the Senator from New York, and I
10 greatly appreciate that.

11 We will, first of all, ask the staff to review
12 what they have been able to do on the amendments that
13 they have been reviewing the last several hours. After
14 we complete that, there is a list of amendments, which
15 will be taken up at that time.

16 It is the intent of the Chair to limit the
17 discussion of those amendments, each one, to five
18 minutes. Three minutes for the proponent of the
19 amendment, and two minutes for the opposition, if any.

20 So, Mark, will you proceed?

21 Mr. Prater. Mr. Chairman, the staff have met and
22 worked on a package of modifications to the Chairman's
23 mark. The document is soon to be delivered, but what I
24 might do is give a brief summary of it.

25 The first provision would expand teacher education

1 expenses that are not subject to the 2 percent limit on
2 miscellaneous itemized deductions for education and
3 also add a certification requirement. The second one
4 would clarify the treatment of purchased receivables by
5 tax exempt hospital cooperative service organizations.

6 The third item would clarify the treatment of
7 travel expenses of certain construction workers while
8 working away from home. The fourth item would permit
9 IRAs to hold bullion for investment purposes. That is
10 bullion only.

11 Number five would clarify the meals and
12 entertainment deduction for purposes of meals provided
13 for the convenience of the employer. Number six would
14 clarify the treatment of security brokers for worker
15 classification purposes.

16 Item seven would extend the win and closed loop
17 biomass production credit for 2 years for facilities
18 placed in service up to the year July 1st, 2001. Item
19 number eight would suspend the property income
20 limitation on percentage depletion for marginal oil and
21 gas production.

22 Item nine would modify the definition of rural
23 airports that qualify for a reduced ad valorem tax rate
24 under the Chairman's mark. Item 10 would limit
25 charitable remainder trust eligibility with respect to

1 certain trusts.

2 Item 11 would provide mortgage financing for
3 residences located in Presidentially declared disaster
4 areas. Item 12 would modify the empowerment zone and
5 enterprise community criteria with respect to Alaska
6 and Hawaii.

7 Item 13 would provide further clarification with
8 respect to exclusion of ministers for non-
9 discrimination testing. These are actually technical
10 changes. Item 14 would deal with further technical
11 clarifications for ministers' retirement plans.

12 Item 15 would delay, by one year, the repeal of
13 the installment sales rule for certain manufacturers.
14 Item 16 would modify the definition of property for
15 purposes of time shares and per a provision in the
16 mark.

17 Item 17 would provide transition relief for
18 certain transactions that are covered under the holding
19 period rules for the dividends received deduction.
20 Item 18 would modify the treatment of net operating
21 losses with respect to Presidentially declared disaster
22 areas.

23 Item 19 would modify the suspense account rule
24 with respect to large family farm corporations. Item
25 20 would treat the service income of non-resident alien

1 individuals earned on foreign ships as foreign source
2 income and disregard the U.S. presence of such
3 individuals for purposes of the withholding rules.

4 Item 21 would exempt from Subpart F, for one year,
5 certain active finance income with respect to insurance
6 and banking operations. Item 22 would delete the phase
7 in with respect to the Fists for Software; the
8 qualification of software with respect to the foreign
9 sales corporation so that the provision would become
10 effective currently. There are a package of pension
11 proposals that were worked out amongst the staff.

12 And Item 25 would create a charitable contribution
13 deduction for certain expenses incurred in support of
14 Native Alaskan subsistence whaling. Item 26 would
15 codify the Bureau of Alcohol, Tobacco and Fire Arms
16 regulations on labeling.

17 Item 27 would provide a study with respect to the
18 modification of rate structure on a vaccine excise tax.
19 And item 28 would, except from the rule denying tax
20 exempt status, to certain Federally guaranteed bonds.

21 And finally, item 29 would tighten the treatment
22 of income from the sale of inventory within domestic
23 territories between two taxpayers with respect to U.S.
24 source income.

25 The Chairman. Are there any comments on the

1 report?

2 Senator Conrad. Mr. Chairman?

3 The Chairman. Yes?

4 Senator Conrad. Might we ask just brief
5 questions?

6 The Chairman. Yes. But I would ask that we try
7 to keep these as brief as possible.

8 Senator Conrad. Mark, could I ask? On the
9 airline situation, I think it was item 12, does that
10 deal with the number of enplanements to qualify for the
11 reduced rate?

12 Mr. Prater. You are talking about the rural
13 definition?

14 Senator Conrad. Yes.

15 Mr. Prater. This is just with respect to
16 essential air service. It deals with the definition of
17 the distance between the airports to qualify for this
18 reduced rate. It is cutting it from 75 miles, which is
19 in the bill, to 69.

20 Senator Conrad. Was there any adjustment made
21 for what Senator Baucus and I requested, that is the
22 number of enplanements to qualify?

23 Mr. Prater. Not in this proposal, Senator. Not
24 in this piece.

25 Senator Conrad. Well, then it is not in here.

1 Mr. Prater. This was just with respect to the
2 reduced excise tax piece, with respect to the provision
3 that is already in the bill and the criteria there.
4 The 100,000 enplanements is still there. The 75 mile
5 test is the only thing that has been changed, and it is
6 now down to 69 miles.

7 Senator Conrad. That is the point. There has
8 been no adjustment for the number of enplanements that
9 --

10 Senator Baucus. Right. And if I might, Mr.
11 Chairman, can I --

12 Senator Conrad. Let me just ask that that be
13 worked in.

14 Senator Baucus. Exactly. Could I ask Mr. Kies
15 about that.

16 Mr. Kies. That particular change would cost
17 against the package about \$700 million for the 10 year
18 period. I think generally the provisions that were
19 included in this package were of a lesser cost nature.

20 Senator Baucus. And \$350 million for five years?

21 Mr. Kies. I believe it is around \$300 million
22 for five years.

23 Senator Conrad. We will be able to keep working
24 on that, Mr. Chairman?

25 The Chairman. You can continue to work at the

1 staff level.

2 Senator Jeffords. Mr. Chairman?

3 The Chairman. Yes?

4 Senator Jeffords. I have a question.

5 The Chairman. Senator Jeffords.

6 Senator Jeffords. With respect to the pension
7 proposals that increases the tax on prohibited
8 transactions, does the language amend RISA or just the
9 Internal Revenue code?

10 Mr. Prater. Just the Internal Revenue code.

11 Senator Jeffords. Thank you. That is all.

12 The Chairman. If there is no further comment, I
13 would ask for a vote on these amendments. Those in
14 favor, signify by saying aye.

15 [Chorus of ayes.]

16 The Chairman. Opposed, nay.

17 [No response.]

18 The Chairman. The ayes have it. The amendments
19 are agreed to.

20 The committee is now open to further amendment.

21 Senator Gramm?

22 Senator Gramm. Mr. Chairman, I have an amendment
23 that would take the 4.3 cent a gallon tax on gasoline
24 that was adopted in 1993 and deposited into general
25 revenues and move that 4.3 cent a gallon tax on

1 gasoline into the highway trust fund.

2 It would preserve the Chairman's provision for the
3 rail fund provision, but it would guarantee that money
4 we collect in a gasoline tax would for transportation
5 purposes. And the Chairman's provision would be
6 preserved, but the remaining amount would go into the
7 highway trust fund.

8 I think we all understand this issue, and I hope
9 my colleagues will support this important amendment.

10 Senator Chafee. Mr. Chairman?

11 The Chairman. Senator Chafee.

12 Senator Chafee. Mr. Chairman, every one of us
13 talks about doing something about the deficit. What
14 this would do is take the money, 4.3 cents, less than
15 .5 cents, which is going to Amtrak--nobody argues with
16 that--and take it from the general fund and put it into
17 the highway trust fund where it will clearly be spent.

18 Now, if you look at it strictly from a budgetary
19 point of view, you can say, oh, it is just going from
20 one trust fund, the general fund, to the highway trust
21 fund, and so that is budgetary neutral.

22 But the fact is it is going into the highway trust
23 fund so it will be spent and not available in the
24 general fund to take care of the obligations of the
25 nation as they exist.

1 So I think this goes completely contrary to all
2 our efforts to do something about balancing the budget,
3 and I hope it will be rejected.

4 Senator Baucus. Mr. Chairman?

5 The Chairman. Senator Baucus?

6 Senator Baucus. Mr. Chairman, I support this
7 proposal. The fact is that our highway users are
8 paying a gasoline tax, they expect that gasoline tax to
9 be used for highways and, I might add, mass transit.
10 Under Senator Gramm's proposal, I assume it will be
11 split between the mass transit account and the highway
12 account of the highway trust fund.

13 Senator Gramm. It would unchanged.

14 Senator Baucus. All that is unchanged. So I
15 remind my colleagues from urban areas of the increase
16 in the mass transit account, as well as increase in the
17 highway account, and it does not affect the budget
18 deficit.

19 Senator D'Amato. Mr. Chairman?

20 The Chairman. Thirty seconds.

21 Senator D'Amato. Mr. Chairman, as someone who
22 has to deal, along with Senator Moynihan, on the Iced
23 Tea Bill that we are going to be authorizing, I tell
24 you we need these dollars desperately.

25 The requests that have piled in are enormous, and

1 I want to commend the Senator, and I want to be
2 supporting this. They have done it the right way.

3 Senator Conrad. Mr. Chairman?

4 The Chairman. Time is up. Those in favor of the
5 amendment, signify by saying aye.

6 [Chorus of ayes.]

7 The Chairman. Opposed, nay.

8 [Chorus of nays.]

9 The Chairman. The ayes appear to have it. The
10 ayes have it. The amendment is agreed to.

11 Senator Chafee. I would like a roll call vote,
12 if I might, on that, Mr. Chairman.

13 The Chairman. A roll call vote has been
14 requested. The Clerk will call the roll.

15 The Clerk. Mr. Chafee?

16 Senator Chafee. No.

17 The Clerk. Mr. Grassley?

18 Senator Grassley. No.

19 The Clerk. Mr. Hatch?

20 Mr. Hatch. Aye.

21 The Clerk. Mr. D'Amato?

22 Senator D'Amato. Aye.

23 The Clerk. Mr. Murkowski?

24 Senator Murkowski. Aye.

25 The Clerk. Mr. Nickles?

1 Senator Nickles. Aye.
2 The Chairman. Mr. Gramm, of Texas?
3 Senator Gramm. Aye.
4 The Clerk. Mr. Lott?
5 Mr. Lott. Aye.
6 The Clerk. Mr. Jeffords?
7 Senator Jeffords. Aye.
8 The Clerk. Mr. Mack?
9 Senator Mack. No.
10 The Clerk. Mr. Moynihan?
11 Senator Moynihan. Aye.
12 The Clerk. Mr. Baucus?
13 Senator Baucus. Aye.
14 The Clerk. Mr. Rockefeller?
15 Senator Rockefeller. No.
16 The Clerk. Mr. Breaux?
17 Senator Breaux. Aye.
18 The Clerk. Mr. Conrad?
19 Senator Conrad. Aye.
20 The Clerk. Mr. Graham, of Florida?
21 Senator Graham. No.
22 The Clerk. Ms. Moseley-Braun?
23 Senator Moseley-Braun. Aye.
24 The Clerk. Mr. Bryan?
25 Senator Bryan. Aye.

1 The Clerk. Mr. Kerrey?

2 Senator Kerrey. Aye.

3 The Clerk. Mr. Chairman?

4 The Chairman. Aye.

5 The Clerk. The votes are 15 yeas, 5 nays.

6 The Chairman. The amendment is carried.

7 Senator Mack. Mr. Chairman?

8 The Chairman. Senator Mack?

9 Senator Mack. Thank you, Mr. Chairman.

10 I have an amendment that would modify the District
11 of Columbia tax incentives. I am proposing to change
12 one element of it, the one that is designated as an
13 enterprise zone.

14 It is so narrowly written that, frankly, it would
15 not be a great deal of help. So I am proposing that
16 for the same amount of money we provide a tax credit
17 for a first time home buyer. Again, the purpose here
18 is to stop the flight of residents and attract new
19 residents, help keep the middle class in D.C., promote
20 home ownership, which, in turn, produces people who
21 will care about the neighborhoods and schools.

22 This is, again, an incentive to try to build up
23 the tax base in the District of Columbia, and the cost
24 of this is revenue neutral with respect to the
25 Chairman's mark. And I would ask my colleagues to

1 support this amendment.

2 The Chairman. Any further comment?

3 Senator Jeffords. What is the amount of money
4 involved with this?

5 Senator Mack. It is \$101 million for five years
6 and \$124 million for 10 years. And again, that fits
7 within the mark.

8 The Chairman. All time having bene used up,
9 those in favor, signify by saying aye.

10 [Chorus of ayes.]

11 The Chairman. Opposed, nay.

12 [Chorus of nays.]

13 The Chairman. The ayes appear to have it. The
14 ayes have it. The amendment is agreed to.

15 Open to further amendment.

16 Senator Grassley. Mr. Chairman?

17 Senator Conrad. Mr. Chairman?

18 The Chairman. Senator Conrad?

19 Senator Conrad. Mr. Chairman, I have an
20 amendment that creates a narrow exception for first
21 time home buyers to the provision in the Chairman's
22 mark regarding the treatment of company owned life
23 insurance.

24 The purpose of this amendment is to preserve
25 the ability to insure low and moderate income first

1 time home buyers so they can make their mortgage
2 payments, if unemployed or disabled, or pay off the
3 mortgage if the borrower dies.

4 I understand that there are sums on the joint
5 committee staff that propose language in the mark
6 because of concern about the broad use of company owned
7 life insurance by consumer credits. Let me just say,
8 Mr. Chairman, that I have attempted to address that by
9 limiting any tax payer's purchase of such insurance to
10 one percent of total mortgage assets.

11 Nevertheless, my amendment leaves the protections
12 proposed by the staff in the mark. It shuts the door
13 that they believe is open, but it does not do so at the
14 expense of insurance for low and moderate income first
15 time home buyers. These are people we should be
16 helping.

17 There is also some concern that borrowed funds
18 would be used to pay for this insurance. Since 1942,
19 the tax code has prohibited borrowing to purchase this
20 type of insurance, and Fannie Mae, like many other
21 corporate purchasers of insurance, has complied with
22 that restriction in developing this mortgage protection
23 plan.

24 If I could just say to my colleagues this is a
25 simple concept of the company buying insurance for

1 those who buy homes to reduce the risk so they can
2 expand home ownership in this country, and what they
3 would do is have insurance to cover the risk of the
4 death of the purchaser, the disability of the purchaser
5 or the loss of employment of the purchaser.

6 I am proud to have Senator D'Amato's co-
7 sponsorship.

8 The Chairman. I am going to ask Ken Kies to
9 comment on the proposal.

10 Mr. Kies. Senator Conrad, this particular
11 proposal, as we understand it, would essentially permit
12 Fannie Mae to go forward with the program that they had
13 proposed. Under current law, they would be permitted
14 to deduct these premiums for business purposes, which
15 other corporations may not deduct premiums on insurance
16 purchased with respect to employees, officers or
17 directors. That rule would not apply to Fannie Mae.

18 In addition, under current law, they are
19 prohibited officers, employees or directors insurance
20 held by a corporation. You cannot borrow out of the
21 cash value and deduct the interest, as result of
22 legislation enacted last year.

23 This legislation, while it might prohibit direct
24 borrowing from the insurance, would nevertheless permit
25 Fannie Mae to borrow other money because they would be

1 deploying their capital into these life insurance
2 products, and the other borrowing that would occur
3 would give rise to taxable interest deductions.

4 So essentially, while they would not be borrowing
5 out of the policy, they would be borrowing elsewhere,
6 which would product interest deductions that would
7 offset their income. The concern I think --

8 Senator Conrad. Could I just interrupt on that
9 point and indicate that Fannie Mae has assured me they
10 will not be borrowing to buy first time home buyer
11 insurance; that they will be paid only out of retained
12 earnings. There would be no borrowing. There would be
13 no borrowing against the policy, and there would be no
14 borrowing to fund this program.

15 Mr. Kies. Senator Conrad, what they would be
16 borrowing is money that they would not otherwise have
17 to borrow if they used the retained earnings for the
18 business that they are generally in, which is
19 purchasing home mortgages, and their borrowing rate is
20 preferred because they are quasi-Federal governmental
21 agencies.

22 So, while they would not be borrowing out of the
23 life insurance policy, because they are using their
24 retained earnings and putting it into a life insurance
25 product, rather than using it in their mortgage

1 business, their borrowing needs would be larger than
2 what otherwise would be the case.

3 Their projected earnings from this particular
4 activity within 10 years would be over \$1 billion.

5 The Chairman. All time has been used up.

6 Senator Conrad. Mr. Chairman, can I just respond
7 to that point?

8 The Chairman. Thirty seconds.

9 Senator Conrad. The CBO reports the credited
10 rate of return inside a universal life policy is 6.35
11 percent. Obviously they would have administrative and
12 mortality costs out of that, which would reduce, to
13 their estimate, is 5 percent.

14 The home buyer, not Fannie Mae, will get the
15 benefit of pay outs under these policies, even beyond
16 the 30 life of the mortgage. So I think these
17 objections that have been raised do not relate to what
18 I have offered here tonight.

19 Senator Chafee. Mr. Chairman?

20 The Chairman. Yes?

21 Senator Chafee. It seems like a good thing for
22 the homeowner to me.

23 Senator D'Amato. It certainly is. Mr. Chairman,
24 let me ask a question.

25 If we do not accept this amendment, does not the

1 cost of Fannie Mae unto the homeowners then increase as
2 a result of where we find ourselves?

3 Mr. Kies. Senator D'Amato, this will have no
4 impact whatsoever on homeowners because the decision to
5 either accept or reject the offer of home insurance can
6 only be made after the mortgage is in place, under the
7 terms that Fannie Mae has proposed. So it will not
8 affect the homeowners.

9 Senator D'Amato. Fannie Mae has projected
10 actually reducing the cost of homeowners by utilization
11 of this plan and, as estimated, that you will put
12 30,000 plus people annually in homes that would not
13 have an opportunity, and that is a very modest thing.

14 We are not talking about increasing corporate
15 profits here. We are talking about decreasing the cost
16 to first time home buyers.

17 The Chairman. All time is used. Those in favor
18 of the amendment, signify by saying aye.

19 [Chorus of ayes.]

20 The Chairman. Opposed, nay.

21 [Chorus of nays.]

22 The Chairman. The ayes appear to have it. The
23 amendment is agreed to.

24 Senator Grassley. Mr. Chairman?

25 The Chairman. Yes, Senator Grassley?

1 Senator Grassley. I am offering an amendment
2 that will extend the ethanol tax credit. Besides
3 extending the ethanol tax credit, it would gradually,
4 over the next few years, decrease the incentive from
5 5.3 cents in the year 2001, 5.2 in the year 2003 and
6 2004, and 5.1 beyond that, through the year 2007.

7 The reason for being able to reduce it, at the
8 same time we are extending it, is because we have an
9 opportunity then, as the infant industry becomes
10 stronger, that they will be more efficient.

11 What I want to say to my colleagues is this is my
12 amendment and Senator Moseley-Braun's amendment. We
13 share the sponsorship of this.

14 We are at a stage where we are having declining
15 production of energy in the United States, importing
16 more energy.

17 We want to emphasize renewable fuels, we want
18 to emphasize environmentally good fuels, we want to
19 reduce our balance of trade deficit, and 70 percent of
20 the competition of ethanol, which is methanol, is
21 imported, so it adds to our balance of trade.

22 In fact, half of our balance of trade comes from
23 importation of oil. You will have a letter passed out
24 to you now that Generals and national security advisors
25 of Presidents in the past have signed a letter on the

1 need of more energy independence for national security
2 reasons.

3 You will also have a chart that shows that when
4 the exemption runs out, the credit runs out, the harm
5 that it does to each of your States, to the economy of
6 each of your States.

7 So we have a proposal here that is good for
8 agriculture, good for national security, good for
9 energy independence, good for the environment. It is
10 just plain good, good, good. There is nobody that
11 loses with this tax incentive.

12 And I can tell by the laugh in the audience that
13 we have got a lot of people out there that think food
14 grows in supermarkets and not on farms.

15 Senator Moseley-Braun. Mr. Chairman?

16 Senator Rockefeller. Mr. Chairman?

17 The Chairman. Senator Rockefeller?

18 Senator Rockefeller. Mr. Chairman, I strongly
19 oppose this. Number one, this is not exactly an infant
20 industry we are talking about. They have 54 cent tax
21 advantage credit over other fuels, like natural gas,
22 coal, etcetera, all of which can be used, and the magic
23 is in the word renewable.

24 People hear the word renewable, and they pass
25 right over it. Obviously corn is renewable. Coal and

1 natural gas takes a couple of million years and is not
2 so renewable.

3 So ethanol has a huge tax advantage over the rest
4 of them, and I am all for alternative fuels--a
5 long-time crusader for it--however, it has to be done
6 equitably. Ethanol is being handled more than
7 equitably already.

8 Senator Moseley-Braun. Mr. Chairman?

9 The Chairman. Carol?

10 Senator Moseley-Braun. Thank you. Mr. Chairman,
11 without this amendment, we will see a \$9 billion
12 increase in the costs associated with foreign oil
13 imports that will have to be brought to this country, we
14 will see 14,000 direct job losses, based on analysis by
15 the Department of Agriculture, and we will see a \$10
16 million reduction in net farm income.

17 And I believe Senator Grassley is exactly right.
18 This amendment is good, good, good, and I hope as many
19 votes as required to pass it.

20 Senator Nickles. Mr. Chairman?

21 The Chairman. Senator Nickles?

22 Senator Nickles. Mr. Chairman, some people have
23 talked about the need to repeal this. I say we should
24 not extend it. As I understand this amendment, this
25 would extend the credit.

1 Senator Grassley. And reduce it.

2 Senator Nickles. Right now it is 54 cents a
3 gallon, and I believe it is reduced to 51 cents a
4 gallon. That is a major, major tax subsidy for a fuel
5 to compete against other fuels. I do not think it
6 makes economic sense. I also do not think it makes
7 environmental sense. I would hope that we would object
8 the amendment.

9 Senator Grassley. Can we have a roll call vote?

10 The Chairman. Yes. The time on the matter has
11 expired. The Clerk will call the roll.

12 The Clerk. Mr. Chafee?

13 Senator Chafee. Aye.

14 The Clerk. Mr. Grassley?

15 Senator Grassley. Aye.

16 The Clerk. Mr. Hatch?

17 Mr. Hatch. Aye.

18 The Clerk. Mr. D'Amato?

19 Senator D'Amato. Aye.

20 The Clerk. Mr. Murkowski?

21 Senator Murkowski. Aye.

22 The Clerk. Mr. Nickles?

23 Senator Nickles. No.

24 The Chairman. Mr. Gramm, of Texas?

25 Senator Gramm. Aye.

1 The Clerk. Mr. Lott?
2 Mr. Lott. Aye.
3 The Clerk. Mr. Jeffords?
4 Senator Jeffords. Aye.
5 The Clerk. Mr. Mack?
6 Senator Mack. Aye.
7 The Clerk. Mr. Moynihan?
8 Senator Moynihan. Aye.
9 The Clerk. Mr. Baucus?
10 Senator Baucus. Aye.
11 The Clerk. Mr. Rockefeller?
12 Senator Rockefeller. No.
13 The Clerk. Mr. Breaux?
14 Senator Breaux. No.
15 The Clerk. Mr. Conrad?
16 Senator Conrad. Aye.
17 The Clerk. Mr. Graham, of Florida?
18 Senator Graham. Aye.
19 The Clerk. Ms. Moseley-Braun?
20 Senator Moseley-Braun. Aye.
21 The Clerk. Mr. Bryan?
22 Senator Bryan. Aye.
23 The Clerk. Mr. Kerrey?
24 Senator Kerrey. Aye.
25 The Clerk. Mr. Chairman?

1 The Chairman. No.

2 Senator Grassley. The votes are 16 yeas, 4 nays.

3 The Chairman. The amendment is agreed to.

4 If I could have your attention. If I could have
5 your attention. The chair is going to make a motion to
6 reconsider the vote on the first time low or moderate
7 income home buyer exception with de minimis limitation.

8 I do not think the full impact of this amendment
9 was appreciated. I would point out that it would lose
10 over \$1 billion--or \$2 billion--over 10 years so that
11 our legislation would not be conforming to the budget
12 agreement.

13 So I would ask that we reconsider it. Before we
14 have a vote, I would like to ask the administration for
15 its comments.

16 Mr. Lubick. Mr. Chairman, we think that Mr. Kies
17 has correctly stated the impact. This is essentially
18 an arbitrage situation whereby Fannie Mae is able to
19 use its capital, which is largely borrowed funds, in
20 order to produce some very significant profits for
21 itself on its portion of the policies, which it retains
22 even after the mortgage has been disposed of.

23 So we think it is certainly an unnecessary
24 financing. As a matter of fact, I think they can
25 actually do this type of promotion of insurance in a

1 profitable way, even without the arbitrage. It is not
2 necessary for them to have that deduction. We have
3 been talking with them on that.

4 The Chairman. Is it fair to say that is a
5 corporate tax shelter?

6 Mr. Lubick. It is a corporate tax shelter of the
7 type that you closed last year.

8 The Chairman. So we would be creating a loophole
9 to our actions of the last year?

10 Mr. Lubick. I think at that time you did not
11 realize it was possible to do this beyond the
12 employer/employee type situation.

13 Senator Chafee. Mr. Chairman?

14 The Chairman. Yes?

15 Senator Chafee. Would this score? Are you say
16 this scores minus \$10 billion?

17 Mr. Kies. Our best estimate is minus \$2 billion
18 because it would essentially wipe out the revenue
19 raised by the provision that is in the bill.

20 Senator Chafee. That is in the five years?

21 Mr. Kies. That is a 10 year number.

22 Senator Conrad. Mr. Chairman? Mr. Chairman, how
23 can the score not change when we have changed the
24 amendment to restrict it to low and moderate income
25 mortgages? How can the score be exactly the same when

1 the amendment has changed?

2 Mr. Kies. Because those were the people they
3 were planning to insure under their original program,
4 Mr. Conrad.

5 Senator Conrad. Look, I submitted one amendment,
6 and I was given a score of \$2 billion. We changed the
7 amendment to restrict it, and now we get the same
8 score.

9 Mr. Kies. The original amendment you submitted
10 we gave you a score of \$2.2 billion. The amendment you
11 have now submitted is at \$1.9. So it has gone down by
12 \$300 million.

13 The Chairman. I will ask for a roll call vote.
14 I urge my colleagues to vote aye on the motion to
15 reconsider.

16 The Clerk will call the roll.

17 The Clerk. Mr. Chafee?

18 Senator Chafee. Aye.

19 The Clerk. Mr. Grassley?

20 Senator Grassley. Aye.

21 The Clerk. Mr. Hatch?

22 Mr. Hatch. Aye.

23 The Clerk. Mr. D'Amato?

24 Senator D'Amato. No.

25 The Clerk. Mr. Murkowski?

1 Senator Murkowski. Aye.
2 The Clerk. Mr. Nickles?
3 Senator Nickles. Aye.
4 The Chairman. Mr. Gramm, of Texas?
5 Senator Gramm. Aye.
6 The Clerk. Mr. Lott?
7 Mr. Lott. Aye.
8 The Clerk. Mr. Jeffords?
9 Senator Jeffords. Aye.
10 The Clerk. Mr. Mack?
11 Senator Mack. No.
12 The Clerk. Mr. Moynihan?
13 Senator Moynihan. Aye.
14 The Clerk. Mr. Baucus?
15 Senator Baucus. Aye.
16 The Clerk. Mr. Rockefeller?
17 Senator Rockefeller. No.
18 The Clerk. Mr. Breaux?
19 Senator Breaux. Aye.
20 The Clerk. Mr. Conrad?
21 Senator Conrad. No.
22 The Clerk. Mr. Graham, of Florida?
23 Senator Graham. No.
24 The Clerk. Ms. Moseley-Braun?
25 Senator Moseley-Braun. No.

1 The Clerk. Mr. Bryan?

2 Senator Bryan. No.

3 The Clerk. Mr. Kerrey?

4 Senator Kerrey. Aye.

5 The Clerk. Mr. Chairman?

6 The Chairman. Aye.

7 The Clerk. The votes are 15 yeas, 5 nays.

8 The Chairman. The motion to reconsider is
9 carried.

10 Senator Conrad. Mr. Chairman, could we have a
11 limitation on moves to reconsider amendments that I
12 pass?

13 [Laughter]

14 The Chairman. Do you want a roll call vote on
15 that?

16 [Laughter]

17 The Chairman. We will now voice vote the
18 amendment. Those in favor of the Conrad amendment,
19 signify by saying aye.

20 [Chorus of ayes.]

21 The Chairman. Those opposed, nay.

22 [Chorus of nays.]

23 The Chairman. The nays have it. The amendment
24 is not agreed to.

25 We are open to further amendment.

1 Senator Jeffords. Mr. Chairman?

2 The Chairman. Senator Jeffords?

3 Senator Jeffords. Mr. Chairman, first of all, I
4 modified my amendment to exclude the MAC money that was
5 previously approved.

6 This amendment would attempt to try and bring the
7 D.C. School system's buildings up to something that can
8 be acceptable. I served for two years as the Chairman
9 of the Subcommittee for D.C. I know this school
10 system, I know the mess it is in, I know the problems
11 it has, and I am pledged to try to do all I can to take
12 care of it. I may be a little bit emotionally involved
13 in this one.

14 Now, people say, well, you know, it is Mayor
15 Marion Barry and all that. We are in control. We took
16 back the D.C. School systems. We are not in control.
17 We have a control board, we have a school board of
18 trustees, we have appointed the Superintendent; we have
19 done all of that. We have a responsibility.

20 This system is in terrible shape. It has the
21 worst educational records of any city in this country,
22 it has about the worst infrastructure of any city in
23 this country, and you have charts that show both of
24 those.

25 What we need to do is to do what we did last year.

1 We said we are going to create all of these educational
2 helps to them, as far as wordings in the languages.
3 The present cost of trying to do this is about \$2
4 billion. Fifty thousand people left in the 1990s and
5 200,000 before that.

6 Now, those people that left, take \$19.8 billion
7 out of the city. Commuters coming in bring \$200
8 million, and we do not allow them to tax it. No other
9 city has a restriction that you cannot tax your
10 commuters. So we cannot do anything about that.

11 This city's educational system is a sick,
12 handicapped orphan living in a dump, and we have the
13 responsibility to take care of it.

14 The proposals that are in here will do nothing.
15 Nobody is going to move in kids when it costs them
16 \$10,000 a kid to send them to a private school.
17 Nothing in here is going to help take care of this
18 school system.

19 I hope you would support this amendment and help
20 us get out of a very embarrassing situation because
21 none of the proposals in here will do anything to
22 improve the city in a way that it can improve its
23 school systems.

24 The Chairman. Senator Mack?

25 Senator Mack. Thank you, Mr. Chairman. And

1 again, I would ask my colleagues to vote against this
2 amendment. We have a very small amount of money in
3 this bill to create an incentive for economic activity
4 in this district.

5 We have a choice. We can continue to go along the
6 way that we have been doing for years, and that is
7 through the appropriations process; continue to try to
8 solve the problems in Washington, D.C.

9 I think by offering a \$900 million package of
10 incentives can change what happens in D.C., create
11 jobs, entice investment and turn this city around. Two
12 hundred and fifty thousand residents have left since
13 1950. In the first half of this decade we have lost, I
14 think, something like 50,000 more.

15 We need to do something different from what we
16 have been doing in the past, and I think that, again,
17 we defeat the Jeffords Amendment and keep the package
18 as it is.

19 The Chairman. Ken, can you tell us where we are
20 on the score keeping?

21 Mr. Kies. Yes, Senator Roth. I just want to
22 clarify where we are in D.C., because I believe Senator
23 Mack's amendment deleted the portion of the package
24 which created an empowerment zone or an enterprise
25 zone.

1 The amendment that Senator Mack offered lost \$115
2 million over five years and \$247 over 10. The
3 provision that he deleted only spent \$101 over five and
4 \$124 over 10. So, Senator Mack's amendment puts you
5 against the package, at about a negative \$130 million.

6 Senator Jeffords, as I understand it, you are
7 deleting what is left of D.C.?

8 Senator Jeffords. Well, it is my understanding
9 that the Mack Amendment --

10 [Laughter]

11 The Chairman. Do you want to rephrase that?

12 Mr. Kies. What is left of the incentives in the
13 package for the District of Columbia.

14 Senator Mack. That is right.

15 Senator Moseley-Braun. Mr. Chairman?

16 Mr. Kies. But the clarification that I think is
17 necessary at this point is Senator Mack's Amendment was
18 not revenue neutral with respect to what he struck out
19 of the D.C. package, and so I think the committee needs
20 to decide whether that was what they wanted to do.

21 Or did they want to strike out of the D.C. package
22 what was necessary to pay for Senator Mack's Amendment,
23 which would only then leave what is left for Senator
24 Jeffords' Amendment.

25 There was a total of \$989 million that was going

1 to be spent on the District. Senator Mack's Amendment,
2 if it was meant to be revenue neutral, would have spent
3 \$247 over 10. So the remaining amount would be
4 approximately \$740 million.

5 Senator Mack. That is right. Ken, I think there
6 is a clarification here. In our discussions there was
7 to be a five year limit there on the first time home
8 buyer tax credit. Isn't that right?

9 Mr. Kies. Just one second.

10 [Pause]

11 Mr. Kies. Senator Mack, apparently the amendment
12 we had earlier did not have a sunset provision in it.
13 So, with your sunset, it would mean that the cost was
14 not the \$247 million I referred to.

15 Senator Roth, what I would understand to be the
16 current state of play is that Senator Mack's Amendment
17 is intended to use whatever is necessary to make it
18 revenue neutral from the component that is the
19 enterprise community, and then Senator Jeffords'
20 Amendment would intend to use the remaining money, if
21 it passes, for the proposal that he has before the
22 committee.

23 Senator Jeffords. That is correct.

24 The Chairman. Senator Jeffords, do you so modify
25 your amendment?

1 Senator Jeffords. Yes. I so modify my amendment
2 so that MAC provisions stay in.

3 The Chairman. The time has expired. Those in
4 favor of the amendment, signify by saying aye.

5 [Chorus of ayes.]

6 The Chairman. Those opposed, nay.

7 [Chorus of nays.]

8 The Chairman. The chair is in doubt. The Clerk
9 will call the roll.

10 The Clerk. Mr. Chafee?

11 Senator Chafee. Aye.

12 The Clerk. Mr. Grassley?

13 Senator Grassley. No.

14 The Clerk. Mr. Hatch?

15 Mr. Hatch. No.

16 The Clerk. Mr. D'Amato?

17 Senator D'Amato. Aye.

18 The Clerk. Mr. Murkowski?

19 Senator Murkowski. No.

20 The Clerk. Mr. Nickles?

21 Senator Nickles. No.

22 The Chairman. Mr. Gramm, of Texas?

23 Senator Gramm. No.

24 The Clerk. Mr. Lott?

25 Mr. Lott. No.

1 The Clerk. Mr. Jeffords?
2 Senator Jeffords. Aye.
3 The Clerk. Mr. Mack?
4 Senator Mack. No.
5 The Clerk. Mr. Moynihan?
6 Senator Moynihan. Aye.
7 The Clerk. Mr. Baucus?
8 Senator Baucus. Aye.
9 The Clerk. Mr. Rockefeller?
10 Senator Rockefeller. Aye.
11 The Clerk. Mr. Breaux?
12 Senator Breaux. No.
13 The Clerk. Mr. Conrad?
14 Senator Conrad. Aye.
15 The Clerk. Mr. Graham, of Florida?
16 Senator Graham. No.
17 The Clerk. Ms. Moseley-Braun?
18 Senator Moseley-Braun. Aye.
19 The Clerk. Mr. Bryan?
20 Senator Bryan. Aye.
21 The Clerk. Mr. Kerrey?
22 Senator Kerrey. Aye.
23 The Clerk. Mr. Chairman?
24 The Chairman. No.
25 Senator Moseley-Braun. Mr. Chairman, I may have

1 to change my vote. It was my understanding that we
2 were doing the combination of the Mack and Jeffords
3 proposals. That is not correct.

4 Senator Chafee. We adopted the Mack.

5 Senator Moseley-Braun. This is Jeffords' taking
6 from the economic development package for D.C. for
7 school construction.

8 Senator Jeffords. Except for the Mack Amendment.
9 It goes to school construction.

10 Senator Moseley-Braun. Well, I am afraid no one
11 cares more about school construction on this committee
12 than I. But, at the same time, my own view is I will
13 have to change my vote no because this really decimates
14 our ability to give the District of Columbia the
15 ability to come to its feet and fix its economy. So I
16 vote no.

17 The Chairman. The Clerk will, please, announce
18 the vote.

19 The Clerk. The votes are 9 yeas, 11 nays.

20 The Chairman. The amendment is not agreed to.

21 Senator Graham. Mr. Chairman?

22 Senator Graham. Bob Graham?

23 Senator Graham. Mr. Chairman, I am going to
24 offer in a package my amendments 1, 2, 3 and 4, all of
25 which have to do with school construction. Let me make

1 three points.

2 First, the first three of these amendments
3 primarily go to small districts by providing them some
4 greater flexibility in dealing with issues, such as
5 arbitrage. That is where they borrow at a tax free
6 rate and then they spend out for school construction
7 and what they do with the money during the period that
8 they are holding.

9 The fourth amendment goes to the issue of
10 encouraging more private involvement in the financing
11 of school districts in the same way that we have
12 encouraged private involvement in areas of
13 transportation and other forms of infrastructure by
14 creating a category, which will be called qualified
15 education facilities and allowing it to have a volume
16 cap, which would be equal to \$10.00 per capita in each
17 state.

18 It would be the volume cap to be issued for
19 privately constructed school facilities.

20 These facilities would be for public schools,
21 elementary, secondary, vocational or community college.
22 It would not include college or university facilities.

23 How would we pay for this plan? We would pay for
24 this plan by deferring, by six months, the commencement
25 date of the Hope Scholarship Program. Currently Hope

1 is scheduled to commence on January 1st of 1998. This
2 would move it to July 1st, 1998.

3 I think there is a very strong educational
4 rationale for doing that, in order to give the
5 institutions that are going to be asked to accept what
6 could be substantial numbers of additional students the
7 chance to get prepared; to hire faculty; assure that
8 they have proper classrooms, laboratories, the other
9 facilities.

10 It also, by delaying that six months, generates
11 approximately \$2 billion in savings, which would be
12 applied to these four education school construction
13 proposals.

14 Mr. Chairman, I might say this proposal has the
15 support of the Government Finance Officers Association,
16 representing 13,500 State and local finance offices.

17 Senator Moynihan. Senator Graham, this is an
18 amendment proposed by you and Senator Moseley-Braun?

19 Senator Graham. And Senator Carol Moseley-Braun,
20 and I would like to defer the balance of my time to
21 Senator Moseley-Braun.

22 The Chairman. Your time has expired, but --

23 [Laughter]

24 Senator Rockefeller. How does the administration
25 feel about this?

1 The Chairman. I am going to ask the
2 administration.

3 Mr. Lubick. Senator Rockefeller, we oppose
4 strongly any money being taken out of the Hope credit,
5 which is already a frail reed at this time. A number
6 of the things that Senator Graham has included, of
7 course, have merit, but we feel that the Hope Credit
8 has already been somewhat eviscerated.

9 The Chairman. Senator Graham and Senator
10 Moseley-Braun?

11 Mr. Kies. Senator Roth, can I just clarify,
12 because I think in order for Senator Graham's
13 Amendment, the Hope College limitation to raise money,
14 it would probably be necessary to provide that
15 taxpayers would only be entitled to one half of the
16 otherwise allowable credit for 1998 because if you
17 simply delay the effective date to July 1, but make it
18 applicable to all expenses incurred, then many
19 taxpayers would get the full \$1,500 credit.

20 So I assume you are clarifying that essentially --
21 Senator Graham. This would only be applicable
22 for expenditures after July 1, 1998, as opposed to the
23 current standard, which is applicable for expenses
24 after January 1, 1998.

25 Mr. Kies. I understand that, Senator. The point

1 I was trying to make was if that is your amendment,
2 then I do not think it raises much money to pay for
3 your revenue losing amendments because any taxpayer
4 that would incur expenses within the second six months
5 of 1998, of at least \$3,000, would qualify for the full
6 \$1,500 credit.

7 And so I think, in order for it to raise the
8 desired amount of revenue, you would essentially have
9 to provide that the taxpayers would only be entitled to
10 one half of the credit amount for the year 1998 because
11 many taxpayers would incur enough expenses after July 1
12 to qualify for the full \$1,500 credit.

13 Mr. Lott. What is the estimated cost?

14 Mr. Kies. There is a little bit of confusion,
15 but I believe it is in the neighborhood of \$2 billion
16 or slightly more than \$2 billion.

17 Senator Graham. No. The estimated cost for
18 these four items, for the first five years, is \$486
19 million.

20 Senator Conrad. Mr. Chairman?

21 The Chairman. What does this do to our number in
22 2002? Ken, what does this do?

23 Mr. Kies. Senator, I believe it is going to
24 cause you -- not a problem. It is going to cause you a
25 problem for the period 1998 through 2002 because I

1 believe the way that Senator Graham has structured his
2 amendment it is not going to save much money from the
3 Hope Credit because all expenses after July 1 would
4 qualify for the credit.

5 The Chairman. All time has expired.

6 Senator Moseley-Braun. Mr. Chairman?

7 The Chairman. Carol. Yes. Let me give you a
8 minute.

9 Senator Moseley-Braun. Thank you very much, Mr.
10 Chairman.

11 The General Accounting Office tells us that our
12 schools are falling down all over this country in every
13 kind of community, \$112 billion worth of unmet need.
14 Now, the problem that we face is that the budget
15 agreement did not include any money to deal with the
16 crumbling schools. That is our essential problem.

17 Now, Senator Graham has tried one approach in
18 terms of financing it, which is essentially we are
19 taking money out of one education pot to try to begin
20 to even go down this road and to touch this need. The
21 fact is we need to do a lot more.

22 I strongly support this effort. We are going to
23 try some other efforts to try to find financing. But I
24 would hope that before this Congress adjourns that we
25 find some way to address the needs of 14 million

1 children who every day in this country goes to schools
2 that are literally falling down around them.

3 And if we cannot find it in this pot of money, we
4 need to find it somewhere. It should have been in the
5 budget agreement. It was not, but I think we have an
6 opportunity yet still to fix that.

7 The Chairman. Well, the chair would have to
8 point out that this proposal does create problems with
9 our meeting the goals of the budget agreement, so we
10 would urge that the vote be negative.

11 Senator Graham. Mr. Chairman?

12 The Chairman. All time has expired.

13 Senator Graham. Mr. Chairman, I would like to
14 ask for a deferral because it was my understanding that
15 we had reached an agreement as to what the value of
16 deferring the Hope Scholarship will be. That is not
17 obviously the case.

18 I would like to defer and give us an opportunity
19 to discuss this further with staff, the implications of
20 the proposal that have been suggested.

21 The Chairman. Does the Senator withdraw his
22 amendment?

23 Senator Graham. No. I would like to defer the
24 amendment.

25 The Chairman. Defer.

1 Senator Baucus. Mr. Chairman, maybe the staff is
2 ready now.

3 Mr. Kies. We are not. But, if you could give us
4 a couple of minutes, we will try to be.

5 The Chairman. All right. Thank you.

6 The Chairman. We will proceed then, in the
7 meantime, with another amendment.

8 Senator Gramm. Mr. Chairman?

9 The Chairman. Phil?

10 Senator Gramm. Mr. Chairman, from the very
11 beginning of the mark up there has been deep concern
12 among people who are for the \$500 tax credit; that
13 families needed it. And one of the beauties of it, one
14 of the reasons we have strongly supported it is we let
15 them decide how to spend it.

16 The Chairman's mark requires that for kids 13 and
17 over, that they get it only if they put it into an IRA.
18 We believe these families ought to have a right to use
19 the monies as they would choose. We would eliminate
20 this earmark of their funding.

21 We would pay for it by reducing the first year
22 credit from \$250 to \$180, and from that point, people
23 would have the right to choose.

24 And let me yield the rest of my time to Senator
25 Nickles, whose amendment it originally was.

1 Senator Nickles. Mr. Chairman?

2 The Chairman. Senator Nickles.

3 Senator Nickles. Mr. Chairman, Senator Graham
4 and I had this amendment. During the campaigns, people
5 campaigned for the \$500 tax credit per child. They did
6 not say we are going to mandate, if the child was
7 between the age of 13 and 16, that you would have to
8 put it in an IRA.

9 I thin that is an attractive option, but it should
10 be an option. It should not be a mandate. And so the
11 essence of this amendment is to allow families to make
12 that choice, if they want to take the family tax credit
13 and spend it on whatever they need. Maybe it is
14 clothing; maybe it is shelter; maybe it is education.

15 They could spend it, or they could put it into an
16 IRA. They would have both of those options. I think
17 we should give it to them.

18 Senator Breaux. Mr. Chairman?

19 The Chairman. Senator Breaux?

20 Senator Breaux. Mr. Chairman, I think the
21 amendment should be rejected. I think it is clear that
22 the Chairman's mark is already a major, major
23 compromise.

24 As an example, for the first 13 years of a child's
25 life, they will get the credit without any

1 restrictions. They can use it to educate their
2 children, or they can use it for anything else they
3 want. They can use it to take a vacation if they want
4 to.

5 But, for the next four to five years, between the
6 ages of 13 to 17, then later up to 18, for those four
7 to five years, that money should be used to educate
8 their children at a time when education expenses are
9 higher, and at a time when education for the children
10 and staying in school is more critical than ever
11 before.

12 I think the Chairman's mark is already a good
13 compromise and should be maintained.

14 Senator Kerrey. Mr. Chairman?

15 The Chairman. Senator Kerrey?

16 Senator Kerrey. Mr. Chairman, I just hope
17 members will give this thing a chance. As Senator
18 Breaux has said, the preference for me would have been
19 if this thing had been mandatory from birth. Mandatory
20 from birth, at \$500 a year over 18 years, it generates
21 a tremendous amount of wealth. That is the purpose of
22 this thing, is a wealth generator.

23 And I point out to colleagues who have an
24 objection to specifying how this is to be used, almost
25 every provision of the tax code does that. We specify

1 what people have to do with mortgage deduction, we
2 specify what has to be done with capital gains. This
3 is not a precedent that we have a specification as to
4 how it is supposed to be used.

5 Senator Murkowski. Mr. Chairman?

6 The Chairman. Frank?

7 Senator Murkowski. It seems to me, when you take
8 the deduction, you are asking people to dig in their
9 pocket and write a check for \$500 to put into a
10 government mandated educational account. They are not
11 going to feel very happy about that. They are going to
12 have to write a check.

13 Senator D'Amato. Mr. Chairman, along the lines
14 of Senator Murkowski, suppose they want to spend it to
15 sending a kid to school, a private school?

16 Senator Murkowski. Their teeth.

17 Senator D'Amato. Yes. But they have got a kid
18 and they are paying tuition. I have got a bunch of
19 Murphy grand babies, and they send them to this school,
20 and it costs them a lot of money. Now, they want to be
21 spending that \$500 to help pay for the tuition that
22 these kids get charged.

23 Now, they should have the right to do that, and it
24 should not be mandated that they have to save it. They
25 need it to send those kids to school.

1 The Chairman. Ken, would you comment on the
2 offset?

3 Mr. Kies. Senator Roth, the offset by Senator
4 Gramm would not essentially make this revenue neutral.
5 it would reduce the credits payable in 1997 by
6 approximately \$2 billion, and that is approximately the
7 cost of eliminating the mandatory deposit requirement.

8 Senator Gramm. But it saves money only because
9 we believe people will not do it and they will not get
10 the tax credit. They have a right to choose.

11 What we loved about this, why it was our policy,
12 is it let families decide instead of Uncle Sam
13 deciding.

14 The Chairman. Time is up. Those in favor of the
15 amendment, say aye.

16 [Chorus of ayes.]

17 The Chairman. Opposed, nay.

18 [Chorus of nays.]

19 The Chairman. The nays have it.

20 Senator Gramm. We would like a roll call.

21 The Chairman. The Clerk will call the roll.

22 The Clerk. Mr. Chafee?

23 Senator Chafee. No.

24 The Clerk. Mr. Grassley?

25 Senator Grassley. No.

1 The Clerk. Mr. Hatch?
2 Mr. Hatch. Aye.
3 The Clerk. Mr. D'Amato?
4 Senator D'Amato. Aye.
5 The Clerk. Mr. Murkowski?
6 Senator Murkowski. Aye.
7 The Clerk. Mr. Nickles?
8 Senator Nickles. Aye.
9 The Chairman. Mr. Gramm, of Texas?
10 Senator Gramm. Aye.
11 The Clerk. Mr. Lott?
12 Mr. Lott. Pass.
13 The Clerk. Mr. Jeffords?
14 Senator Jeffords. No.
15 The Clerk. Mr. Mack?
16 Senator Mack. Aye.
17 The Clerk. Mr. Moynihan?
18 Senator Moynihan. No.
19 The Clerk. Mr. Baucus?
20 Senator Baucus. No.
21 The Clerk. Mr. Rockefeller?
22 Senator Rockefeller. No.
23 The Clerk. Mr. Breaux?
24 Senator Breaux. No.
25 The Clerk. Mr. Conrad?

1 Senator Conrad. Pass.

2 The Clerk. Mr. Graham, of Florida?

3 Senator Graham. No.

4 The Clerk. Ms. Moseley-Braun?

5 Senator Moseley-Braun. No.

6 The Clerk. Mr. Bryan?

7 Senator Bryan. No.

8 The Clerk. Mr. Kerrey?

9 Senator Kerrey. No.

10 The Clerk. Mr. Chairman?

11 The Chairman. No.

12 The Clerk. Mr. Conrad?

13 The Chairman. Mr. Conrad, do you care to vote?

14 The Clerk. Seven, 12 right now.

15 Senator Conrad. Aye.

16 The Clerk. It is 8, 12.

17 The Chairman. It is 8, 12. The amendment is not

18 agreed to.

19 Senator Kerrey. Mr. Chairman?

20 The Chairman. Senator Kerrey will be next.

21 Senator Kerrey. Mr. Chairman, I have an

22 amendment on excess business holdings that I have

23 discussed with you on many occasions, and with Senator

24 Moynihan and with joint tax staff.

25 I do not intend to offer the amendment, but I

1 would like to discuss it very briefly.

2 Since 1969, when the law was changed, an
3 individual who owns publicly traded stock could not
4 contribute more than 20 percent of that stock to a
5 charitable foundation.

6 Senator Rockefeller. Mr. Chairman, could we have
7 order so the Senator can be heard?

8 Senator Kerrey. I believe that circumstances
9 have changed enormously since 1969 and tried to draft
10 the amendment so it narrowly allowed individuals who
11 wanted to make a contribution beyond that to do so and
12 prevent the self-dealing that produced the 1969
13 legislation to begin with.

14 I appreciate, not only joint tax's concern, but
15 also Treasury's concerns and other concerns. I do not
16 want to open up a big loophole here, but I do think
17 that if we want to try to encourage the development of
18 civil society and the development of non-profit
19 foundations that are going to be making charitable
20 contributions, that this is a good vehicle for us to
21 consider.

22 And I am hopeful that some time this year that
23 this committee can hold hearings, thorough hearings on
24 this issue, and we can hear both the pros and the cons
25 and get some accurate estimates of what this might

1 cost. My own view of it is it is unlikely it will cost
2 us a great deal, if we can narrowly draw this thing,
3 and I think the potential benefits to society are quite
4 large.

5 So I am hopeful that perhaps later in the year the
6 Chairman and ranking member would hold some hearings.

7 The Chairman. The chair is happy to assure the
8 Senator that there will be hearings on this matter.

9 Senator Moynihan. And I would like very much to
10 endorse what Senator Kerrey has said.

11 The Chairman. Senator Chafee?

12 Senator Chafee. Mr. Chairman, last year we
13 passed a welfare reform bill, which I voted for
14 enthusiastically and thought it was a good bill. The
15 stress on that bill was that those on welfare should
16 seek out and take jobs.

17 It tied in with a program that we have, which is
18 called the Work Opportunity Tax Credit. The way that
19 works is that a 40 percent credit is given the employer
20 after the employee--and the employee must be receiving
21 public assistance or must be on SSI--works 400 hours.
22 Then the employer can reach back and take that credit
23 and take it for the future for a certain limited time.

24 The trouble is that these times are usually 15 to
25 20 weeks, as many of these starting jobs are part-time

1 jobs.

2 What my amendment would do is to make it possible
3 to have a smaller credit--25 percent--after an
4 individual has worked 120 hours. The purpose of this
5 is to encourage employers to hire these individuals, as
6 I say, that have been on either SSI or welfare, and the
7 real difficulties come where the energy and effort must
8 be spent with these employees during the first several
9 weeks.

10 And then, they get this training, know how to
11 report to work on time and dress right, and then
12 frequently they move on to other jobs so the employer
13 can never avail himself of the credit, and thus, there
14 is diminished incentive to even get involved.

15 So my amendment would say that a 25 percent credit
16 would be eligible after the employee had worked 120
17 hours. It is a bill that is co-sponsored by Senator
18 Baucus, Hatch and Moseley-Braun.

19 Senator Baucus. Mr. Chairman?

20 The Chairman. Thirty seconds.

21 Senator Baucus. Thank you, Mr. Chairman.

22 Mr. Chairman, Senator Chafee has touched on a
23 point which is going to make this work. Right now,
24 with the 400 hour limitation across the board, the work
25 opportunity credit is not available. But the second

1 tier, the lower tier, the 120 hours, I think will help
2 make this credit worthwhile, and I support it.

3 Senator Chafee. How does the administration
4 feel?

5 Mr. Lubick. Senator Chafee, our concern is that
6 we do want to avoid the possibility of churning. If
7 you have a relatively short period of hours that is
8 required, we do want to avoid employers churning
9 employees to get multiple credits. I understand what
10 you are suggesting, and it something you have to
11 evaluate, whether that churning possibility outweighs
12 the better incentive of hiring people.

13 There are administrative difficulties also with a
14 dual credit.

15 Senator Chafee. Well, Mr. Chairman, I would say
16 the 25 percent credit -- and there is a lot of anguish
17 that goes into hiring this type of employee who has had
18 no work experience in many instances.

19 The Chairman. I would just like to point out
20 that we completely revamped this credit last year in
21 response to concerns raised by the Department of Labor,
22 and I do not think we have had adequate time to assess
23 what these changes have accomplished.

24 But I would also like to point out that the
25 Department of Labor found substantial amounts of abuse

1 when the minimum work requirement was only 120 hours.
2 So I would urge my colleagues to join me in opposing
3 this proposal.

4 Those in favor of the amendment, signify by saying
5 aye.

6 [Chorus of ayes.]

7 The Chairman. Opposed, nay.

8 [Chorus of nays.]

9 Senator Chafee. Roll call vote, please.

10 The Chairman. The chair is in doubt. The Clerk
11 will call the roll.

12 The Clerk. Mr. Chafee?

13 Senator Chafee. Aye.

14 The Clerk. Mr. Grassley?

15 Senator Grassley. Aye.

16 The Clerk. Mr. Hatch?

17 Mr. Hatch. Aye.

18 The Clerk. Mr. D'Amato?

19 Senator D'Amato. No.

20 The Clerk. Mr. Murkowski?

21 Senator Murkowski. No.

22 The Clerk. Mr. Nickles?

23 Senator Nickles. No.

24 The Chairman. Mr. Gramm, of Texas?

25 Senator Gramm. No.

1 The Clerk. Mr. Lott?
2 Mr. Lott. No.
3 The Clerk. Mr. Jeffords?
4 Senator Jeffords. Aye.
5 The Clerk. Mr. Mack?
6 Senator Mack. No.
7 The Clerk. Mr. Moynihan?
8 Senator Moynihan. Aye.
9 The Clerk. Mr. Baucus?
10 Senator Baucus. Aye.
11 The Clerk. Mr. Rockefeller?
12 Senator Rockefeller. No.
13 The Clerk. Mr. Breaux?
14 [No response.]
15 The Clerk. Mr. Conrad?
16 Senator Conrad. Aye.
17 The Clerk. Mr. Graham, of Florida?
18 Senator Graham. Aye.
19 The Clerk. Ms. Moseley-Braun?
20 Senator Moseley-Braun. Aye.
21 The Clerk. Mr. Bryan?
22 Senator Bryan. No.
23 The Clerk. Mr. Kerrey?
24 Senator Kerrey. Aye.
25 Senator Moynihan. Mr. Chairman, Senator Breaux

1 votes aye by proxy.

2 The Clerk. Mr. Chairman?

3 The Chairman. No.

4 The Clerk. The votes are 11 yeas, 9 nays.

5 The Chairman. The amendment is agreed to.

6 We are open to further amendment.

7 Senator Baucus. Mr. Chairman?

8 The Chairman. Yes, Senator Baucus?

9 Senator Baucus. Mr. Chairman, I am going to
10 offer my Endangered Species Act amendment. I guess it
11 is number four on my list, but I am not going to press
12 it for a vote.

13 I am raising the subject because I want to inform
14 my colleagues here that the major issue we are dealing
15 with in the Congress--hopefully this year--is re-
16 authorization of the Endangered Species Act. We all
17 know that there are lots of sticks in that legislation.

18 Working with Senator Chafee, Senator Kemthorn,
19 Senator Reid and others, and Senator Kerrey, we are
20 getting much closer to an agreement. We, however,
21 would like to have some incentives.

22 So the amendment that I am proposing--but I am not
23 going to push for a vote because it is a little
24 premature at this point--would be a deduction to land
25 owners who have placed on their land a conservation

1 easement, which protects the habitat for endangered
2 species.

3 We need some incentives for land owners, on their
4 own, to protect habitat for endangered species, in
5 addition to all the other provisions that are in the
6 Endangered Species Act with the law, and when we do
7 bring up the bill, before the committee, the floor,
8 because we do not have jurisdiction to offer tax
9 legislation. Of course, it will not be there.

10 But some time in the future, the not too distant
11 future, we will effect an amendment, Mr. Chairman,
12 which I think the Congress will find it very attractive
13 because it will be an incentive for land owners to
14 protect a habit for endangered species, in addition to
15 all the other provisions that we now have in the law.

16 But I bring this to the attention of the
17 committee.

18 Senator Chafee. Mr. Chairman?

19 The Chairman. Senator Chafee.

20 Senator Chafee. Let me just briefly say that
21 what we are trying to, in re-authorizing the Endangered
22 Species Act, is to put more incentives in there instead
23 of the prohibitions that currently exist, and this
24 represents an effort in that direction, which we will
25 try to do when we go through this arduous re-

1 authorization process. Thank you.

2 The Chairman. Senator Jeffords is next on the
3 list.

4 Senator Jeffords. Yes. I am going to offer and
5 amendment, but then withdraw it.

6 I know we are all familiar with the reports that
7 have come out recently on the incredible importance of
8 what goes on in a child's early life, from 0 to 3 and 3
9 to 5. We have a problem in this country in the sense
10 that most of our child care is not by accredited or has
11 the ability perhaps to provide the necessary care for
12 our children.

13 What I would be doing is trying to use the
14 existing child care credit by gradually requiring that
15 those that get the credit will have an acceptable level
16 of developmental and educational help.

17 Right now, 15 percent of the center based care for
18 preschoolers are harmful, and 30 percent to infants are
19 harmful. And 70 percent is rated as mediocre and only
20 15 percent are rated good or excellent in quality. We
21 have to do something about that.

22 So I will try to have an amendment which will
23 gradually focus our good child care money on good child
24 care centers. I withdraw the amendment.

25 The Chairman. Bob?

1 Senator Graham. Mr. Kies, are we ready to go?

2 Mr. Kies. Not quite, Senator Graham, but we
3 should have it shortly.

4 The Chairman. Max?

5 Senator Baucus. Mr. Chairman, I do not have an
6 amendment, but I would just like to say that, working
7 with Senator Conrad on the airline ticket tax
8 provision, we would like to work with you, Mr.
9 Chairman, either on the floor or through conference, on
10 a provision that would give a lower ticket tax to rural
11 areas.

12 And I might say that rural America has very, very
13 disproportionately airline fares because the airlines
14 take whatever they can out of rural America because
15 there is no competition.

16 At this point, I would like to say that at some
17 point, either the floor or in conference, to find some
18 modification to the ticket tax to deal with that
19 situation.

20 The Chairman. I would say to the distinguished
21 Senator that, of course, we did include provisions to
22 help rural airports. I understand the seriousness of
23 the problem, and we hope that these will help address
24 it. But we will be willing to continue to review this
25 matter and see what future steps can be taken.

1 Senator Chafee. Mr. Chairman?

2 Senator Baucus. Mr. Chairman?

3 The Chairman. Senator Chafee.

4 Senator Chafee. Mr. Chairman, yesterday we
5 passed the Part B deductible, and when we started out,
6 I thought it was going to be the premium, but
7 subsequently that was shifted to the deductible amount.
8 Let me start again.

9 We were dealing with the Part B premium, means
10 testing it, and it started that we were doing it on the
11 premium, and then it was changed to the deductibility
12 portion of it. That appears to have caused some
13 confusion.

14 And I would hope, Mr. Chairman, those of us who
15 have been deeply involved with it, would have a chance
16 to review this and make sure that whatever we have come
17 forward with is workable. And, if it is not workable,
18 fix it up to achieve the goal that all of us have;
19 that, one, force those who are wealthier to pay a
20 greater portion of the Part B, either expenses or
21 premium.

22 Involved in that, obviously, would be Senator
23 Kerrey, Senator Graham, myself and any other who were
24 deeply involved and care to.

25 Senator Kerrey. Mr. Chairman?

1 The Chairman. Senator Kerrey.

2 Senator Kerrey. Mr. Chairman, I am perfectly
3 willing to listen to concerns about the complexity of
4 this provision, and if it rises to the level of
5 persuasiveness, I am persuaded to go back to premiums.

6 But I really think that Senator Graham has made a
7 very good point. I mean, the premium will stay the
8 same for all beneficiaries, at all income groups. They
9 will pay the same premium. That is an advantage in
10 many ways.

11 And what we are saying here is that by modifying
12 and phasing in the end of a subsidy for the deductible,
13 we will have an impact on people's behavior and
14 utilization, and I think it is a very important thing
15 to try to do.

16 There has been criticism of this from the
17 standpoint of being too complex, but Medicare is hardly
18 a simply program to understand to begin with. So we
19 are not talking about something that is easy to
20 understand. And many of the people who have criticized
21 this proposal are opposed to any kind of income
22 relating test.

23 So it is very important to make certain that those
24 of us who want an income relating test, we believe that
25 it is reasonable and fair to say that this program

1 ought to be progressive. I mean, that is all we are
2 doing, is making the program more progressive than it
3 currently is and saying that it does not make any sense
4 for us to require low income people to subsidize high
5 income people.

6 This is a very modest step, and I know Senator
7 Chafee supports this and he has been a leader in this.
8 As I said, if it rises to the level of persuasiveness,
9 particularly if it is coming from somebody who supports
10 means testing. But if it is coming from somebody who
11 is just simply setting up a strawman, that once we
12 knock it down they will have some other objection to
13 it, I do not think we ought to try to compromise it.

14 Senator Chafee. Well, you do not have to worry
15 about my supporting the concept. As you pointed out, I
16 have been involved with this for several years now, and
17 I want to see it effective. And it may well be this
18 deductible approach is the right one. I am not
19 criticizing. I am just saying it behooves us to have a
20 chance to look at it.

21 Senator Kerrey. I appreciate it.

22 Senator Graham. Mr. Chairman?

23 The Chairman. Senator Graham.

24 Senator Graham. I believe we are ready to go
25 now.

1 Senator Braun, did you have anything further to
2 say on the amendment?

3 Senator Moseley-Braun. Just that I hope that we
4 have got clear in terms of what the scoring is and what
5 the funding is.

6 Mr. Kies. Senator Moseley-Braun and Senator
7 Graham, we have worked out the scoring, the cut back in
8 the Hope College Credit would raise \$2.1 billion in the
9 first five years. And the amendments that you have
10 proposed would lose \$382 million over five years and
11 \$1.75 billion over 10, so that it would be revenue
12 neutral or actually better than revenue neutral against
13 the package.

14 Senator Graham. Mr. Chairman, I move the
15 amendment.

16 Senator Gramm. Mr. Chairman, could I just say
17 one thing about it?

18 The Chairman. Yes, Senator Gramm.

19 Senator Nickles. My first inclination toward
20 this amendment was positive. But now that I have had a
21 chance to think about it, we are going to be denying
22 half the tax credit to kids in the first year basically
23 to invest in bricks and mortar.

24 And if you are 19 years old and you are looking at
25 going to work or attending junior college, it is not as

1 if you are going to get to do this three or four years
2 later. You are in a life cycle.

3 And I think, basically, we are down here to a
4 choice between kids and bricks. And nice buildings are
5 awfully nice, but I think more kids getting a chance to
6 attend junior college is more import, and so I am
7 opposed to the amendment.

8 Senator Graham. If I could just comment on that?
9 The concept here is to have the Hope Scholarship
10 Program with the 1998/99 academic year. This will give
11 those colleges an opportunity to get ready for the
12 additional students, which the administration has
13 estimated could be as many 1.4 million, or as few as
14 120,000.

15 I think having a year to get prepared for this is
16 an academically and educationally sound policy, while
17 it allows us to begin to attack the problem of the
18 quality of students who are going to be coming out of
19 our public schools to be ready to go to community
20 college.

21 The Chairman. Senator Rockefeller?

22 Senator Rockefeller. Mr. Chairman, I think that
23 Senators Graham and Moseley-Braun have a very, very
24 good idea here.

25 However, in the process of working up the

1 agreement that we came into this room with, some of us
2 gave up amendments that we wanted very much to do, one
3 of which, in my case, was to make the Hope Scholarship
4 Fund refundable. I think that was essential.

5 I was not able to do that because of the
6 agreement, and I think that changes the nature of
7 things, and therefore, I cannot support this.

8 The Chairman. All time has expired. Do you want
9 a roll call vote?

10 Senator Graham. No.

11 The Chairman. Those in favor, signify by saying
12 aye.

13 [Chorus of ayes.]

14 The Chairman. Opposed, nay.

15 [Chorus of nays.]

16 The Chairman. The chair is in doubt. The Clerk
17 will call the roll.

18 The Clerk. Mr. Chafee?

19 Senator Chafee. Aye.

20 The Clerk. Mr. Grassley?

21 Senator Grassley. Aye.

22 The Clerk. Mr. Hatch?

23 Mr. Hatch. No.

24 The Clerk. Mr. D'Amato?

25 Senator D'Amato. Aye.

1 The Clerk. Mr. Murkowski?
2 Senator Murkowski. No.
3 The Clerk. Mr. Nickles?
4 Senator Nickles. No.
5 The Chairman. Mr. Gramm, of Texas?
6 Senator Gramm. No.
7 The Clerk. Mr. Lott?
8 Mr. Lott. No.
9 The Clerk. Mr. Jeffords?
10 Senator Jeffords. No.
11 The Clerk. Mr. Mack?
12 Senator Mack. Aye.
13 The Clerk. Mr. Moynihan?
14 Senator Moynihan. Aye.
15 The Clerk. Mr. Baucus?
16 Senator Baucus. No.
17 The Clerk. Mr. Rockefeller?
18 Senator Rockefeller. No.
19 The Clerk. Mr. Breaux?
20 Senator Breaux. No.
21 The Clerk. Mr. Conrad?
22 Senator Conrad. Aye.
23 The Clerk. Mr. Graham, of Florida?
24 Senator Graham. Aye.
25 The Clerk. Ms. Moseley-Braun?

1 Senator Moseley-Braun. Aye.
2 The Clerk. Mr. Bryan?
3 Senator Bryan. Aye.
4 The Clerk. Mr. Kerrey?
5 Senator Kerrey. Aye.
6 The Clerk. Mr. Chairman?
7 The Chairman. No.
8 The Clerk. The votes are 10 yeas, 10 nays.
9 The Chairman. The amendment is not agreed to.
10 Senator Moseley-Braun. Mr. Chairman?
11 The Chairman. Senator Chafee and then --
12 Senator Chafee. Mr. Chairman, I and Senator
13 Graham had a proposal dealing with an income tax credit
14 for the rehabilitation of certain inner city properties
15 that fell within historic zones, the whole idea being
16 to encourage individuals to move back into these
17 elderly cities; restore the houses and be there.
18 This was a 20 percent income tax credit for
19 qualified rehabilitation expenditures. We had a score
20 on this last year from the joint committee, and it was
21 relatively modest, but suddenly it leapt this year.
22 Mr. Chairman, what I would like to do is to work
23 with the joint committee and see if we cannot figure
24 out what went wrong with the score and what was changed
25 to cause it to increase so dramatically and, if we can

1 bring it down to a reasonable amount, try to proceed
2 with this amendment subsequently because I have seen
3 the effects of these efforts where it has not been the
4 owner that has done it--there has been a low income tax
5 credit or whatever it might be--they have really been
6 dramatic.

7 The Chairman. Senator Moseley-Braun?

8 Senator Moseley-Braun. Thank you, Mr. Chairman.
9 If I may, I want to thank the chair for what has gone
10 into the mark with regard to the student loan interest
11 deduction. I think that is really important, and I
12 hope, on the floor, to be able to raise expanding that,
13 so that young people who go to college and graduate
14 school can take full advantage of the interest
15 deduction, which I think was wrongly repealed in the
16 first place.

17 I would like to see us go further with that, but I
18 will raise that on the floor.

19 I would like to raise crumbling schools again, and
20 I think to make the point in ways that even my friend
21 across there, the Senator from Texas, will understand
22 and hopefully will not have the same objection to.

23 Again, Senator Graham and I are working in tandem
24 on this. But this is more straightforward. It does
25 not take it from the Hope Scholarship at all.

1 It is a direct offset from the cigarette tax that
2 we have agreed on tonight; that it will go up to 20
3 cents. I think we have got a little flexibility in
4 that in terms of offset. We will not be using all of
5 those dollars.

6 But this is a direct tax credit for the cost of
7 school repair, renovation, modernization and
8 construction projects. The money goes to the States
9 under formulas that are already in place, and the
10 States will make the decisions. It does not interfere
11 with local control in any way.

12 Again, to make the point, we know. Everybody in
13 this room knows it is a huge problem. I would
14 appreciate your vote.

15 The Chairman. I would have to point out to my
16 distinguished colleague and friend that to try to use
17 the tobacco tax was not in keeping with the agreement
18 that we need before we came out, and, for that reason,
19 I would have to urge not to support and would ask that
20 you withdraw it.

21 Senator Moseley-Braun. In that case, sir, I will
22 withdraw the amendment.

23 The Chairman. Thank you. I appreciate it.

24 So we are now ready for final passage. I think
25 that was the last amendment. I move that the committee

1 report, as a separate committee amendment, that portion
2 of the Chairman's mark, as modified, which pertains to
3 provisions relating to children's health care
4 expenditures.

5 Those in favor, signify by saying aye.

6 [Chorus of ayes.]

7 The Chairman. Opposed, nay.

8 [Chorus of nays.]

9 The Chairman. The ayes have it. The committee
10 amendment is agreed to.

11 Now I am happy to say I move that we report the
12 revenue reconciliation bill, as amended, to the Senate.

13 The Clerk will call the roll.

14 The Clerk. Mr. Chafee?

15 Senator Chafee. Aye.

16 The Clerk. Mr. Grassley?

17 Senator Grassley. Aye.

18 The Clerk. Mr. Hatch?

19 Mr. Hatch. Aye.

20 The Clerk. Mr. D'Amato?

21 Senator D'Amato. Aye.

22 The Clerk. Mr. Murkowski?

23 Senator Murkowski. Aye.

24 The Clerk. Mr. Nickles?

25 Senator Nickles. No.

1 The Chairman. Mr. Gramm, of Texas?
2 Senator Gramm. No.
3 The Clerk. Mr. Lott?
4 Mr. Lott. Aye.
5 The Clerk. Mr. Jeffords?
6 Senator Jeffords. Aye.
7 The Clerk. Mr. Mack?
8 Senator Mack. Aye.
9 The Clerk. Mr. Moynihan?
10 Senator Moynihan. Aye.
11 The Clerk. Mr. Baucus?
12 Senator Baucus. Aye.
13 The Clerk. Mr. Rockefeller?
14 Senator Rockefeller. Aye.
15 The Clerk. Mr. Breaux?
16 Senator Breaux. Aye.
17 The Clerk. Mr. Conrad?
18 Senator Conrad. Aye.
19 The Clerk. Mr. Graham, of Florida?
20 Senator Graham. Aye.
21 The Clerk. Ms. Moseley-Braun?
22 Senator Moseley-Braun. Aye.
23 The Clerk. Mr. Bryan?
24 Senator Bryan. Aye.
25 The Clerk. Mr. Kerrey?

1 Senator Kerrey. Aye.

2 The Clerk. Mr. Chairman?

3 The Chairman. Aye.

4 The Clerk. The votes are 18 yeas, 2 nays.

5 Senator Moynihan. Could we have a hand for the
6 Chairman?

7 [Applause]

8 The Chairman. Thank you. Thank you. I want to
9 thank you very much for that ringing vote.

10 I also want to express my appreciation to the
11 staff for the outstanding job that they have done
12 throughout this entire process.

13 [Applause]

14 The Chairman. We will, of course, give the staff
15 the usual authority to make such technical changes as
16 is necessary.

17 Senator Graham. Mr. Chairman, I would like to
18 thank Doug Fisher, who has been extremely helpful in
19 developing some of the pension retirement provisions.

20 The Chairman. Did you have a colloquy?

21 Senator Breaux. Mr. Chairman, I had a colloquy
22 with Ken Kies on two points that we have already
23 discussed and needs to be on the record.

24 I would like to ask Mr. Kies, on the Workman's
25 Compensation Fund, am I correct that this proposal

1 would codify the tax exempt status of organizations
2 which are currently already operating as tax exempt
3 entities?

4 Mr. Kies. That is correct, Senator Breaux.

5 Senator Breaux. The second and final question.
6 It is my understanding that the committee report
7 language would indicate that there is no inference, is
8 intended to say that these entities were not tax exempt
9 under prior law?

10 Mr. Kies. That is correct.

11 Senator Breaux. I thank Mr. Kies. Thank you,
12 Mr. Chairman.

13 The Chairman. Thank you and congratulations.

14 The committee is in recess.

15 [Whereupon, at 11:26 a.m., the meeting was
16 concluded.]

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