

RICHARD  
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1 EXECUTIVE COMMITTEE MEETING

2 TUESDAY, JULY 26, 1988

3 U.S. Senate

4 Committee on Finance

5 Washington, D.C.

6 The meeting was convened, pursuant to notice, at  
7 10:22 a.m. in Room SD-215, Dirksen Senate Office Building,  
8 the Honorable Lloyd Bentsen (chairman) presiding.

9 Present: Senators Bentsen, Matsunaga, Moynihan,  
10 Baucus, Bradley, Mitchell, Pryor, Riegle, Rockefeller,  
11 Daschle, Packwood, Roth, Danforth, Heinz, Wallop, and  
12 Durenberger.

13 Also present: Messrs. Don Chapoton, Assistant  
14 Secretary of the Treasury for Tax Policy; Dennis Ross,  
15 Deputy Assistant Secretary of the Treasury for Tax Policy;  
16 Ron Perlman, Chief of Staff, Joint Committee on Taxation;  
17 and Randy Weiss, Chief Counsel, Joint Committee on Taxation.

18 Also present: Messrs. Patrick Oglesbey, Chief Tax  
19 Counsel, Majority; Randy Hardock, Tax Counsel, Majority;  
20 Joseph Humphreys, Health Staff, Majority; Ms. Lindy Paull,  
21 Tax Counsel, Minority; and Mr. Norm Richter, Tax Staff.

22 (The press release announcing the meeting follows:)

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1           The Chairman. We will move on now to the consideration  
2 of the last major piece of legislation that we would expect  
3 to come out of this committee this year.

4           We are talking about the Technical Corrections Act.  
5 This is a very important piece of legislation. What you saw  
6 in the 1986 Act was 1,000 pages approximately of very  
7 intricate, complex, difficult legislation. Some drafting  
8 mistakes were made, and some ambiguities are also in that  
9 piece of legislation.

10           We have an obligation to make the necessary corrections.

11           Now, this bill may not be a high profile bill, but  
12 nevertheless, individuals and businesses need to know what  
13 the law is and what their tax obligations happen to be.

14           It is vital that we make that law clear so that everyone  
15 knows what the rules are.

16           One of the other provisions that we have already passed  
17 out of this committee was the diesel fuel tax. Now, that  
18 is a priority for many people across the country. You have  
19 a situation, even before the drought, where you had strong  
20 support for this by off-road users.

21           In effect, what they are doing is making a loan to the  
22 Government; and at the end of that year, then recovering  
23 the money that they have loaned to the Government and going  
24 through all the paperwork that goes with it. I would hope  
25 that we could have that as part of this piece of legislation;

1 and frankly, I think it helps provide the engine to get it  
2 through.

3 I also know that there are a lot of other tax incentives  
4 that many of the members would like to put in this piece of  
5 legislation. I would like to have one in there to enable  
6 families to save for their children to go to college, and I  
7 have a variety of others I would like to put in there.

8 This committee has had a long history of supporting R&D,  
9 of education, decent jobs, and all those tax incentives that  
10 go in it to bring those things about; but it is going to be  
11 extremely difficult to consider all those kinds of proposals  
12 because they have costs attached to them.

13 We would have to put in the tax incentives, and then we  
14 would have to raise the revenue to offset them. I don't know  
15 where we would find the billions of dollars that would be  
16 necessary.

17 We have another problem--an obstacle--and that is the  
18 time that we have left. The Ways and Means Committee, as I  
19 recall, took about six weeks to consider the Technical  
20 Corrections Bill. We don't have that time left.

21 We have approximately seven legislative weeks--days of  
22 session--that are still left. That means we would have to  
23 get it out of the committee, get it to the floor, get it  
24 passed; and the Majority Leader has not looked on this as  
25 one of the top priority pieces of legislation.

1           That is another concern that we have. So, what we have  
2 submitted to you here is a relatively clean bill. Now, we  
3 have had staffs get together to try to come up with those  
4 things that are noncontroversial and that there are no  
5 rifle-shot pieces of legislation within this bill.

6           Now, I want to be sure of that, that what we are talking  
7 about is something that is generic.

8           Now, after we adopt this package, then I would like to  
9 suggest--I had thought about going into caucus, but we have  
10 had some discussion prior to this that probably takes care  
11 of that for the moment--but then, I would like for the staffs  
12 to get together and work and see what we can do insofar as  
13 a possible committee amendment that would supplement the  
14 clean bill later, if we can come to a consensus.

15           There are several things in the way of loophole-closings  
16 that I think we ought to take action on, if we can work out  
17 a consensus on it.

18           One of them is the single premium life insurance policy.  
19 The other is the Alaska native corporations.

20           Now, if you do that, once again, those would be revenue  
21 raisers; and then what you offset them with in the way of  
22 tax incentives is where you begin to get into trouble and  
23 have problems.

24           Now, that second part of the bill would be very difficult  
25 and clearly the hard part of the bill; and it is quite possible

1 we would never arrive at a consensus on that part. But  
2 presumably, we could move ahead on the Senate floor with  
3 the clean bill.

4 Gentlemen, before we start this morning and have the  
5 staff go through that, I would like to call on my distinguished  
6 colleague, the ranking minority member, Senator Packwood, for  
7 any comment he might have.

8 Senator Packwood. Mr. Chairman, I think, unless we  
9 follow what you suggest, we will see no bill at all. Every  
10 one of us has got a favorite in here; I think I was the  
11 legislative father of employer-provided legal insurance and  
12 had a fair hand in employer-provided education benefits.

13 Others have got interests in R&D credits. I think we  
14 are going to have to simply put those aside, realizing that  
15 some will expire--as they have before--and attempt to enact  
16 them next year, enact them retroactively, so that they will  
17 be effective from the first of the year.

18 But I am willing to put aside the big things, I think,  
19 that I am interested in for the sake of getting out a bill  
20 that contains the minimum things that we have to have to  
21 correct errors that we have made. So, I would support the  
22 chairman strongly.

23 The Chairman. Are there other comments?

24 (No response)

25 The Chairman. If not, if staff will start walking us

1 through the bill. Pat or Ron, whichever?

2 Mr. Oglesbey. Mr. Chairman, there should be in front  
3 of each member a 56-page document entitled "Description of  
4 the Technical Corrections Act." I will just walk through  
5 the Table of Contents for now.

6 Roman Numeral I is the introduced version of the  
7 Technical Corrections Act. Roman Numeral II is a series  
8 of additional technical corrections proposed by staffs,  
9 agreed to by all three staffs--the Majority, the Minority,  
10 and the Joint Tax staffs.

11 I believe that there is not any great controversy about  
12 those additional technical corrections.

13 In addition, we have identified two further technical  
14 corrections that should be added to that list, and I think  
15 that Joint Tax has those available on a piece of paper to  
16 hand out.

17 Mr. Perlman. Mr. Chairman, those two additional  
18 technical corrections that have come up since the package  
19 was put together are as follows; and you are about to get  
20 a piece of paper that describes these.

21 The first would treat as foreign source and therefore,  
22 subject to a separate foreign tax credit limitation, gain  
23 derived from the liquidation of a corporation organized in  
24 a U.S. possession and which derives more than 50 percent of  
25 its income from the active conduct of the business in that

1 possession.

2       The second one is a fix to a defective transition rule  
3 that was contained in the 1986 Act. It is misspelled in  
4 there--or maybe it is not--I thought it was misspelled in  
5 the paper you have in front of you. It says "Frankfort  
6 Arsenal." I thought it was "Frankfurt Arsenal."

7       In any event, there was an error made in a transition  
8 rule that was included in the 1986 Act, and this seeks to fix  
9 it so that the beneficiary of that rule--namely, Frankfurt  
10 Arsenal--will get the transition relief that the Congress  
11 intended to give in 1986 but was not able to give because  
12 the fix was contained in the Technical Corrections Bill,  
13 which has not yet passed.

14       Those two additional items are on a piece of paper that  
15 should be being distributed to you; but I should just note  
16 that those are technical corrections, and neither of them  
17 has any revenue effect.

18       Mr. Oglesbey. And I think it is fair to say that none  
19 of the additional technical corrections have any revenue  
20 effect.

21       I will move on to Roman Number III, some additional  
22 simplification and clarification proposals. I believe these  
23 are noncontroversial.

24       The first one, the so-called Section 89 rules, those  
25 rules prevent discrimination by employers in health and certain

1 life insurance plans. The Ways and Means Committee came out  
2 with a package of clarifiers and liberalizers; they just make  
3 the rules easier to work, easier for employers to figure out.

4 This package builds on those and contains some further  
5 clarifications beyond what the House Ways and Means Committee  
6 did.

7 Item (b), the health care continuation rule --

8 Senator Durenberger. Mr. Chairman, can we ask questions  
9 as we go through this, or would you rather we wait?

10 The Chairman. I beg your pardon?

11 Senator Durenberger. Should we ask questions as we  
12 go through these?

13 The Chairman. Yes. Why don't we do that? Go ahead.

14 Senator Durenberger. My question is with regard to  
15 3(a) on the Section 89, nondiscrimination proposals. There  
16 is one thing on page 33, the safe harbor.

17 I think it is item 2, the difference in annual costs  
18 of employees between the plan and the group with the smallest  
19 employee costs and the plan with the group with the largest  
20 is no more than \$100.00. My potential problem there and  
21 my question largely relates to the difference in the annual  
22 costs to a single employee and the costs for family coverage.

23 I have sort of always had the impression, Mr. Chairman,  
24 that family coverage costs at least two and a half times as  
25 much as single coverage. We used to debate here about tax

1 at \$250.00 per family coverage and \$100.00 for single; and  
2 it just struck me that the \$100.00 is just too small a  
3 window, if you are going to use it, between single coverage  
4 and family coverage.

5 I would either ask you to explore that before we finally  
6 adopt it; or if I am totally wrong in my approach, maybe you  
7 can clarify it for me.

8 Mr. Perlman. Senator, as I understand the proposal,  
9 the \$100.00 could be allocated between family and individual  
10 coverage; and indeed, the example that is given--if you look  
11 on page 33--is an example of one and a half times coverage.

12 I guess if we find that that is not adequate--I mean  
13 the purpose here is to try to provide some relief--and if  
14 we find that is not adequate, I think the assumption of  
15 the staff was that this would sort of get to what is needed  
16 in order to provide family coverage.

17 Senator Durenberger. Mr. Chairman, if I can just explore  
18 that a little bit later on?

19 The Chairman. That would be fine. Good. Now, let's  
20 move ahead, Mr. Oglesbey.

21 Mr. Oglesbey. The next item is the COBRA health care  
22 continuation penalties. The 1985 budget bill required, for  
23 employees who leave employment, their employers must continue  
24 to give them health care coverage.

25 The sanction for that in the 1985 bill was to deny the

1 employer's deduction for the payments he made for his  
2 employee's medical care coverage.

3 This would take away that sanction and replace it with  
4 an excise tax tied to the nature and extent of the violation.

5 The next item is the so-called Estate Freeze Provision.

6 The Chairman. The feeling was there that it was an  
7 overkill in effect, wasn't it?

8 Mr. Oglesbey. Yes, sir.

9 The Chairman. All right.

10 Mr. Oglesbey. The 1987 Act contains rules designed to  
11 govern situations where a parent gives part of a business to  
12 a child. It says when a parent retains certain interests in  
13 that business, when the parent dies the entire value of the  
14 business is included in the parent's estate.

15 This set of rules would clarify that certain kinds of  
16 interest don't force the inclusion of the entire business  
17 in the estate. For instance, when the parent continues to  
18 work for the business, when the parent lends money to the  
19 business.

20 All these estate freeze rules are in the House technical  
21 corrections title.

22 Roman Number IV, Diesel Fuel, is the Senate reported  
23 diesel fuel package.

24 Roman Number V, Treasury Long Bonds. This would allow  
25 Treasury to issue an unlimited amount of bonds. I think there

1 is currently a \$470 billion cap.

2 Roman Numeral VI are three items that have been referred  
3 to the committee. First, an Indian fishing rights bill.  
4 Under current law, there is a controversy about the extent  
5 to which Indians are taxed on income from fishing. This bill  
6 would clarify that certain income from fishing earned by  
7 Indians is not taxable.

8 That was passed by the Senate last year and then sent  
9 over from the House this year.

10 Senator Bradley. Mr. Chairman?

11 The Chairman. Yes?

12 Senator Bradley. Under the bill, would it also be  
13 explicit that it would infringe on no rights under treaties  
14 beyond which was inferred by this statute?

15 Mr. Oglesbey. Senator Bradley, under the House-passed  
16 bill, there would be no exemption from fishing income other  
17 than under the legislation. Now, we have heard some  
18 opposition from Indian groups that say, well, we think we  
19 have a broader exemption than just this legislation gives us;  
20 and I think there is some controversy about that issue,  
21 whether the committee should be silent about other possible  
22 exemptions, or other sources of exemption.

23 Senator Bradley. Yes. Or we could make it clear that  
24 we didn't intend to go beyond that which is provided for  
25 under this section with regard to fishing. This wasn't a

1 grab; this was a very targeted approach to fishing.

2 Mr. Oglesbey. A possible option would be to say that  
3 there is no inference about the existence of other exemptions,  
4 that we are just clarifying the law on this point; and we  
5 don't say what else there might be out there.

6 The Chairman. Perhaps we might have some clarifying  
7 language that no inference is to be drawn from this as to  
8 how it might affect other treaties or other rights.

9 Senator Bradley. Or that we don't intend this language  
10 to go beyond what this language actually says.

11 The Chairman. In effect, we are working at the same  
12 thing. Let's see if we can come up with some language on  
13 that.

14 Mr. Oglesbey. Yes, sir.

15 The Chairman. All right.

16 Mr. Oglesbey. Item 6(b), Joe Humphreys will explain.

17 The Chairman. All right.

18 Mr. Humphreys. This is a restructuring of the financing  
19 in benefit structure of the railroad unemployment system,  
20 which is essentially as passed by the House with a modification  
21 that the Senate Labor Committee has recommended.

22 There was a commission in 1984 that recommended this  
23 restructuring. It is essentially a consensus package that  
24 has been worked out by rail management and rail labor, and  
25 it increases both rail taxes and rail benefits in net over

1 the next five years. It somewhat reduces the deficit because  
2 the increased taxes under the provision are somewhat higher  
3 than the increased benefits.

4 Mr. Oglesbey. Item 6(c) is a bill reported by the  
5 Veterans' Affairs Committee. It would allow the Veterans'  
6 Administration to get access to income tax data. The purpose  
7 of that would be so that they could see if means-tested  
8 benefits that they give veterans are really going to people  
9 who don't have the income.

10 That has been reported out by the Veterans' Affairs  
11 Committee.

12 Senator Pryor. Mr. Chairman, if I might raise a concern  
13 there?

14 The Chairman. Senator Pryor?

15 Senator Pryor. I would hope that this issue not be in  
16 the Technical Corrections Bill for one reason. If the VA  
17 wants this information, they can require it from each  
18 veteran who applies for benefits.

19 Two, I think that we are opening the door with this VA  
20 access to an individual's tax records that is going to be  
21 a precedent; and I don't think that we want to set such a  
22 precedent in the Technical Corrections Bill.

23 I would strongly, Mr. Chairman, and respectfully urge  
24 that we delete this provision from this particular bill. I  
25 think we need hearings on it, but I don't think that we need

1 to include it.

2 The Chairman. Can we get further comment on that?

3 Mr. Oglesbey. Let me say that there was a hearing, and  
4 I believe the Treasury Department did oppose this at that  
5 time, on the theory that this would result in less  
6 compliance in the tax system.

7 This kind of information, I might point out, is available  
8 to other agencies.

9 The Chairman. It is used in other areas, isn't it?

10 Mr. Oglesbey. Yes, sir. I believe it is furnished to  
11 States to determine Medicaid eligibility, for instance.

12 The Chairman. I would like to hear from Treasury on  
13 this. Mr. Chapoton, do you have some comments on this?

14 Frankly, I am interested in Senator Pryor's comments.

15 Mr. Chapoton. Mr. Chairman, Senator Pryor is correct;  
16 we did oppose this in our testimony on the concept that,  
17 while some do have access to this information, we think that  
18 the access should be limited and continuing inroads in the  
19 access to the taxpayer information, we think, is a dangerous  
20 precedent. And it is something that should not be expanded.

21 Now, I must tell you, though, that the Veterans'  
22 Administration obviously has taken the opposite position; but  
23 we are concerned. The very point Senator Pryor raised is of  
24 concern to us, and we would oppose the provision.

25 Senator Pryor. Mr. Chairman, I understand that there is

1 a report in the making--a Treasury-IRS report on this issue;  
2 and I would hope that we would wait until we see that report  
3 until we move into this area.

4 I think it is unchartered waters, and I think it is  
5 big brother; and I think it has no business in this particular  
6 legislation.

7 I very seldom agree with IRS, I might say, Mr. Chairman;  
8 but I do on this point.

9 The Chairman. I share some of the concerns the Senator  
10 is talking about. Senator Baucus?

11 Senator Baucus. Mr. Chairman, I chaired the hearing  
12 on these technical provisions; and I must say that when this  
13 came up, I was not particularly enamored with the suggestion  
14 that this data be transmitted to the Veterans' Administration.

15 Treasury, at that hearing, did voice its objections;  
16 and the Veterans' Administration gave its reasons. What  
17 bothered me more specifically is that when I asked the  
18 question as to what safeguards the VA would have, I had the  
19 very strong impression that the VA was glibly not paying as  
20 much attention to that problem as I thought that it should;  
21 that is, the response was glib.

22 They didn't show a sensitivity to the confidentiality  
23 that I thought that agency should have. We did not go into  
24 the question in a lot of detail. There were many other  
25 bills at that hearing; but just on the surface, anyway, based

1 on that question, I had some problems personally with the  
2 provision.

3 The Chairman. Are there other concerns with it?

4 Senator Daschle. Mr. Chairman?

5 The Chairman. Yes?

6 Senator Daschle. I have a minor concern I suppose  
7 because it relates to another issue that veterans are  
8 contending with right now; and that is their ability to sue,  
9 the ability to take the VA to court.

10 While it is true that other agencies have this right  
11 of access to IRS records, it is also true that in just about  
12 every other case, a taxpayer has the right to take an agency  
13 of Government to court if they disagree.

14 A veteran is precluded from that right. They do not  
15 have any right whatsoever to take the Veterans'  
16 Administration to court, even in disputes such as this.

17 Until we pass judicial review, I really think that it  
18 is going to be a dangerous precedent and in some cases leave  
19 the veterans in a very precarious position. So, from that  
20 perspective which, as I say, is not directly related to the  
21 issue at hand, I think I certainly would support Senator  
22 Pryor's contention here.

23 The Chairman. Senator Pryor, do you have a motion?

24 Senator Pryor. I move that we strike that provision,  
25 Mr. Chairman.

1 The Chairman. Further discussion?

2 (No response)

3 The Chairman. All in favor of the motion as stated  
4 make it known by saying "Aye."

5 (Chorus of ayes)

6 The Chairman. Opposed?

7 (No response)

8 The Chairman. Motion carried.

9 Mr. Oglesbey. Roman Numeral VII, Corporate Estimated  
10 Tax Payments. This would be a plug figure designed to make  
11 up the revenue necessary to make this package revenue neutral.

12 The Chairman. I see.

13 Senator Wallop. Mr. Chairman?

14 The Chairman. Yes?

15 Senator Wallop. I have no objection to this, but I  
16 would point out the irony that this is in effect doing the  
17 same thing we are repealing in the diesel fuel tax, is it  
18 not? But this is basically giving an interest-free loan  
19 to the Government, making certain that people overpay their  
20 taxes rather than be subject to the penalty?

21 Mr. Perlman. I don't think that is right, Senator. I  
22 mean, I think what this proposal simply says is that if there  
23 is an underpayment on an estimated tax and if, then, in the  
24 subsequent period it is determined that there has to be an  
25 additional payment, the taxpayer should bring its payments

1 current, if you will.

2 I mean, estimated taxes always could produce an  
3 overpayment. It is probably less likely with corporations  
4 than it is with individuals; but if properly calculated, and  
5 in fact this method--the method that is being used here--gives  
6 taxpayers the ability to more accurately calculate their  
7 estimates, I don't think it should produce overpayments.

8 Senator Wallop. Mr. Perlman, I am worried about that  
9 which applies to small businesses. It seems to me that  
10 that is the perspective of most small businesses, a likely  
11 result that they will overpay their taxes rather than be  
12 subjected to the rather more complex procedure that is  
13 contained in here.

14 Mr. Perlman. Senator, we have not heard that complaint.  
15 I would say maybe we have missed something, but we have not  
16 heard corporations indicate that this is likely to cause  
17 overpayments--small or large corporations in that regard.

18 Mr. Chapoton. Senator Wallop, there is an exception  
19 for small business in the estimated tax rules. If under one  
20 million dollars of net income, they would not be subject to  
21 this. They can use the prior year's taxable income as a  
22 basis for their estimate.

23 Senator Wallop. Then, I guess I have trouble reading  
24 the description that is in here.

25 Mr. Chapoton. This is making a change to the estimated

1 tax provisions for large corporations. Small corporations  
2 are not under these rules, small corporations that have one  
3 million dollars or less of taxable income, as I understand it.

4 Mr. Perlman. I think any corporation can use the  
5 annualization method; it is elective, I think. But I would  
6 presume a small corporation would only use it if it determined  
7 that it was going to pay less tax than it would under the  
8 method that Mr. Chapoton described.

9 Mr. Chapoton. Any corporation could use it; I agree  
10 with that.

11 Senator Wallop. Thank you, Mr. Chairman.

12 The Chairman. All right, gentlemen. We are now talking  
13 about a clean bill; and we are also saying that we will have  
14 staffs get together to work and see if we can come up with  
15 the things that would develop a consensus insofar as further  
16 tax incentives or the closing of some loopholes.

17 And if we can put that package together with a consensus,  
18 we will be discussing bringing that to the floor as a committee  
19 amendment to this particular provision; and that is what I  
20 would strongly urge be our approach, in the hopes that we  
21 can get this piece of legislation, which is critical and  
22 important, enacted this year.

23 And our time is exceedingly short, but I don't want to  
24 cut off any debate here or any comments anyone might have.

25 I would also say that, as we try to work this out insofar

1 as a committee amendment in developing that consensus, please,  
2 please don't submit rifle shots. Be sure you make it generic,  
3 and I strongly urge that.

4 You are going to have problems with the chairman if  
5 you don't.

6 Senator Bradley. Mr. Chairman, I would just like to  
7 confirm with the staff that the Technical Corrections Act of  
8 1988 and the additional technical corrections have no  
9 revenue effect?

10 Mr. Perlman. That is not exactly the case. Let me see  
11 if I can explain it.

12 There were several items--I think the number is nine  
13 items--that were in the original introduced bill that had  
14 their source--they were not new items--they had their source  
15 in 1986 activity; and that includes the current resolutions  
16 that were not ultimately adopted, which were determined from  
17 a sort of a strict revenue estimating standpoint to be  
18 technical but nevertheless a change in the law and requiring  
19 of a revenue charge.

20 So, there were, as I said, I believe nine items that  
21 were given a score; I mean, it was a fairly small amount over a  
22 three-year period. It was \$86 million, I think, for those  
23 nine--and it may have been ten--items.

24 The additional technical corrections have no revenue  
25 effect. That is correct.

1           Senator Bradley. And none of the Technical Corrections  
2 Act of 1988 or additional technical corrections has a single  
3 beneficiary?

4           Mr. Perlman. No. I think you can say this: A number  
5 of them have a single beneficiary; but what I think you can  
6 say, Senator Bradley, is that the things that are in the  
7 Technical Corrections Act that deal with single beneficiaries  
8 are corrections of relief provisions that were contained  
9 either in the 1986 Act or the concurrent resolution or  
10 something that for some reason--for example, there was one  
11 transitional that was adopted by the Congress, and the  
12 enrolling clerk dropped it out of the enrolled bill.

13           Obviously, that was an administrative error, and it  
14 was put back in. There are a number of items like that--  
15 spelling errors, errors in describing the relief.

16           So, there are a number of items that deal with specific  
17 taxpayers in the introduced bill; but there are no new  
18 items, if you will. They are all corrections of items where  
19 there were errors made in the original Act.

20           In the additional technical corrections, I think it  
21 is absolutely accurate that none of those items are intended  
22 to benefit any one taxpayer. They are recommended to you  
23 as a consensus view by the staffs of just additional things  
24 that need to be cleaned up in the 1986 and 1987 Acts.

25           The Chairman. Are there further comments?

1 Senator Roth. Mr. Chairman?

2 The Chairman. Yes?

3 Senator Roth. There is a change in the treatment of  
4 amortizable bond premiums, which I think has been reviewed  
5 by the Joint Committee on Taxation and that they think the  
6 changing of the effective date would be helpful. It has no  
7 impact on revenue.

8 I wonder if Mike Richter might address this?

9 The Chairman. All right.

10 Mr. Richter. Senator Roth is correct. There is a  
11 provision that was in the 1986 Act that would treat  
12 amortizable premium on bonds as interest, and in the  
13 Technical Corrections Act as passed by this committee back  
14 in October of 1987, that rule was changed to treat the  
15 premium not as interest but as offset to income from the  
16 bond only.

17 That provision in the October bill was retroactive to  
18 the 1986 Act. So, in recognition of the possible unfairness  
19 of that, the introduced bill of March 31, 1988--this year--  
20 made that provision prospective as of the date of this  
21 committee's action in October of 1987.

22 What a number of people have requested is that that  
23 date be made prospective as of the end of 1987, rather than  
24 the date of committee action; and the only issue is whether  
25 you believe the committee action was sufficient notice to

1 people or not. It is a difficult issue to say; it is not an  
2 objectionable thing to slip the date in.

3 The Chairman. Mr. Chapoton, are you prepared to comment  
4 on that?

5 Mr. Chapoton. So far as I am aware, unless it has been  
6 changed from the earlier draft we saw, we have no problems  
7 with it.

8 The Chairman. Mr. Perlman, do you have any comment on  
9 that?

10 Mr. Perlman. Yes, Mr. Chairman. This was contained in  
11 the House bill, and we had indicated fairly early in the  
12 process that, as far as we were concerned, the December 31  
13 date was fine.

14 The Chairman. Is there any objection by members of  
15 the committee?

16 (No response)

17 The Chairman. If not, we will go ahead and take care  
18 of it.

19 Senator Roth. Thank you, Mr. Chairman.

20 The Chairman. If there are no further comments, can  
21 I have a motion that we approve the bill as presented?

22 Senator Moynihan. Mr. Chairman, one very small comment,  
23 sir?

24 The Chairman. Yes?

25 Senator Moynihan. On page 10, there is the provision

1 for the application of Section 457 to vacation, sick and  
2 other pay. I believe that is a new provision. It has to  
3 do with inserting the codification that the IRS has been  
4 making.

5 I believe that has no reference to anything in our  
6 previous bill, or am I wrong, Mr. Perlman?

7 Mr. Hardock. This was an addition to the Technical  
8 Corrections Bill that clarifies that the committee's action  
9 in tax reform to extend Section 457 to certain activities  
10 does not apply to vacation pay plans and sick pay plans.

11 There were some concerns expressed by State and local  
12 governments that Treasury intended to apply those stricter  
13 rules to those types of plans. It created quite a furor;  
14 and a few months ago, Treasury came out and said they didn't  
15 intend to imply those stricter rules to those types of plans.

16 This merely confirms that Treasury notice.

17 Senator Moynihan. Thank you, Mr. Chairman.

18 The Chairman. All right.

19 Senator Pryor. Mr. Chairman?

20 The Chairman. Yes?

21 Senator Pryor. If I might--and I certainly don't want  
22 to slow this process down--I would like to first compliment  
23 Mr. Chapoton and other members of the staff for addressing  
24 some needed changes in Section 89. We raised this some  
25 weeks ago, and I appreciate very much their doing that; and

1 especially, I know many small businesses do.

2           However, I think, Mr. Chairman--and I don't know whether  
3 this should be done in the auspices or under the umbrella  
4 of a committee amendment or not--I think that we ought to  
5 look strongly at just striking churches from the Section 89  
6 rule.

7           I think we would remove ourselves from an awful lot of  
8 grief.

9           And second, I think there may be another technical  
10 aspect that we might want to look at later; and I didn't  
11 know whether to handle that in open session or later on,  
12 Mr. Chairman. I don't want to cause a controversy right  
13 now; I think that we can work it out.

14           But at the proper time, I would like to address ourselves  
15 to that section.

16           The Chairman. All right. Yes?

17           Mr. Chapoton. Mr. Chairman, I wanted to comment on  
18 one other provision, if I might. That is the treaty override  
19 provision that is on page 13 of the technical bill. This is  
20 different from the treaty override--the residual treaty  
21 override--that was in the Ways and Means bill; and I know  
22 there has been a lot of discussion with the staff at the  
23 staff level.

24           This, in our view, is an improvement; but we still have  
25 some concerns about this provision. And we would hope that

1 we could continue to have those staff discussions to address  
2 the concerns that we have.

3 The Chairman. We will continue to do that. Are we  
4 ready? Let me have a motion then.

5 Senator Matsunaga. I so move.

6 The Chairman. The motion has been made that we approve  
7 the Technical Corrections Bill as submitted. Is there a  
8 second?

9 Senator Moynihan. I second it.

10 The Chairman. All in favor of the motion make it  
11 known by saying "Aye."

12 (Chorus of ayes)

13 The Chairman. Opposed?

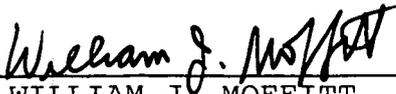
14 (No response)

15 The Chairman. The motion carried. Thank you very much.  
16 We will stand adjourned.

17 (Whereupon, at 11:00 a.m., the meeting was concluded.)  
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## C E R T I F I C A T E

1  
2 This is to certify that the foregoing proceedings of an  
3 Executive Committee Meeting of the United States Senate  
4 Committee on Finance, held on July 26, 1988, were held  
5 as herein appears and that this is the original transcript  
6 thereof.

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8  
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10   
11 WILLIAM J. MOFFITT  
12 Official Court Reporter  
13

14 My Commission expires April 14, 1989.  
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