



1 EXECUTIVE COMMITTEE MEETING ON S. 2677, THE U.S.-MOROCCO  
2 FREE TRADE AGREEMENT IMPLEMENTATION ACT; H.R. 982, A BILL  
3 TO CLARIFY THE TAX TREATMENT OF BONDS AND OTHER  
4 OBLIGATIONS ISSUED BY THE GOVERNMENT OF AMERICAN SAMOA;  
5 NOMINATION OF TIMOTHY BITSBERGER, TO BE ASSISTANT  
6 SECRETARY FOR FINANCIAL MARKETS, U.S. DEPARTMENT OF  
7 TREASURY; NOMINATION OF PATRICK P. O'CARROLL, JR., TO BE  
8 INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION;  
9 NOMINATION OF PAUL B. JONES, TO BE MEMBER, IRS OVERSIGHT  
10 BOARD; AND NOMINATION OF CHARLES L. KOLBE, TO BE A  
11 MEMBER, IRS OVERSIGHT BOARD

12 TUESDAY, JULY 20, 2004

13 U.S. Senate,  
14 Committee on Finance,  
15 Washington, DC.

16 The meeting was convened, pursuant to notice, at  
17 10:05 a.m., in room SD-215, Dirksen Senate Office  
18 Building, Hon. Charles E. Grassley (chairman of the  
19 committee) presiding.

20 Also present: Senators Hatch, Nickles, Lott, Snowe,  
21 Kyl, Thomas, Santorum, Frist, Smith, Bunning, Baucus,  
22 Rockefeller, Daschle, Breaux, Conrad, Graham, Jeffords,  
23 Bingaman, and Lincoln.

24 Also present: Kolan Davis, Republican Staff Director  
25 and Chief Counsel; Russ Sullivan, Democratic Staff

1 Director; and Carla Martin, Chief Clerk.

2 Also present: Cathy Novelli, Assistant USTR for  
3 Europe and the Mediterranean; Brian Pomper and David  
4 Johanson, International Trade Counsels.

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1 OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.  
2 SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. The meeting will come to order.

5 Today we are meeting in executive session to consider  
6 two bills and some pending nominations.

7 First, the committee will consider favorably  
8 reporting S. 2677, U.S.-Morocco Free Trade Agreement.

9 Second, we will consider favorably reporting H.R. 982, a  
10 bill to clarify the tax treatment of bonds for American  
11 Samoa.

12 Finally, we will consider favorably reporting  
13 nominations of Timothy S. Bitsberger, Patrick O'Carroll,  
14 Paul Jones, and Charles Kolbe.

15 I also want to notify members that as soon as a  
16 quorum is present, we would stop proceedings to ask that  
17 we favorably report these bills and the pending  
18 nominations.

19 I am very pleased that we are able to consider  
20 implementing legislation on the U.S.-Morocco FTA. I,  
21 first, want to acknowledge that we would not be here  
22 today without the cooperation and support of Senator  
23 Baucus, the Ranking Member.

24 I always appreciate his willingness to work with me  
25 on important pieces of legislation, but particularly as I

1 was trying to keep Australia and Morocco moving in a  
2 fairly parallel order.

3 I think we have a good agreement with Morocco. It is  
4 good for American manufacturing. Under the agreement, 95  
5 percent of the consumers in industrial products become  
6 duty-free immediately after implementation. It is also  
7 good for our American service sector.

8 The agreement contains broad market access commitment  
9 in key sectors such as audiovisual, telecommunications,  
10 and engineering, and I think it is extremely good for an  
11 interest of mine, American agriculture.

12 Independent analysis by the Farm Bureau American  
13 Federation estimates that, under this agreement, the U.S.  
14 agriculture trade surplus with Morocco would reach \$382  
15 million by the year 2015.

16 In contrast, Morocco is expected to increase its  
17 agricultural trade by about \$25 million. Thus, under  
18 this agreement, U.S. agriculture will see roughly a 10 to  
19 1 gain.

20 That would be great news for our corn, soybean and  
21 wheat growers, and great news for beef and poultry  
22 producers. So, I am pleased to be able to have this  
23 agreement before the committee. Morocco has been a good  
24 friend and ally of the United States, and this agreement  
25 brings sound economic benefit to the U.S. economy.

1 I trust the agreement will receive broad bipartisan  
2 support in this committee and on the Senate floor. I  
3 understand that the House of Representatives will be  
4 taking up the agreement this week. While time is short  
5 before the August recess, I sincerely hope the Senate  
6 would be able to duplicate the House action.

7 Next, we will consider favorably reporting H.R. 982,  
8 bill that has been passed by the House, referred to our  
9 committee, to clarify tax treatment for American Samoa.

10 While the interest on bonds issued by the Government  
11 of Samoa is exempt for federal tax purposes, it is  
12 subject to taxation by State, local, and territorial  
13 governments. This legislation before us would put  
14 American Samoa on the same level playing field with other  
15 territories of the United States.

16 The Joint Committee on Taxation estimates that this  
17 bill would have negligible impact on the federal budget,  
18 and the Congressional Budget Office estimates that  
19 because American Samoa has only a few million dollars in  
20 bonds outstanding at any time, the preemption would not  
21 have significant impact on State, local, and territorial  
22 governments.

23 I encourage my colleagues to support this  
24 legislation, which would save American Samoa significant  
25 interest costs and give them ability to address critical

1 shortfalls in their own infrastructure.

2 I would now like to call on Senator Baucus for any  
3 statements that he wants to make.

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

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4 Senator Baucus. Thank you very much, Mr. Chairman.  
5 Thank you for your continual leadership, your friendship,  
6 your hard work in all areas, particularly here to make  
7 sure this agreement is passed very quickly.

8 As you know, we began this process last week when we  
9 had a walk-through and a formal mark-up of this  
10 legislation. Before then, as you know, Mr. Chairman, you  
11 and I worked hard to address many committee members'  
12 concerns--and there were several--with this legislation,  
13 and I believe that we were successful.

14 I compliment, in fact, members for their willingness  
15 to cooperate and work with you, Mr. Chairman, and with  
16 myself to get those differences--they were not great--  
17 ironed out.

18 I, myself, fought to ensure that U.S. wheat exporters  
19 would not be left out of this agreement. Wheat, clearly,  
20 is very important for many of our States, especially my  
21 State of Montana. There are very significant barriers to  
22 entry and access, particularly in Morocco. But with this  
23 agreement, we are making very significant process.

24 The agreement creates new tariff rate quotas, for  
25 example, for wheat that can lead to a five-fold increase

1 in U.S. exports to Morocco. It would allow U.S. wheat  
2 producers to compete in Morocco, and not only compete in  
3 the abstract, but according to provisions of this  
4 agreement, compete on a level playing field with European  
5 competitors.

6 That was an issue, as we all know, and there is now  
7 language in the legislation, in the agreement, assuring  
8 that we are on the same level playing field as the  
9 Europeans are with respect to access to the Morocco  
10 market.

11 The agreement also gives U.S. beef producers new  
12 access to Morocco for their high-quality beef exports.  
13 The free trade agreement negotiations have also spurred  
14 Morocco to engage in significant domestic reforms.

15 For example, Morocco recently enacted a new labor law  
16 and a new law on child labor, both of which were drafted  
17 with the help of the International Labor Organization.

18 By voting to approve the Morocco implementing  
19 legislation, we can therefore support reformers in  
20 Morocco. We can also confirm our very close ties with  
21 Morocco, the first country to recognize the United States  
22 after the American Revolution, and therefore one of our  
23 oldest friends in the world.

24 It is a story that has been mentioned many times, Mr.  
25 Chairman, and I do not think we can mention it too often.



1 It is important to remind ourselves of our early ties  
2 with Morocco.

3 As many of my colleagues have already noted, soon  
4 after America's founding, Morocco's ruler wrote to  
5 President Washington to ask for help in protecting  
6 Morocco's shipping fleet from marauding bandits.

7 Well, President Washington wrote back, apologizing  
8 that the United States was, at that time, too poor and  
9 too weak from the recent revolution to be of much help to  
10 Morocco.

11 But the President said that perhaps some day the  
12 United States would be strong enough to help its friends,  
13 and for Morocco, that day has now come. I urge my  
14 colleagues to support this legislation.

15 The Chairman. Thank you, Senator Baucus.

16 Would the Senator from Kentucky like to make a  
17 statement?

18 Senator Bunning. Short though it may be, yes.

19 The Chairman. Go ahead.  
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1 OPENING STATEMENT OF HON. JIM BUNNING, A U.S. SENATOR  
2 FROM KENTUCKY

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4 Senator Bunning. Thank you. Thank you, Mr.  
5 Chairman.

6 As I mentioned in the mock mark-up which took place  
7 on the Moroccan Free Trade Agreement last week, I am  
8 generally pleased with the details of this agreement.  
9 The current tariffs that American exports face in Morocco  
10 average over 20 percent, and this agreement will reduce  
11 these tariffs significantly.

12 Particularly, I was pleased to see that Morocco has  
13 agreed to immediately eliminate its 50 percent tariff on  
14 distilled spirits imported from America. As you know,  
15 the bourbon industry is a very important part of  
16 Kentucky's heritage and its modern economy, with the  
17 Kentucky bourbon industry employing over 30,000 workers  
18 and contributing hundreds of millions of dollars to the  
19 State's economy.

20 Also important to Kentucky is the treatment of the  
21 exportation of tobacco products under this agreement. I  
22 would have preferred to see that the State-run monopoly  
23 on the distribution of wholesale tobacco products was  
24 immediately eliminated. However, the agreement before us  
25 does provide that Morocco's right to impose monopoly

1 restrictions ends after 2007.

2 Similarly, while a more accelerated reduction in  
3 tariffs on tobacco would have been preferable, the  
4 eventual elimination of the high tariffs imposed on these  
5 products by Morocco is encouraging.

6 I appreciate the efforts that the administration has  
7 made to closely work with this committee as the  
8 negotiations of this agreement have developed during the  
9 last few months.

10 As I have stated in the past, our trade  
11 representatives must continue to push for, and to  
12 require, market access for our exported goods. I expect  
13 this to be the over-arching theme in all our trade  
14 negotiations and I will be examining future trade  
15 agreements closely to watch just those things.

16 Thank you very much, Mr. Chairman.

17 The Chairman. Well, thank you very much.

18 Now, I had hoped that we would have a quorum. I  
19 think that there is just a lot of conflict for everybody.  
20 At this point, it would be my intention, in consultation  
21 with Senator Baucus, that we would then have this  
22 executive session continued after the 2:15 vote in the  
23 President's Room, and it would be the for the sole  
24 purpose of reporting S. 2677, the U.S.-Morocco FTA, H.R.  
25 982, a bill to clarify the tax treatment of bonds issued

1 by American Samoa, and the following nominations:  
2 Bitsberger, O'Carroll, Paul Jones and Charles Kolbe.

3 So at this point, I think that we will recess. The  
4 meeting is just recessed until the 2:15 hour. Thank you.

5 [Whereupon, at 10:15 a.m. the meeting was recessed.]

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1           The Clerk.    Mr. Smith?  
2           Senator Smith.    Aye.  
3           The Clerk.    Mr. Bunning?  
4           Senator Bunning.    Aye.  
5           The Clerk.    Mr. Baucus?  
6           Senator Baucus.    Aye.  
7           The Clerk.    Mr. Rockefeller?  
8           Senator Rockefeller.    Aye.  
9           The Clerk.    Mr. Daschle?  
10          Senator Daschle.    Aye.  
11          The Clerk.    Mr. Breaux?  
12          Senator Breaux.    Aye.  
13          The Clerk.    Mr. Conrad?  
14          Senator Conrad.    Aye.  
15          The Clerk.    Mr. Graham?  
16          Senator Graham.    Aye.  
17          The Clerk.    Mr. Jeffords?  
18          Senator Jeffords.    Aye.  
19          The Clerk.    Mr. Bingaman?  
20          Senator Bingaman.    Aye.  
21          The Clerk.    Mr. Kerry?  
22          [Mr. Kerry votes aye by proxy.]  
23          The Clerk.    Mrs. Lincoln?  
24          Senator Lincoln.    Aye.  
25          The Clerk.    Mr. Chairman?

1           The Chairman.    Aye.

2           The Clerk.    Mr. Chairman, the vote is 21 ayes, zero  
3 nays.

4           The Chairman.    The ayes have it.  The motion is  
5 passed.

6           I now move that the committee favorably consider H.R.  
7 982, a bill to clarify the tax treatment of bonds issued  
8 by the Government of American Samoa.

9           The Clerk will call the roll.

10          The Clerk.    Mr. Hatch?

11          Senator Hatch.   Aye.

12          The Clerk.    Mr. Nickles?

13          Senator Nickles.   Aye.

14          The Clerk.    Mr. Lott?

15          Senator Lott.    Aye.

16          The Clerk.    Ms. Snowe?

17          Senator Snowe.   Aye.

18          The Clerk.    Mr. Kyl?

19          Senator Kyl.    Aye.

20          The Clerk.    Mr. Thomas?

21          Senator Thomas.   Aye.

22          The Clerk.    Mr. Santorum?

23          Senator Santorum.   Aye.

24          The Clerk.    Mr. Frist?

25          Senator Frist.   Aye.

1           The Clerk.    Mr. Smith?  
2           Senator Smith.    Aye.  
3           The Clerk.    Mr. Bunning?  
4           Senator Bunning.    Aye.  
5           The Clerk.    Mr. Baucus?  
6           Senator Baucus.    Aye.  
7           The Clerk.    Mr. Rockefeller?  
8           Senator Rockefeller.    Aye.  
9           The Clerk.    Mr. Daschle?  
10          Senator Daschle.    Aye.  
11          The Clerk.    Mr. Breaux?  
12          Senator Breaux.    Aye.  
13          The Clerk.    Mr. Conrad?  
14          Senator Conrad.    Aye.  
15          The Clerk.    Mr. Graham?  
16          Senator Graham.    Aye.  
17          The Clerk.    Mr. Jeffords?  
18          Senator Jeffords.    Aye.  
19          The Clerk.    Mr. Bingaman?  
20          Senator Bingaman.    Aye.  
21          The Clerk.    Mr. Kerry?  
22          [Mr. Kerry votes aye by proxy.]  
23          The Clerk.    Mrs. Lincoln?  
24          Senator Lincoln.    Aye.  
25          The Clerk.    Mr. Chairman?



1           The Chairman.    Aye.

2           The Clerk.    Mr. Chairman, the vote is 21 ayes, zero  
3 nays.

4           The Chairman.    The ayes have it.  The motion is  
5 passed.

6           I now move that the committee consider favorably  
7 reporting the following nominations en bloc: Timothy  
8 Bitsberger, to be Assistant Secretary for Financial  
9 Markets, U.S. Department of Treasury; Patrick P.  
10 O'Carroll, Jr., to be Inspector General, Social Security  
11 Administration; Paul B. Jones, Member, IRS Oversight  
12 Board; and Charles L. Kolbe, Member, IRS Oversight Board.

13          The Clerk will call the roll.

14          The Clerk.    Mr. Hatch?

15          Senator Hatch.   Aye.

16          The Clerk.    Mr. Nickles?

17          Senator Nickles.   Aye.

18          The Clerk.    Mr. Lott?

19          Senator Lott.    Aye.

20          The Clerk.    Ms. Snowe?

21          Senator Snowe.   Aye.

22          The Clerk.    Mr. Kyl?

23          Senator Kyl.    Aye.

24          The Clerk.    Mr. Thomas?

25          Senator Thomas.   Aye.

1           The Clerk.    Mr. Santorum?  
2           Senator Santorum.    Aye.  
3           The Clerk.    Mr. Frist?  
4           Senator Frist.    Aye.  
5           The Clerk.    Mr. Smith?  
6           Senator Smith.    Aye.  
7           The Clerk.    Mr. Bunning?  
8           Senator Bunning.    Aye.  
9           The Clerk.    Mr. Baucus?  
10          Senator Baucus.    Aye.  
11          The Clerk.    Mr. Rockefeller?  
12          Senator Rockefeller.    Aye.  
13          The Clerk.    Mr. Daschle?  
14          Senator Daschle.    Aye.  
15          The Clerk.    Mr. Breaux?  
16          Senator Breaux.    Aye.  
17          The Clerk.    Mr. Conrad?  
18          Senator Conrad.    Aye.  
19          The Clerk.    Mr. Graham?  
20          Senator Graham.    Aye.  
21          The Clerk.    Mr. Jeffords?  
22          Senator Jeffords.    Aye.  
23          The Clerk.    Mr. Bingaman?  
24          Senator Bingaman.    Aye.  
25          The Clerk.    Mr. Kerry?

1           The Clerk.    Mrs. Lincoln?

2           Senator Lincoln.    Aye.

3           The Clerk.    Mr. Chairman?

4           The Chairman.    Aye.

5           The Clerk.    Mr. Chairman, the vote is 20 ayes, zero  
6 nays.

7           The Chairman.    The ayes have it.    The motion is  
8 carried.

9           [Whereupon, at 2:37 p.m. the meeting was concluded.]

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## I N D E X

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JOINT COMMITTEE ON TAXATION  
July 16, 2004  
JCX-49-04

**DESCRIPTION OF H.R. 982, A BILL "TO CLARIFY THE TAX  
TREATMENT OF BONDS AND OTHER OBLIGATIONS ISSUED  
BY THE GOVERNMENT OF AMERICAN SAMOA"**

**Introduction**

The Senate Committee on Finance has scheduled a markup of H.R. 982,<sup>1</sup> a bill "To Clarify the Tax Treatment of Bonds and Other Obligations Issued by the Government of American Samoa," on July 20, 2004. This document,<sup>2</sup> prepared by the staff of the Joint Committee on Taxation, provides a description of H.R. 982.

**Present Law**

The interest on obligations issued by American Samoa is generally exempt from Federal income tax.<sup>3</sup> This is consistent with the treatment of interest on obligations issued by other possessions of the United States. Federal law does not, however, provide for an exemption from State, local, and territorial taxes for the interest paid on all obligations issued by American Samoa.<sup>4</sup> Rather, present law only provides an exemption from State, local, and territorial taxes for certain industrial development bonds issued by American Samoa.<sup>5</sup> In contrast, Congress has provided statutory exemptions from State, local, and territorial taxes for all obligations issued by

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<sup>1</sup> This bill passed the House of Representatives on November 4, 2003.

<sup>2</sup> This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 982, a Bill "To Clarify the Tax Treatment of Bonds and Other Obligations Issued by the Government of American Samoa,"* (JCX-49-04), July 16, 2004.

<sup>3</sup> 26 U.S.C. sec. 103(c).

<sup>4</sup> 48 U.S.C. sec. 1670.

<sup>5</sup> 48 U.S.C. sec. 1670(b). The power of Congress to make rules and regulations respecting "the Territory or other Property belonging to the United States" is generally derived from Article IV, section 3, clause 2 of the Constitution.

Guam,<sup>6</sup> the Virgin Islands,<sup>7</sup> Puerto Rico,<sup>8</sup> and the Northern Mariana Islands,<sup>9</sup> in addition to the exemption from Federal income tax.

### Description of Proposal

The proposal provides that the interest on any obligation issued by the Government of American Samoa is exempt from State, local, and territorial taxes. This exemption does not apply to gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

### Effective Date

The proposal applies to obligations issued after the date of enactment.

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<sup>6</sup> "All bonds issued by the government of Guam or by its authority shall be exempt . . . from taxation by the Government of the United States or by the government of Guam, or by any State or Territory or any political subdivision thereof, or by the District of Columbia." 48 U.S.C. sec. 1423a.

<sup>7</sup> Bonds issued by the government of the Virgin Islands are "exempt from taxation . . . by any State, Territory, or possession or by any political subdivision of any State, Territory, or possession, or by the District of Columbia." 48 U.S.C. sec. 1403.

<sup>8</sup> "All bonds issued by the Government of Puerto Rico, or by its authority, shall be exempt from taxation by the Government of the United States, or by the Government of Puerto Rico or of any political or municipal subdivision thereof, or by any State, Territory, or possession, or by any county, municipality, or other municipal subdivision of any State, Territory, or possession of the United States, or by the District of Columbia." 48 U.S.C. sec. 745.

<sup>9</sup> Bonds issued by the Northern Mariana Islands are "exempt, as to principal and interest, from taxation by the United States, or by any State, territory or possession of the United States, or any political subdivision of any of them." 48 U.S.C. sec. 1801 note.

Results of Mark up  
July 20, 2004

S. 2677, the U.S. – Morocco Free Trade Agreement Implementation Act. The recorded vote was 21 ayes, 0 nays.

Ayes: Mr. Grassley, Mr. Hatch, Mr. Nickles, Mr. Lott, Ms. Snowe, Mr. Kyl, Mr. Thomas, Mr. Santorum, Mr. Frist, Mr. Smith, Mr. Bunning, Mr. Baucus, Mr. Rockefeller, Mr. Daschle, Mr. Breaux, Mr. Conrad, Mr. Graham, Mr. Jeffords, Mr. Bingaman, Mr. Kerry (proxy), Mrs. Lincoln.

H.R. 982, a bill to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa. The recorded vote was 21 ayes, 0 nays.

Ayes: Mr. Grassley, Mr. Hatch, Mr. Nickles, Mr. Lott, Ms. Snowe, Mr. Kyl, Mr. Thomas, Mr. Santorum, Mr. Frist, Mr. Smith, Mr. Bunning, Mr. Baucus, Mr. Rockefeller, Mr. Daschle, Mr. Breaux, Mr. Conrad, Mr. Graham, Mr. Jeffords, Mr. Bingaman, Mr. Kerry (proxy), Mrs. Lincoln.

The following nominations ordered favorably reported en bloc: Timothy Bitsberger, Patrick P. O'Carroll, Jr., Paul B. Jones, and Charles L. Kolbe. The recorded vote was 20 ayes, 0 nays.

Ayes: Mr. Grassley, Mr. Hatch, Mr. Nickles, Mr. Lott, Ms. Snowe, Mr. Kyl, Mr. Thomas, Mr. Santorum, Mr. Frist, Mr. Smith, Mr. Bunning, Mr. Baucus, Mr. Rockefeller, Mr. Daschle, Mr. Breaux, Mr. Conrad, Mr. Graham, Mr. Jeffords, Mr. Bingaman, Mrs. Lincoln.